



REPUBLIC OF THE PHILIPPINES

**Sandiganbayan**

Quezon City

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*Seventh Division*

*MINUTES of the proceedings held on January 15, 2021.*

*Present:*

<i>Justice MA. THERESA DOLORES C. GOMEZ-ESTOESTA--</i>	<i>Chairperson</i>
<i>Justice ZALDY V. TRESPESES -----</i>	<i>Member</i>
<i>Justice GEORGINA D. HIDALGO-----</i>	<i>Member</i>

The following resolution was adopted:

***SB-19-A/R-0013 – People of the Philippines vs. Bonuso Montañez Libay***

This resolves the following:

1. Accused-appellant's "MOTION FOR PARTIAL RECONSIDERATION" dated September 18, 2020;<sup>1</sup> and
2. Plaintiff-appellee's "COMMENT (on Accused-Appellant's Motion for Partial Reconsideration)" dated December 1, 2020.<sup>2</sup>

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**HIDALGO, J.:**

Submitted for resolution are:

- (1) Accused-appellant's Motion for Partial Reconsideration dated September 18, 2020 of the Court's Decision dated September 4, 2020, which affirmed the Decision dated February 6, 2018 of the Regional Trial Court of Manila, Branch 41 convicting him of Violation of Section 3(b) and (e), Republic Act (R.A.) No. 3019. This Court, however, acquitted him of Violation of Sec. 3(e), R.A. No. 3019 for failure of the prosecution to prove his guilt beyond reasonable doubt; and
- (2) Plaintiff-appellee's Comment on Accused-Appellant's Motion for Partial Reconsideration.

In gist, accused-appellant in his Motion avers that: *first*, the Court erroneously relied on the doubtful and incredible testimony of prosecution witness Franco Gojo Espiritu because the latter's credibility is highly

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<sup>1</sup> Record, pp. 187-191.

<sup>2</sup> Id. at 213-221.

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questionable considering that he himself admitted giving money to barangay chairpersons for his projects constituting the crime of Corruption of Public Officials under Article 212 of the Revised Penal Code; and *second*, the Court erroneously convicted accused-appellant despite the insufficiency of the prosecution's evidence to prove his guilt beyond reasonable doubt for Violation of Sec. 3(b), R.A. No. 3019, considering that Espiritu is the only prosecution witness who allegedly has personal knowledge of the crimes charged and whose testimony is uncorroborated by a competent witness.

The prosecution, in its Comment, counters that: *first*, no error can be ascribed to the Court when it ruled that the prosecution sufficiently established accused-appellant's guilt beyond reasonable doubt for Violation of Sec. 3(b), R.A. No. 3019, as the prosecution was able to establish by clear and convincing evidence accused-appellant's guilt through Espiritu's testimony that accused-appellant demanded and received the amount of ₱10,000 as commission or share in the contract for the delivery of supplies and materials to the barangay as evidenced by an Acknowledgment Receipt (Exhibit "D") which accused-appellant signed himself; and *second*, the Court in its Decision found that the prosecution's evidence successfully proved all the elements of Violation of Sec. 3(b), R.A. No. 3019, brushing aside accused-appellant's allegation of Espiritu's political motivation.

The Motion for Reconsideration should be denied.

*First*, with regard to accused-appellant's claim that Espiritu's testimony is incredible and doubtful, the Court in its Decision squarely passed upon such issue by ruling that the trial court's reliance on the submitted documentary evidence and Espiritu's testimony was proper in order to support the conclusion that accused-appellant indeed received a share, percentage or benefit in connection with the contract or transaction subject of the instant case. The Court also found that Espiritu was not politically motivated in testifying against accused-appellant because they were not contenders for the same position of *punong barangay* in 2013 and the transaction transpired in 2012. Thus, We need not belabor this matter once again.

And *second*, as to accused-appellant's averment that the prosecution's evidence is insufficient to prove his guilt for Violation of Sec. 3(b), R.A. No. 3019 because Espiritu is the only prosecution witness who allegedly has personal knowledge of the crimes charged and whose testimony is uncorroborated by a competent witness, the Court likewise extensively discussed this matter in its assailed Decision finding that all the elements of the offense charged were sufficiently proved by the prosecution in these cases. For reference, We reiterate our findings, viz:

In finding Libay guilty of violating Section 3(e), the trial court ruled that with respect to the *first element* - that the accused is a public officer -

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such has been stipulated upon by the parties. This having been settled by the parties via stipulation, we will no longer delve on the matter.

As regards the *second, third and fourth elements* - that the offender requested or received a gift, a present, a share, a percentage, or benefit; on behalf of the offender or any other person; in connection with a contract or transaction with the government - this Court likewise agrees with the findings and conclusions of the RTC thereon.

The trial court correctly gave weight to the Acknowledgment Receipt which explicitly states that the amount of Php10,000.00 received by Libay represents his share in the barangay projects. As for his attempt to persuade the court that he did not receive said amount contrary to what is stated in the Acknowledgment Receipt by insisting that his signature therein was forged, this Court agrees with the RTC that this defense of forgery is untenable in light of the findings in the Questioned Documents Report No. 272-717 where the NBI concluded that the signature in the Acknowledgment Receipt and the sample signatures were written by one and the same person. What is more, this inspection by the NBI was requested by Libay himself, using samples that he himself furnished the Bureau. Moreover, a visual examination and comparison by the Court of his signatures appearing in the exhibits, sub marked specifically as Exhibits "B-1", "C-14", "D-1", "E-1", and "2-a", strengthens the conclusion that the signature in the Acknowledgment Receipt is authentic.

Indeed, this piece of documentary evidence, coupled with the fact that its alleged issuance is corroborated by the straightforward testimony of Espiritu and the undeniable fact that the NBI itself, acting on the request made by no other than accused-appellant Libay, categorically found Libay's signature in said receipt to be genuine, plus the result of this Court's comparison of the signatures, more than sufficiently support a conclusion that Libay received the Php10,000.00 peso amount as his "share" in the barangay project, even though he is not by law entitled to such "share."

With respect to the receipt of said share as being in connection with a contract or transaction with the government, the prosecution has sufficiently proved that the Php10,000.00 amount was not only given and received by accused-appellant Libay as his share in the said project, but that it was delivered to him in order to facilitate or allow the release of the payment for the goods that were delivered by Espiritu to the barangay.

For one, Libay's Acknowledgment Receipt (Exhibit "D") itself clearly states that the Php10,000.00 amount was received by him "as his share for barangay projects." This is corroborated by the chronology of events as gleaned from the documentary evidence of the prosecution, thus:

**November 11, 2011:** Purchase Order No. 2011-12-008 was received by Espiritu.

**November 15, 2011:** Acceptance and Inspection Report was issued and signed by Libay and Nol.

**January 20, 2012:** Libay executed and signed a handwritten Acknowledgment Receipt (Exhibit "D") stating that he

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"acknowledged and received the amount of P10,000.00 as his share for barangay projects."

**February 8, 2012:** Check No. 73393 for the amount of Php125,117.85 was issued.

Based on these developments, it appears that the receipt by Libay of the Php10,000.00 amount was not only in connection with the project but appears to have facilitated the release of the payment to Espiritu. For one, the goods to be paid were delivered by Espiritu to the barangay and received by the latter as early as November 15, 2011 but payment therefore was released only on February 8, 2012, more than two (2) months from the time the goods were received by the barangay. On this, Libay failed to offer any explanation as to why payment for the goods was delayed. This lack of explanation, coupled with the fact that the documentary evidence show that a few days prior to the release of the payment, Libay executed and signed the said Acknowledgment Receipt, only strengthens the prosecution's theory that the Php10,000.00 amount paved the way for Libay to release the payment for the goods delivered.

In his defense, accused-appellant imputes ill motive upon Espiritu that allegedly prompted the latter to falsely testify against him, harping on the fact that Espiritu ran for public office as the barangay chairman of Barangay 777. He further posits that the documentary evidence of the prosecution and Espiritu's uncorroborated, doubtful, and incredible testimony, are insufficient to prove his guilt beyond a reasonable doubt for the crime charged. We disagree.

This court finds that Libay failed to connect Espiritu's subsequent election as barangay chairman of Barangay 777, City of Manila and his argument that said election prompted him to ensure Libay's conviction of the offense charged. Recall that Ernesto was elected as barangay chairman only in 2013 and for Barangay 777. Libay, on the other hand, was the barangay chairman of Barangay 772. This means that they were not even contenders for the same position. Too, the transaction occurred in 2012, a year prior to Ernesto's election. How then is this subsequent election to the helm of Barangay 777 material to the instant case to the point that this fact will be enough to destroy Ernesto's credibility as a witness?

On the basis thereof, the Court finds that the RTC's reliance on the submitted documentary evidence and Ernesto's testimony was proper and agrees with the trial court's conclusion that Libay indeed received a share, percentage, or benefit in connection with the contract or transaction subject of the instant case.

Anent the *fifth element*, that the transaction is one which the public officer, in an official capacity under the law, has the right to intervene, this Court finds that the same is present in the instant case.

The trial court correctly found that accused-appellant Libay, being the Barangay Chairperson, had the right to intervene in the transaction subject of the instant case. Being the barangay head, he had the authority to approve and sign the various documents connected with the purchase, including Purchase Order No. 2011-12-008 (Exhibit "E") and the

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Acceptance and Inspection Report dated 15 November 2011 and issued by the Office of the Barangay Chairman (Exhibit "B"). In fact, Libay himself does not deny this authority.

Withal, after analyzing and scrutinizing the documentary and testimonial evidence presented, this Court is sufficiently convinced that the trial court committed no reversible error in finding accused-appellant Libay guilty beyond a reasonable doubt of the crime of Violation of Section 3(b), RA 3019.<sup>3</sup>

In sum, accused-appellant has failed to raise any new or substantial matter that would warrant a reconsideration of the Court's Decision dated September 4, 2020. We find that there is no cogent reason to modify, much less reverse, our assailed Decision, as accused-appellant's motion is a mere rehash of his previous arguments.

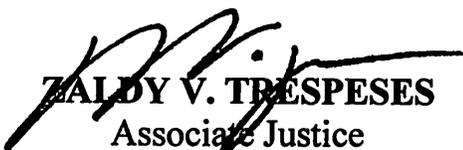
**WHEREFORE**, and in view of our observations above, accused-appellant's Motion for Reconsideration is **DENIED**.

**SO ORDERED.**

  
**GEORGINA D. HIDALGO**  
Associate Justice

WE CONCUR:

  
**MA. THERESA DOLORES C. GOMEZ-ESTOESTA**  
Associate Justice  
Chairperson

  
**ZALDY V. TRESPESES**  
Associate Justice

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<sup>3</sup> Id. at 176-178.