



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
Quezon City
THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

Criminal Case Nos.
SB-16-CRM-1096
*For: Violation of Section 3(e)
of Republic Act No. 3019,
as amended*

-versus-

SB-16-CRM-1097
*For: Violation of Section 3(j)
of Republic Act No. 3019,
as amended*

**FAUSTINO A. SILANG,
LUZVIMINDA B. CUADRA,
VENERANDO R. REA,
REX L. ABADILLA,
MARFEO D. JACELA,
ABELARDO P. ABRIGO,
MACARIO J. REYES,
ROMEO F. CAYANAN,**
Accused.

Present:
Cabotaje-Tang, A.M., P.J.,
Chairperson
Fernandez, B.R., J. and
Moreno, R.B., J.

PROMULGATED:
FEBRUARY 3, 2020

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RESOLUTION

Moreno, J.:

For resolution is the *Motion for Reconsideration*¹ filed by accused Marfeo D. Jacela, which seeks the reversal of the *Decision*² promulgated on February 14, 2020, finding him and his co-accused guilty of violating Sections 3(e) and 3(j) of Republic Act (R.A.) No. 3019, as amended.

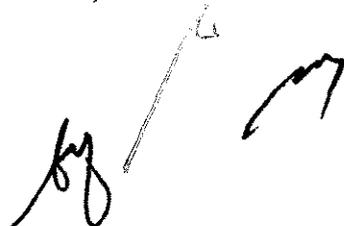
Accused Jacela anchors his motion on the following grounds:

¹ *Records*, Vol. IV, pp. 215-232.

² *Id.* at pp. 175-199.

- 1) This Court has overlooked the fact that SP Resolution No. 13-87, authorizing a private counsel to represent Tayabas City in certain cases filed in court and the rendition of legal service by such private counsel to the city, is in accord with the second paragraph of Section 12 of the Code of Conduct and Ethical Standards for Public Officials and Employees (R.A. No. 6713) and Section 1, Rule XII (Free Voluntary Service) of its Implementing Rules and Regulations;
- 2) This Court has overlooked the fact that the filing of criminal cases against accused Jacela and others for approving SP Resolution No. 13-87 constitutes a prohibited collateral attack on such Resolution;
- 3) This Court has overlooked the fact that the penal provisions of the Local Government Code of 1991 (R.A. No. 7160) do not penalize any person who authorizes the rendition of legal services, whether for compensation or not, to a local government unit;
- 4) This Court has overlooked the fact that a Commission on Audit (COA) issuance involving public funds or property is totally irrelevant to these criminal cases which did not involve public funds or property;
- 5) This Court has overlooked the fact that the pronouncement in the case of *Asean Pacific Planners v. City of Urdaneta*³ that “*pro bono* representation in collaboration with the municipal attorney and prosecutor has not even been allowed” is not applicable to support a judgment of conviction in these cases;
- 6) This Court has overlooked the settled rule that public officials incur no liability in a case involving a doubtful or difficult question of law;
- 7) The conviction of accused Jacela for violation of Section 3(j) of R.A. No. 3019 violated his right against double jeopardy because in the same judgment, this Court convicted him for violation of Section 3(e) of R.A. No. 3019 for the same act committed on the same date and in the same place and involving the same intent and evidence against him in connection with an absorbed act; and

³ G.R. No. 16525, September 23, 2008.

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- 8) The right of accused Jacela against double jeopardy was violated because the prosecution had deliberately resorted to forum shopping – a ground for the dismissal of both cases.

The prosecution filed its *Opposition*,⁴ praying for the denial of Jacela's motion for lack of merit.

THE COURT'S RULING

We point out at the outset that the subject motion failed to raise a new material matter and the issues therein have already been considered by this Court in deciding the case.

At any rate, the Court is not persuaded by the arguments raised by the accused in the present motion.

Jacela cannot invoke the second paragraph of Section 12 of R.A. No. 6713 and its implementing rules and regulations regarding free voluntary service. The second paragraph of Section 12 of R.A. No. 6713 merely provides for the authority of the Civil Service Commission to issue guidelines relative to free voluntary services of individuals to the government.⁵ In connection thereto, Rule XII of the implementing rules and regulations of R.A. No. 6713 refers to the services rendered by those who are in government.⁶ However, in this case, Atty. Salvacion was a private counsel.

We likewise disagree with accused's insistence that there is doubtful or difficult question of law - whether the second paragraph of Section 12 of R.A. No. 6713 and Section 1, Rule XII of its IRR was modified or repealed by Sec. 481 of the LGC. Accused cannot find solace in the defense of good faith as there is no doubtful or difficult question of law involved here. Section

⁴ Records, Vol. IV, pp. 318-324.

⁵ **Section 12.** *Promulgation of Rules and Regulations, Administration and Enforcement of this Act.*—

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The Civil Service Commission is hereby authorized to promulgate rules and regulations necessary to carry out the provisions of this Act, including guidelines for individuals who render free voluntary service to the Government. xxx

⁶ **Rule XII**

Free Voluntary Service

Section 1. (a) Free voluntary service refers to services rendered by persons who are in government without pay or compensation.

RESOLUTION

Criminal Case No. SB-16-CRM-1096-97

People v. Silang, et al.

481 of the LGC lays down the qualifications, terms, powers and duties of a legal officer to be appointed in a local government unit and provides that the appointment of legal officer shall be mandatory for the city government. It speaks in clear and categorical language and leaves no room for interpretation. Section 481 of the LGC does not conflict with the law relied upon by Jacela as the latter deals with the code of conduct and ethical standards for public officials and employees.

We also find unmeritorious his contention that the filing of criminal cases against him and his co-accused for approving SP Resolution No. 13-87 constitutes a prohibited collateral attack on such Resolution. It bears pointing out that they were charged and held liable for the act of engaging the legal services of Atty. Salvacion, a private lawyer, to represent the city of Tayabas despite the clear mandate of Sec. 481 of LGC, as acknowledged by COA Circular 98-002, in violation of Sections 3(e) and 3(j) of R.A. No. 3019. Hence, the issues to be resolved here are limited to whether the accused gave unwarranted benefit, advantage, or preference to Atty. Salvacion and whether they granted privilege or benefit to a person not qualified for or legally entitled to the same.

It is also the submission of Jacela that he could not be held criminally liable for approving SP Resolution No. 13-87 considering that Sec. 3 of R.A. No. 3019 provides that violation of its provisions shall be "in addition to acts or omissions of public officers already penalized by existing law" and that the LGC do not penalize any person who authorizes the rendition of legal services to a local government unit, whether for compensation or not. We cannot sustain his contention. The absence of any provision in the LGC penalizing their act does not affect their criminal liability under R.A. No. 3019. It must be stressed that the offenses enumerated in Sec. 3 of R.A. No. 3019 stand on their own and do not depend on the prosecution of additional acts or omissions penalized by other existing laws. The prosecution of another crime penalized by other law/s is not an element of the offenses contemplated in Sec. 3 of R.A. 3019.

He further insisted that COA issuance involving public funds or property is irrelevant to these criminal cases since there is no evidence that Tayabas City disbursed public funds for the legal services of Atty. Salvacion. We find this argument untenable. The mandate of Section 481 of the LGC is based not only on the principle that the government should not be

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burdened with expenses of hiring a private lawyer but also on the fact that the interests of the government would be best protected if a government lawyer handles its litigations.⁷

We reiterate that Section 481 of the LGC provides in clear and categorical terms that the appointment of a legal officer shall be mandatory for city governments. COA Circular No. 98-002 clarified and sustained the said provisions, stating that a city government cannot under any condition be represented by a private lawyer or law firm. Even without the said COA issuance, the mandate of the law that city governments must not be represented by private lawyers remains. It should not be circumvented by engaging the services of a private lawyer in a *pro bono* arrangement.

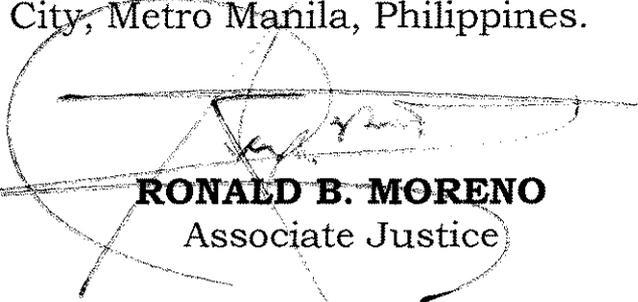
Finally, his arguments regarding double jeopardy and forum shopping are mere reiterations or rehash of arguments already submitted to and pronounced without merit by this Court.⁸

In fine, the Court finds no cogent or compelling reason to warrant a reconsideration of its previous ruling.

WHEREFORE, in light of all the foregoing, the *Motion for Reconsideration* filed by accused Marfeo D. Jacela is **DENIED** for lack of merit.

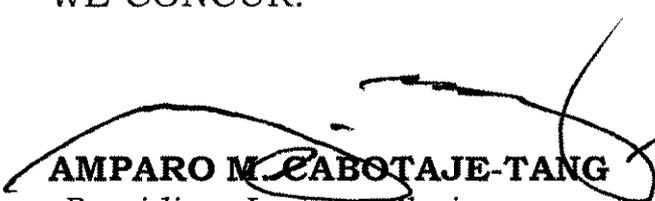
SO ORDERED.

Quezon City, Metro Manila, Philippines.



RONALD B. MORENO
Associate Justice

WE CONCUR:



AMPARO M. CABOTAJE-TANG
Presiding Justice, Chairperson



BERNELITO R. FERNANDEZ
Associate Justice

⁷ *Alinsug v. RTC*, G.R. No. 108232, August 23, 1993; *Ramos v. Court of Appeals*, G.R. No. 53766, October 30, 1981.

⁸ *Records*, Vol. II, pp. 509-517.