



Republic of the Philippines
Sandiganbayan
Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-17-CRM-1385

For: Violation of Section 7(d) of
Republic Act No. 6713

- versus -

Present

**AILEEN CYNTHIA MAGGAY
AMURAO, JOYCE CABANAG
ENRIQUEZ, MICHIE HITOSIS
MENESES, and MICHAEL ANGELO
LUCERO AQUINO, JR.,**
Accused.

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

Promulgated:

FEB 05 2021

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RESOLUTION

VIVERO, J.:

This resolves the following incidents:

1. The *Motion for Reconsideration* filed via e-mail on December 7, 2020 by accused Aileen Cynthia Amurao and Michael Angelo Aquino, Jr.;¹ and
2. The *Comment/Opposition* filed via e-mail on December 16, 2020 by the Office of the Special Prosecutor.²

¹ Dated December 7, 2020, pp. 1 – 9.

² Dated December 14, 2020, pp. 1 – 7

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Accused-movants assail the Court's Decision³ on the following grounds, to wit:

1. The Honorable Court erred in finding that the letter requests sent were solicitations initiated and perpetrated by accused Amurao; and
2. The Honorable Court erred in finding that there was conspiracy between Amurao and Aquino.⁴

The Prosecution counters that the Honorable Court is correct in convicting the accused. It cites good reasons, to wit:

1. It was conclusively established that it was accused Amurao, in conspiracy with accused Aquino, who sent the solicitation letters; and
2. The conspiracy was sufficiently established by the prosecution.⁵

Accused-movants argue that the testimonies of Galivo,⁶ Gonzales⁷ and Montilla,⁸ representatives of business firms who received sponsorship requests from the City Tourism Office, which lent the impression *"that accused Amurao perpetrated the drafting and sending of the request letters are nothing but "mere conclusions of law."*⁹

Their argument deserves scant consideration.

Accused Amurao heads the City Tourism Office,¹⁰ the lead agency tasked by the City Government of Puerto Princesa, Palawan to promote the arts, cultural initiatives and tourism. In particular, she is the *"chairman"* and *"overall coordinator"* of the 2014 *Pangalipay sa*

³ Promulgated on November 20, 2020, pp. 1 - 65 (Record, Vol. 3, pp. 180 - 244).

⁴ Supra, Note 1, p. 2.

⁵ Supra, Note 2, pp. 2, 4.

⁶ Sheila Ann M. Paclarin-Galivo was the Marketing Supervisor of LTS Pinnacle Holdings, Inc., which operates NCCC Mall in Puerto Princesa City, Palawan.

⁷ Ramil Gonzales was the Area Supervisor of Excite Touchpoint Solutions Team, Inc. (Touchpoint), a marketing and advertising firm.

⁸ Emman M. Montilla was the Area Sales Head at Palawan of Globe Telecom, Inc..

⁹ Supra, Note 1, pp. 2 - 3.

¹⁰ Pre-Trial Order dated February 14, 2018, pp. 1 - 2 (Records, Vol. 1, pp. 236 - 237); EXHIBITS "9", "10".

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Baybay.¹¹ Accordingly, direct orders to solicit sponsorships for the summer extravaganza emanate from her. Her express admission¹² estops her from saying otherwise. Besides, several witnesses provided corroborative evidence in this regard, namely:

1. Shiela Ann M. Paclarin-Galivo;¹³
2. Ramil Gonzales;¹⁴
3. Emman M. Montilla;¹⁵
4. Michie H. Meneses;¹⁶
5. Mary Mae Romelyn Serag-Arcegono;¹⁷
6. Doris G. Suelo;¹⁸ and
7. Sheryl Lynn T. Lebante.¹⁹

Accused-movants deny that "Amurao exercised control and supervision over all personnel"²⁰ of the City Tourism Office (CTO). Thence, she had no part whatsoever in this imbroglio.

This is preposterous.

Neither the pen-pushing nor the leg work may have been actually done by accused Amurao, yet she, as the prime mover, if not the Boss, instructs her aides, including accused Aquino, the events coordinator,²¹ to solicit financial backing and/or in-kind support for the 2014 *Pangalipay sa Baybay*. Ultimately, it is her call. Consequently, accused Amurao bears primary and direct responsibility for the actions of her underlings.

The Court quotes with approval the Prosecution's refutation of the accused's averment, viz:

¹¹ TSN, August 8, 2019, pp. 8 – 10, 20 – 21.

¹² *Id.* at pp. 27 (line 10) – 29.

¹³ Records, Vol. 1, pp. 498 – 499, EXHIBITS "K", "K-1"; TSN, August 7, 2018, pp. 7 – 10.

¹⁴ TSN, September 14, 2018, p. 13 - 20; EXHIBIT "W-3".

¹⁵ EXHIBITS "X", "X-1"; TSN, October 5, 2018, pp. 24 – 25.

¹⁶ TSN, July 4, 2019, p. 17.

¹⁷ TSN, February 28, 2018, pp. 13 – 14, 32 – 33; EXHIBITS "F", "G", "I", "K", "M", "N", "O", "P", "Q", "R", "S", "T", "U".

¹⁸ TSN, October 5, 2018, pp. 39 – 41; Records, Vol. 1, pp. 452 - 462.

¹⁹ TSN, February 28, 2018, p. 23.

²⁰ *Supra*, Note 1, p. 4.

²¹ EXHIBIT "D"; TSN, July 31, 2019, pp. 12 – 17, 28.

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". . . [A]side from pure speculations, accused failed to show any conflicting statements [as to] why [the] prosecution's witnesses are not credible, as if accused want this Honorable Court to accept, hook, line and sinker, their self-serving alibies (sic). Accused failed to show any iota of evidence on why the representatives from SMART Telecommunications, as represented by Excite, Globe Telecoms, NCCC Mall, their fellow CTO employees, their fellow accused and even other employees of the City Government of Puerto Princesa [City,] Palawan will conspire with each other just to pin them down.

"The alleged inconsistency with the testimonies of [the] prosecution's witnesses exist (sic) only in the malicious mind of the accused. It must be emphasized that these matters were never been (sic) a subject of cross-examination of accused Amurao and Aquino. They never questioned the alleged bias, reliability and accuracy of [the] prosecution's witnesses in relation to these matters. Worse, even the pronouncement of accused Meneses that prices (sic) for the event were provided by the City Government were never questioned by [the] accused at the time she was called to testify by accused Aquino and Amurao.

"Thus, the Court cannot be faulted in (sic) relying in (sic) the testimonies of [the] prosecution's witnesses considering that **their testimonies were not only logical, but likewise fully supported by documentary evidence admitted by the Honorable Court.**" ²² (Emphasis and Underscoring Supplied.)

The foregoing brings to mind the Supreme Court's *dictum* in ***Cabaron v. People and Sandiganbayan***,²³ a case wherein this Court convicted²⁴ the accused for violation of Section 7(d) of Republic Act No. 6713. The High Tribunal, in upholding this Court's verdict, held:

"As the tribunal with the full opportunity to observe firsthand the demeanor and deportment of the witnesses, the Sandiganbayan's findings that the witnesses for the prosecution are to be believed as against those of the defense are entitled to great weight. It may not be amiss to reiterate that on the issue of credibility of witnesses, appellate courts will not disturb the findings arrived at by the trial courts - **the tribunals [are] in a better position to rate the credibility of witnesses after hearing**

²² Supra, Note 2, p. 3.

²³ G.R. No. 156981, October 5, 2009.

²⁴ Decision dated October 15, 2002 (Penned by Associate Justice Anacleto D. Badoy, Jr. and concurred in by Associate Justice Teresita Leonardo-De Castro and Associate Justice Diosdado M. Peralta (now Chief Justice of the Supreme Court), and Resolution dated January 23, 2003, of the Sandiganbayan, in Criminal Case No. 24153.

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them and observing their deportment and manner of testifying during the trial; it is not for this Court to review again the evidence already considered in the proceedings below. **This rule stands absent any showing that facts and circumstances of weight and value have been overlooked, misinterpreted or misapplied by the lower court that, if considered, would affect the result or outcome of the case.**²⁵ The Sandiganbayan rulings in this case suffer no such infirmities, notwithstanding the efforts of the petitioners to create a contrary impression.

"As we explained in *Tayaban v. People*:²⁶

[T]he assessment of the credibility of a witness is primarily the function of a trial court, which had the benefit of observing firsthand the demeanor or deportment of the witness. It is well-settled that this Court will not reverse the trial court's assessment of the credibility of witnesses in the absence of arbitrariness, abuse of discretion or palpable error. **It is within the discretion of the Sandiganbayan to weigh the evidence presented by the parties, as well as to accord full faith to those it regards as credible and reject those it considers perjurious or fabricated.** Moreover, the settled rule is that **absent any evidence showing a reason or motive for prosecution witnesses to perjure their testimonies, the logical conclusion is that no improper motive exists, and that their testimonies are worthy of full faith and credit.**'

"X X X." (Emphasis Supplied.)

The prohibition under Section 7(d), Republic Act No. 6713, is *malum prohibitum*.²⁷ Perhaps, sponsorship requests for a not-for-profit organization such as a local government unit may foster community impact collaboration, among others. Nonetheless, as a rule of thumb, *dura lex, sed lex*.²⁸ Also, the *raison d'être* for the prohibitive rule may be gleaned from the Constitution²⁹ and the

²⁵ See *Arceño v. People*, G.R. No. 116098, April 26, 1996, 256 SCRA 569.

²⁶ G.R. No. 150194, March 6, 2007, 517 SCRA 488.

²⁷ *Martinez v. Villanueva*, G.R. Nos. 169196 & 169198, July 6, 2011, 653 SCRA 556.

²⁸ The Latin phrase translates to "the law is harsh, but it is the law."

²⁹ ARTICLE XI of the 1987 Constitution provides:

Section 1. Public office is a public trust. Public officers and employees must, at all times, be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency; act with patriotism and justice, and lead modest lives.

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statute itself.³⁰ Hence, the misfeasance of accused-movants is not publicly defensible.

More.

Accused-movants allege that absent a clear showing of a "prior agreement" between Amurao and Aquino, any inference of conspiracy is "misplaced".³¹ In addition, they assert that:

"... [T]rue to his purpose for being part of the City Tourism Office, he (Aquino) only faithfully executed his job responsibilities. Not to mention that he was also directly reporting to the Mayor's Office."³²

The protestation of accused-movants is specious.

Conspiracy need not be shown by direct proof of an agreement of the parties to commit the offense³³ as it can be inferred from the acts of the accused which clearly manifest a concurrence of wills, a common intent or design to commit an offense.³⁴ Here, **implied conspiracy** has been established from the mode, method and manner by which the offense was perpetrated, or inferred from the acts of the accused before, during and after the commission of the misfeasance indubitably pointing to a joint purpose and design, concerted action and community of interest.³⁵ The totality of the facts and circumstances³⁶ buttresses the Prosecution's averment that "the accused[s] conclusion that there was no conspiracy between them should not be given merit."³⁷

³⁰ Republic Act No. 6713 provides:

Section 2. Declaration of Policies. - It is the policy of the State to promote a high standard of ethics in public service. Public officials and employees shall at all times be accountable to the people and shall discharge their duties with utmost responsibility, integrity, competence, and loyalty, act with patriotism and justice, lead modest lives, and uphold public interest over personal interest.

³¹ *Supra*, Note 1, p. 7.

³² *Ibid.*

³³ *People v. Sandiganbayan (2nd Division) Quintin Saludaga y Bordeos, et. al.*, G.R. No. 197953, August 5, 2015 citing *People v. Herida*, G.R. No. 127158, March 5, 2001, 353 SCRA 650, 659.

³⁴ *Alvizo v. Sandiganbayan*, 454 Phil. 34, 106 (2003) [Per J. Austria-Martinez, En Banc]; *People v. Romualdez*, 57 Phil. 148 (1932) [Per J. Vickers, En Banc].

³⁵ *Salapuddin v. Court of Appeals*, 704 Phil. 577 (2013); *People v. Del Castillo*, G.R. No. 169084, January 18, 2012, 663 SCRA 226, 246.

³⁶ *Napoles v. Sandiganbayan (Third Division)*, G.R. No. 224162, November 2, 2017.

³⁷ *Supra*, Note 2, p. 4.

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In the instant case, conspiracy as basis for conviction rests on nothing less than moral certainty. Clear and convincing evidence has been drawn from a series of acts done by each of the accused in concert and in pursuance of a common unlawful purpose.³⁸ The assailed Decision lays down credible proof on that score, to wit:

"X X X Accused Amurao, being the head of the City Tourism Office, directed her staff to draft solicitation and sponsorship letters to several private companies.³⁹ Accused Aquino, on the other hand, acceded to the commission of the crime when he personally received payments from the private companies.⁴⁰ He even admitted that he facilitated the collection of the donations by indicating his own private number in the solicitation letters distributed.⁴¹ Such act shows that he conspired with accused Amurao and he joined her purpose and design to solicit funds from private companies.

"Notwithstanding his consistent denial of any wrongdoing, the evidence show that he (Aquino) is equally guilty as his co-accused Amurao. Indeed, the testimony of accused 'Manika' Aquino, Jr. was riddled with equivocation and thus, hardly inspires belief. He persistently tagged Edgardo 'Bong' Villanueva, the *Punong Abala*⁴² of the 10th Pangalipay sa Baybay, as his scapegoat. Allegedly, Villanueva drew up and sent the 'sponsorship letters' bearing the 'scanned' signature of accused Amurao.⁴³ Yet, **HE EXPRESSLY ADMITTED THAT HE AND CO-ACCUSED ENRIQUEZ, WHOSE CONTACT NUMBERS WERE PRINTED ON QUITE A FEW SOLICITATION LETTERS,⁴⁴ AUTHORED THE SAME AT THE BEHEST OF ACCUSED AMURAO.⁴⁵** The testimonies of Eman M. Montilla,⁴⁶ Ramil Gonzales,⁴⁷ and Doris G. Suelo⁴⁸ corroborated this.



³⁸ *People v. Sandiganbayan*, 661 Phil 350 (2011), citing *Dayap v. Sendiong*, G.R. No. 177960 January 29, 2009, 577 SCRA 134, 147. citing *San Vicente v. People*, 441 Phil. 139, 147-148 (2002).

³⁹ EXHIBITS "F", "G", "H", "K", "L", "M", "N", "O", "P", "Q", "R", "S", "T", "U", "W".

⁴⁰ EXHIBITS "L", "L-3", "W", "HH".

⁴¹ TSN, May 3, 2019, pp. 25 - 32.

⁴² TSN, July 31, 2019, p. 19.

⁴³ TSN, May 3, 2019, pp. 25 - 30; TSN, June 21, 2019, p. 6.

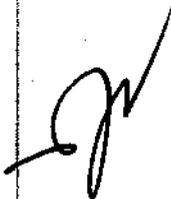
⁴⁴ Judicial Affidavit dated February 15, 2018, of E. M. Alvarez, pp. 6 - 15 (Records, Vol. 1, pp. 265 - 274); EXHIBITS "F", "G", "H", "K", "L", "M", "N", "O", "P", "Q", "R", "S", "T", "U", "W", "W-3".

⁴⁵ TSN, May 3, 2019, pp. 26 - 27.

⁴⁶ TSN, October 5, 2018, pp. 24 - 25.

⁴⁷ TSN, September 14, 2018, pp. 14, 23 - 24.

⁴⁸ TSN, October 5, 2018, pp. 37, 40.



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"The following **WITNESSES PIECE TOGETHER THE OVERT ACTS OF ACCUSED AQUINO, JR. IN FURTHERANCE OF THE ILLICIT DESIGN OF ACCUSED AMURAO**, to wit:

- "1) Eman M. Montilla disclosed that accused Aquino, Jr. sent text messages requesting for Globe Telecom's sponsorship during the Pangalipay sa Baybay.⁴⁹
- "2) The testimony of Doris G. Suelo proved that accused Aquino, Jr. actually drafted the solicitation letters.⁵⁰
- "3) Ramil Gonzales spoke about accused Aquino's execution of the Acknowledgment Receipt for the sponsorship of Smart Communications, Inc..⁵¹

"Further, accused Aquino, Jr. collected and picked up the prizes, gift certificates and cash from the sponsors.⁵² Yet, these were '**never turned over to the city treasurer or city accountant.**'⁵³ X X X.

"X X X Under the shadow of influence of accused Amurao, accused Aquino, Jr. passed the hat around and it paid off. As a result, **HE AIDED ACCUSED AMURAO AND ABETTED THE COMMISSION OF ACTS THAT RUN AFOUL WITH THE NORMS PRESCRIBED UNDER R.A. NO. 6713.**"⁵⁴ (Emphasis and Capitalization Supplied.)

All told, the Court has taken a second, hard look at the points raised in accused's *Motion*. Irrefragably, they have breached the non-solicitation restraint under R. A. No. 6713. Suffice it to say that their arguments are nothing but *réchauffé*.

Accordingly, no compelling reason prompts the Court to modify, much less reverse, its well-studied verdict.

⁴⁹ TSN, October 5, 2018, pp. 24 – 25.

⁵⁰ TSN, October 5, 2018, pp. 37, 40.

⁵¹ TSN, September 14, 2018, pp. 23 – 24; TSN, May 3, 2019, pp. 36 – 37.

⁵² TSN, May 3, 2019, pp. 30 -31; TSN, June 21, 2019, pp. 6 – 9.

⁵³ TSN, May 3, 2019, p. 41.

⁵⁴ Decision dated November 20, 2020, pp. 59 – 60 (Records, Vol. 3, pp. 237 – 238).

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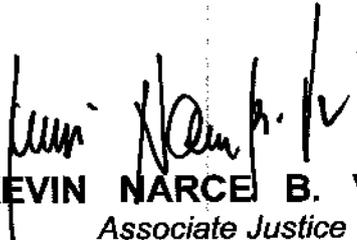
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WHEREFORE, premises considered, the Court hereby **DENIES** for being meritless the *Motion for Reconsideration*⁵⁵ filed on December 7, 2020 by accused Aileen Cynthia M. Amurao and Michael Angelo L. Aquino, Jr..

SO ORDERED.


KEVIN NARCE B. VIVERO
Associate Justice

WE CONCUR:


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson


KARL B. MIRANDA
Associate Justice

⁵⁵ *Supra*, Note 1.