



Republic of the Philippines
SANDIGANBAYAN
Quezon City

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus -

Crim. Case No.

SB-18-CRM-0432

For: Violation of Section
3(e), Republic Act No. 3019,
as amended

Crim. Case No.

SB-18-CRM-0433

For: Violation of Section
3(g), Republic Act No. 3019,
(Anti-Graft and Corrupt
Practices Act), as amended.

FERDINAND MAGDAMO
AMANTE, JR.,

Accused.

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Present:

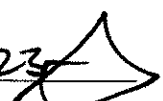
CABOTAJE-TANG, A.M.

Presiding Justice/Chairperson


FERNANDEZ, B. R., J.

MORENO, R. B., J.

Promulgated on:

JANUARY 19, 2023 

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RESOLUTION

FERNANDEZ B. R., J.

For resolution is the Motion seeking a reconsideration and a new trial dated October 31, 2022 of accused-movant Ferdinand M. Amante, Jr., of the Decision of this Court promulgated on October 14, 2022, the dispositive portion of which reads, as follows - -

WHEREFORE, premises considered, judgment is rendered in the following manner - -

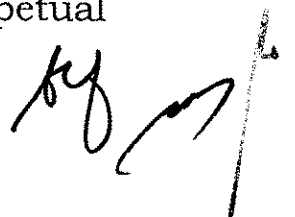
In **Criminal Case No. SB-18-CRM-0432**, this Court finds accused **Ferdinand Magdamo Amante, Jr. GUILTY** beyond reasonable doubt of violation of Section 3 (e) of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, as amended, and sentences him to an indeterminate penalty of imprisonment ranging from **six (6) years and one (1) month, as minimum, to eight (8) years, as maximum**. He shall likewise be perpetually disqualified to hold any public office.

In **Criminal Case No. SB-18-CRM-0433**, this Court finds accused **Ferdinand Magdamo Amante, Jr. GUILTY** beyond reasonable doubt of violation of Section 3 (g) of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, as amended, and sentences him to an indeterminate penalty of imprisonment ranging from **six (6) years and one (1) month, as minimum, to eight (8) years, as maximum**. He shall likewise be perpetually disqualified to hold any public office.

SO ORDERED.

Accused-movant Amante, Jr. grounds his Motion on the Amended Decision (Exh. "88") dated April 27, 2021 of the Court of Appeals, which attained finality upon the issuance of an Entry of Judgment on March 9, 2022. This same Amended Decision, he claims, should be treated as a newly discovered and material evidence under Rule 121 of the Rules of Court, hence, warranting a reconsideration and/or a new trial.

He further maintains that, by failing to consider the findings of the Court of Appeals in its Amended Decision, this Court committed a reversible error. He adds that, with the finality of the said Amended Decision, reversing the perpetual



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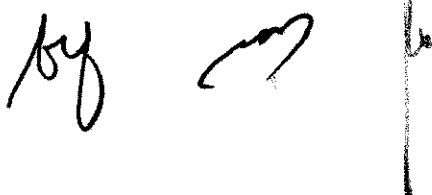
disqualification imposed by the Office of the Ombudsman to a fine equivalent to one (1) month salary, an acquittal in the instant cases is warranted, citing the case of Lukban vs. Sandiganbayan (G.R. Nos. 254312-15, March 2, 2022).

Relying on the requisites enumerated in the Lukban case, accused-movant Amante, Jr. claims that, without proof of the existence of grave misconduct, he cannot be liable for the same. He also insists that his administrative case was dismissed on the grounds that the acts complained of did not exist and that there was nothing unlawful or irregular in his act or omissions as public officer. He, however, admitted that there was no express declaration of the same in the Amended Decision of the Court of Appeals, other than merely adjudging him from grave misconduct to simple misconduct for a violation of the Commission on Audit Circular No. 97-002.

Accused-movant Amante, Jr. argues that, being co-equal courts, the Court of Appeals and the Sandiganbayan, should not render conflicting decisions, hence, a finding of simple misconduct by the Court of Appeals should not give rise to a criminal liability, as in the instant cases. He adds that he was neither spurred by ill-motive nor evident bad faith, as required in Section 3 (e) and (g) of Republic Act No. 3019; thus, the elements of the crimes charged cannot be proven beyond a reasonable doubt.

Additionally, accused-movant Amante, Jr. reiterates that no undue injury was caused on any party, whether the Government or a private party, and that no unwarranted benefits, advantage or preference was given to any party. He further insists that no manifest partiality, evident bad faith or gross inexcusable negligence existed because there is nothing wrong in authorizing him to facilitate a donation in favor of Butuan City.

Accused-movant Amante, Jr. maintains that he was merely an agent of the local government of Butuan City when he entered into the Deeds of Donation. He likewise claims that he was merely performing a ministerial duty when he signed the Deeds of Donation as the designated and authorized representative of Butuan City. Finally, he also reiterates that the subject transaction is not considered grossly and manifestly disadvantageous to the government, notwithstanding, the actual expended amount of P15,485,084.12.



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When given time (Minutes, November 4, 2022), the prosecution, in its Opposition dated November 14, 2022, maintains that the prayer for a new trial based on newly discovered and material evidence is not warranted.

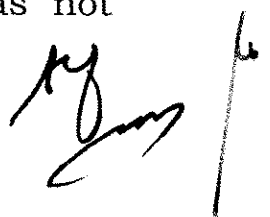
For a newly discovered evidence to be appreciated as a ground for granting a motion for new trial, it must be fairly shown that (1) the evidence was discovered after trial; (2) such evidence could not have been discovered and produced at the trial even with the exercise of reasonable diligence; (3) it is material, not merely cumulative, corroborative, or impeaching; and, (4) the evidence is of such weight that it would probably change the judgment if admitted. Moreover, the prosecution elaborates that material evidence is one that is directed to prove a fact in issue as determined by the rules of substantive law and pleadings.

The prosecution also argues that the reliance by accused-movant Amante Jr. on the Lukban case is patently misplaced as the instant criminal cases are not based on the same evidence passed upon the administrative case and that there were pieces of documentary evidence that were not presented in the administrative case which were presented in the criminal cases.

Particular to the Lukban case, the prosecution explains that the dismissal of the criminal case was allowed because of a prior dismissal of the related administrative case due to the presence of the following requisites: (1) the existence of a criminal case and an administrative case against a public officer based on the same facts; (2) the administrative case has been dismissed with finality; (3) the administrative case was dismissed on the grounds that the acts complained of did not exist, or that there is nothing unlawful or irregular in the acts or omissions of the public officer; and, (4) the criminal case is based on the same facts and evidence passed upon in the administrative case and no additional evidence was presented by the prosecution.

Herein, most of the requisites are wanting, particularly, the second and fourth requisites.

The prosecution points out that, while the Amended Decision docketed as CA-G.R. SP No. 08695-MIN of the Court of Appeals attained finality with the issuance of an Entry of Judgment dated March 4, 2022, the said case was not



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dismissed. Instead, accused-movant Amante Jr. remained guilty, albeit with modification, *i.e.* from grave misconduct to simple misconduct.

Likewise, accused-movant Amante, Jr., in his Motion, mistakenly indicated that prosecution witness Rolando A. Capilitan only testified to the production of the original documents listed in the Subpoena issued by the Office of the Ombudsman, and that the requested documents could no longer be located. Likewise, accused-movant Amante, Jr. also failed to mention in his Motion that prosecution witness Eliakem Serrano was also presented, however, her testimony was dispensed with after the parties agreed to stipulate on the same.

Finally, the prosecution reiterates that this Court did not commit any reversible error and that, in convicting accused-movant Amante, Jr., it correctly found him to have acted with gross inexcusable negligence, as extensively discussed in the assailed Decision.

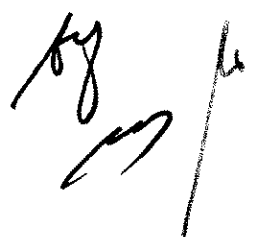
We now rule.

Initially and after a careful review of the arguments raised by the parties, this Court finds no compelling reason to amend, alter, revise or even reverse its findings sought to be reconsidered, moreso, the conduct of a new trial.

This Court observes that much of the arguments presented by accused-movant Amante, Jr. are a mere rehash of the issues and positions raised by him and passed upon, duly considered and resolved by this Court.

Nevertheless, further elaboration is necessary particularly focused on the issues raised by accused-movant Amante, Jr. on his alternative ground of a newly discovered evidence.

At the outset, this Court underscores that by downgrading the administrative liability of an accused from grave misconduct to only simple misconduct will not necessarily result in the outright dismissal of the criminal cases involving the same accused, since the elements of administrative misconduct, whether grave or simple, *vis-a-vis* violations of Section 3 (e) and (g) of RA 3019 are separate and

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distinct from one another (Dator vs. Sandiganbayan (4th Division), G.R. No. 243725, January 28, 2019).

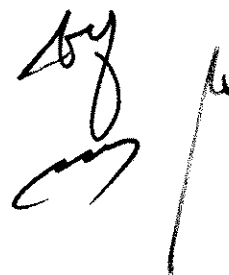
Herein, this Court adheres to the general rule that the criminal action is separate and distinct from the administrative case. And, so is administrative liability separate and distinct from penal liability (Samalio vs. Court of Appeals, *et al.*, G.R. No. 140079, March 31, 2005).

This Court further agrees that the reliance by accused-movant Amante, Jr. on Lukban vs. Sandiganbayan (G.R. Nos. 254312-15, March 2, 2022) as well as the similar cases of Nicolas vs. Sandiganbayan (568 Phil. 297 (2008)) and People vs. Sandiganbayan (637 Phil. 147 (2010)) is patently misplaced.

In Lukban vs. Sandiganbayan (G.R. Nos. 254312-15, March 2, 2022), the exception, rather than the general rule was applied, thus, the dismissal of the criminal case was allowed because of a prior dismissal of the related administrative case based on the compliance to the jurisprudential requisites enumerated.

It must be recalled that in the Lukban case, the petitioner was charged before the Office of the Ombudsman for serious dishonesty and conduct prejudicial to the best interest of the service, for his conspiratorial participation in affixing his signature on an Inspection Report Form; and eventually found guilty and dismissed from the service including the accessory penalties of forfeiture of retirement benefits and perpetual disqualification to hold public office.

Although a Motion for Reconsideration was timely filed, the same was denied. On a Petition for Review on certiorari before the Supreme Court, the earlier findings were reversed and set aside, and the petitioner was reinstated to his former rank without loss of seniority rights and with payment of back salaries and all benefits which accrued. The Supreme Court held that the petitioner cannot be held liable for serious dishonesty or conduct prejudicial to the best interest of the service; and that the petitioner's reliance on the findings of the Inspection and Acceptance Committee, and the property inspectors negates any dishonest intent. Thus, the administrative case for serious dishonesty and conduct prejudicial to the best interest of the service was dismissed.

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To reiterate, in Lukban case, the dismissal of the criminal case was allowed because of a prior dismissal of the related administrative case due to the presence of the following requisites: (1) the existence of a criminal case and an administrative case against a public officer based on the same facts; (2) the administrative case has been dismissed with finality; (3) the administrative case was dismissed on the grounds that the acts complained of did not exist, or that there is nothing unlawful or irregular in the acts or omissions of the public officer; and, (4) the criminal case is based on the same facts and evidence passed upon in the administrative case and no additional evidence was presented by the prosecution.

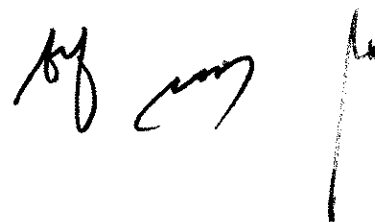
Herein, there is no outright dismissal of the administrative case against accused-movant Amante, Jr. The evidence considered in the administrative case were not the same as in the herein cases. Additional evidence, documentary and testimonial, were actually presented by the prosecution herein. Since the administrative case against accused-movant Amante, Jr. was not dismissed but its penalties merely amended, the requisites for a newly discovered evidence are incomplete.

Moreover, the administrative case against accused-movant Amante, Jr. clearly pertain to a violation of Republic Act No. 6713, otherwise known as Code of Conduct and Ethical Standards for Public Officials and Employees, and the Commission on Audit Circular No. 97-002 on cash advances. While herein the criminal charges stem from violations of Section 3 (e) and (g) of RA No. 3019 or the Anti-Graft and Corrupt Practices Act, amended. Two different and separate rules and laws.

At most, the findings of the Court of Appeals can only be given persuasive effect. Decisions of the Sandiganbayan, although co-equal with the Court of Appeals, are not bound by the latter's findings/decisions.

On the prayer of accused-movant Amante, Jr. for a new trial, We remember Section 2, Rule 121 of the Revised Rules on Criminal Procedure, to wit - -

Sec. 2. Grounds for a new trial. - The court shall grant a new trial on any of the following grounds:



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(a) That errors of law or irregularities prejudicial to the substantial rights of the accused have been committed during the trial;

(b) That new and material evidence has been discovered which the accused could not with reasonable diligence have discovered and produced at the trial and which if introduced and admitted would probably change the judgment. (bold ours).

In order for a newly-discovered evidence to be admissible in evidence, the following requisites must be present: (1) that the evidence was discovered after trial; (2) that the evidence could not have been discovered and produced at the trial even with the exercise of reasonable diligence; (3) that it is material, not merely cumulative, corroborative or impeaching; and, (4) that the evidence is of such weight that, if admitted, would probably change the judgment.

It should be emphasized that the applicant for a new trial has the burden of showing that the new evidence he seeks to present complied with the requisites to justify the holding of a new trial (*Dinglasan, Jr. vs. Court of Appeals*, G.R. No. 145420, September 19, 2006).

Here, accused-movant Amante, Jr. failed to satisfy all the requisites mentioned, especially the third and fourth -- that the said evidence if material, not merely cumulative, corroborative or impeaching and that the evidence is of such weight that, if admitted, would change the judgment.

WHEREFORE, in light of all the foregoing, the Court hereby **DENIES** the Motion for Reconsideration/New Trial dated October 31, 2022 of accused-movant Ferdinand Amante, Jr., for lack of merit.

SO ORDERED.



BERNELITO R. FERNANDEZ
Associate Justice



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We concur:

AMPARO M. CABOTAJE-TANG
Presiding Justice/Chairperson

RONALD B. MORENO
Associate Justice

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