



Republic of the Philippines
SANDIGANBAYAN
Quezon City

SIXTH DIVISION

**PEOPLE OF THE
PHILIPPINES,**

Plaintiff,

SB-08-CRM-0372

For: Violation of Section 3(e) of
Republic Act (R.A.) No. 3019

-versus-

**DR. PAROUK S. HUSSIN,
SERDA I. HASSAN,
RICARDO BAJADOR LUNA,
and SOCORRO FRANCO
NATIVIDAD,**

Accused,

PRESENT:

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

Promulgated:

X----- July 19, 2021 [Signature] -----X

RESOLUTION

MIRANDA, J.:

This resolves the Motion for Reconsideration (Re: Decision dated 22 March 2021) dated May 19, 2021 filed by accused Serda I. Hassan-Bangsa (Hassan-Bangsa) and Comment/Opposition dated June 8, 2021 filed by the Prosecution.

In her motion for reconsideration, accused Hassan-Bangsa claims that: 1) She had no participation in this case because she was acting in good faith while in the performance of her duties and under the direct control, influence, and supervision of her superiors; 2) Undue injury to the Government was neither alleged in the Information nor proven by the evidence; 3) Private complainant Senen I. Arabaca (Arabaca) was not specifically authorized by Geneve S.A. Philippines (Geneve) to file or pursue the case against any of the accused; 4) Assuming Arabaca was authorized on behalf of Geneve, any injury or damage to Geneve was already extinguished or controverted pursuant to Arabaca's Certification dated March 11, 2005 and Affidavit of Desistance dated May 29, 2015; 5) The Prosecution failed to prove the amount of undue injury or damage against Geneve because of conflicting and contradictory evidence; 6) Resort to direct contracting instead of public bidding was due to the armed conflict

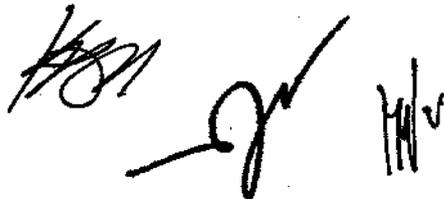
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in the Autonomous Region in Muslim Mindanao (ARMM); and 7) There was no conspiracy.

In its comment/opposition, the Prosecution alleges that: 1) A violation of Section 3(e) of R.A. No. 3019 may be committed by causing undue injury not only to the Government, but to any party such as Geneve which was proven by the evidence on record; 2) The Office of the Ombudsman has the plenary power to act on complaints filed in any form or manner against public officials; 3) The State is the offended party or real party-in-interest in criminal cases and the role of the private complainant is limited to that of a witness for the Prosecution; 4) The indictment of accused Hassan-Bangsa is based not only on the complaint filed by Arabaca but also on the audit investigation conducted by the Commission on Audit (COA); 5) Accused Hassan-Bangsa is barred from raising Arabaca's alleged lack of authority to pursue the case against her pursuant to Section 9, Rule 117 of the Rules of Court; 6) The Certification dated March 11, 2005 and Affidavit of Desistance dated May 29, 2015 have no probative value; 7) Accused Hassan-Bangsa acted with bad faith when she processed and certified the disbursement voucher for the down-payment of the 60 pieces GPI Rescue 911 Comprehensive Disaster Medical Management Kit (GPI Rescue Kits) despite full knowledge of the lack of funds, public bidding and supporting documents, and for failing to pay the balance of the purchase price despite repeated demands; 8) The conditions of direct contracting were not justified; and 9) The acts of accused Hassan-Bangsa and her co-accused, when taken together, were so intimately connected and related which caused undue injury to Geneve.

After a review of the records of this case and the arguments raised by both parties, the Court **DENIES** the Motion for Reconsideration dated May 19, 2021 of accused Hassan-Bangsa. The issues and arguments raised by accused Hassan-Bangsa in her motion for reconsideration, except the issue on Arabaca's authority to file the case against her and her co-accused, are a mere rehash and a repetition of the same issues and arguments which have already been considered and passed upon by the Court in its Decision dated March 22, 2021.

To reiterate, the totality of evidence shows that accused Hassan-Bangsa and her other co-accused conspired to process and approve the disbursement vouchers and purchase order for the down-payment of the GPI Rescue Kits to Geneve without public bidding, available funds, and despite incomplete documents. They also conspired not to pay Geneve the remaining balance of the purchase price amounting to Php5,000,000.00. Specifically, accused Hassan-Bangsa certified in the undated and unnumbered disbursement voucher that the down-payment was necessary,



lawful, and incurred under her direct supervision, and co-signed the checks representing the down-payment.

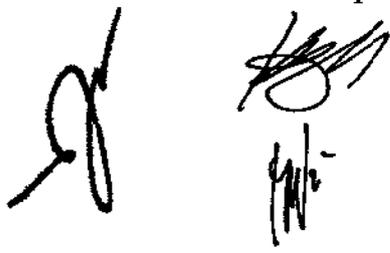
The allotment releases of the ARMM as of December 31, 2002, Agency Budget Matrix FY 2003, and Detailed Program of Expenditures of the ARMM for FY 1999-2003 do not show that the GPI Rescue Kits were allotted with funds or that they were sourced from the Special Purpose Fund (Calamity and Medical Fund) of the ARMM. This was confirmed by the request of accused Hussin to the Department of Budget and Management (DBM) for the release of Sixteen Million Five Hundred Thousand Pesos (Php16,500,000.00) for the payment of the GPI Rescue Kits from the remaining unfunded allotment of the ARMM.

There was no urgency in the purchase of the GPI Rescue Kits because they were delivered 2 months after the purchase order was issued and were even inspected by the brother of accused Hussin at Houston, Texas, USA. Accused Hassan-Bangsa also failed to show proof that direct contracting-emergency procurement was approved by accused Hussin in the bidding documents, and that Geneve was asked to submit a price quotation or a pro-forma invoice together with the conditions of sale. To recall, it was accused Hussin and Ruben Odasco who gave Arabaca the undated and unnumbered purchase order for 60 pieces GPI Rescue Kits which was prepared beforehand by the representatives of the ARMM.

Accused Hassan-Bangsa was charged with causing undue injury to Geneve in the amount of Php8,250,000.00. The fact that there was no undue injury to the Government will not matter because undue injury does not only pertain to the government but to any party.

The balance of Five Million Pesos (Php5,000,000.00) was supported by the evidence on record. It was stipulated in the Pre-trial Order dated January 20, 2014 that the purchase price of the GPI Rescue Kits was Php16,500,000.00 with a 50% down-payment amounting to Eight Million Two Hundred Fifty Thousand Pesos (Php8,250,000.00). Arabaca was then partially paid twice leaving a balance of Php5,000,000.00.

Moreover, the Affidavit of Desistance dated May 29, 2015 and Certification dated March 11, 2005 deserve scant consideration from the Court. Arabaca signed the certification and affidavit of desistance after he was partially paid Php250,000.00 and a promise to be paid the remaining balance of Php5,000,000.00. Arabaca then testified that there are inconsistencies in the statements therein because he was not yet fully paid and there remains a balance of Php5,000,000.00. Arabaca also made it clear



that he was still pursuing the case against accused Hassan-Bangsa and Natividad.

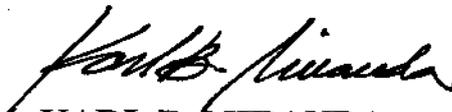
Finally, the alleged lack of authority of Arabaca from Geneve is immaterial and irrelevant. In criminal cases, the State is the offended party and private complainant's interest is limited to the civil liability arising therefrom.¹ The alleged deficiency in the information arising from the lack of authority of Arabaca was not jurisdictional. It did not detract from the unquestioned authority of the Office of the Special Prosecutor to file the Information, nor impair the jurisdiction of the Court to act on the same.²

Accused Hassan-Bangsa was already arraigned and had presented her evidence. Thus, she is barred from raising the alleged lack of authority of Arabaca under Section 9, Rule 117 of the Rules of Court.³

Notably, it is confusing that accused Hassan-Bangsa is claiming Arabaca's lack of authority to pursue this case when she is also asserting the validity of Arabaca's Affidavit of Desistance dated May 29, 2015 and Certification dated March 11, 2005 allegedly extinguishing the case.

WHEREFORE, the Motion for Reconsideration dated May 19, 2021 of accused Serda I. Hassan-Bangsa is **DENIED** for lack of merit. The Decision of the Court promulgated on March 22, 2021 is **AFFIRMED**.

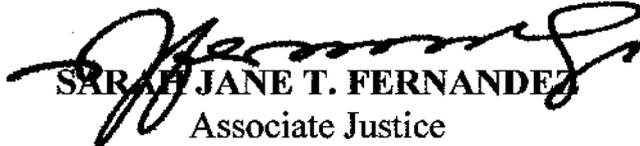
SO ORDERED.



KARL B. MIRANDA

Associate Justice

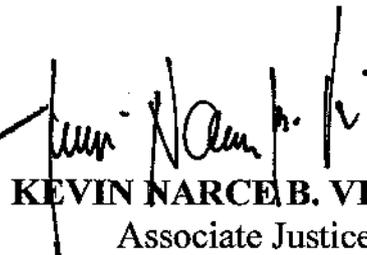
WE CONCUR:



SARAH JANE T. FERNANDEZ

Associate Justice

Chairperson



KEVIN NARCEB. VIVERO

Associate Justice

¹ *Yokohama Tire Philippines, Inc. v. Reyes*, G.R. No. 236686, February 5, 2020.

² *Muñoz v. People*, G.R. No. 162772, March 14, 2008.

³ Section 9. *Failure to move to quash or to allege any ground therefor.* – The failure of the accused to assert any ground of a motion to quash before he pleads to the complaint or information, either because he did not file a motion to quash or failed to allege the same in said motion, shall be deemed a waiver of any objections except those based on the grounds provided for in paragraphs (a), (b), (g), and (i) of section 3 of this Rule.