



Republic of the Philippines
SANDIGANBAYAN
Quezon City

SIXTH DIVISION

**PEOPLE OF THE
PHILIPPINES,**

Plaintiff,

SB-18-CRM-0434 to 0437
For: Violation of Section 3 (e) of
Republic Act (R.A.) No. 3019

-versus-

and

**LEONILA PAREDES
MONTERO,**

Accused,

SB-18-CRM-0438 to 0441
For: Violation of Art. 244 of the
Revised Penal Code (R.P.C.)

PRESENT:

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

Promulgated:

21 FEB 2023 



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RESOLUTION

MIRANDA, J.:

This resolves the Motion for Reconsideration dated November 7, 2022 filed by Leonila P. Montero (Montero) and the Comment/Opposition dated November 11, 2022 filed by the Prosecution.

In the Decision dated October 26, 2022, Montero was convicted of four counts of Violation of Section 3(e) of R.A. No. 3019. The Court found that Montero acted with evident bad faith and manifest partiality to give unwarranted benefits, advantage, or preference to four losing candidates

during the May 2013 elections by hiring them as job order personnel during the one-year appointment ban. The four losing candidates were Noel Hormachuelos (Hormachuelos), Danilo Reyes (Reyes), Apolinar Fudalan (Fudalan) and Fernando Penales (Penales). Montero, however, was acquitted of the crime of Unlawful Appointments under Article 244 of the R.P.C.

In her motion, Montero claims that she acted in good faith and without any criminal intention to circumvent the laws prohibiting the appointment of losing candidates within a year after elections. She insists that Department of the Interior and Local Government (DILG) Opinion No. 069-93 allows the hiring of losing candidates on a job order basis.

In its Comment/Opposition, the Prosecution argues that Montero's reliance on DILG Opinion No. 069-93 is misplaced. Aside from failing to formally offer the said opinion in evidence, the Prosecution asserts that Montero only quoted portions of DILG Opinion No. 069-93 that were beneficial to her case. It reiterated the findings of the Court and stressed that the four losing candidates were not mere job order personnel but were performing duties pertaining to regular employees of the local government of Panglao, Bohol.

After a review of the records of this case and the arguments raised by the parties, the Court **DENIES** the Motion for Reconsideration dated November 7, 2022 of Montero for lack of merit.

A motion for reconsideration is based on errors of law or fact in the judgment that requires no further proceedings. It asks the court to reconsider its findings or conclusions of law and make them conformable to the law applicable to the case, without further trial or presentation of evidence.¹

Montero failed to persuade the Court that it erred in appreciating the facts and applying the law to the evidence presented. Montero's criminal intention to circumvent the constitutional and statutory provisions prohibiting the appointment of losing candidates were proven by the evidence presented by both the Prosecution and Defense.

Montero relied on DILG Opinion No. 069-93 alleging that it allowed the hiring of losing candidates on a job order basis. While said opinion was not offered in evidence, it is subject to judicial notice for being an official act of the Executive Department of the National Government.² Montero,

¹ Section 3, Rule 121 of the Revised Rules of Criminal Procedure.

² Section 1, Rule 129 of the Revised Rules on Evidence.



instituting effective
administrative reforms;

by law and the Local Government
Code.

x x x

<p>the case may be, on all other matters relative to the management and administration of the local government unit; and</p> <p>(5) x x x</p>	<p>coordination in the implementation of the plans, projects, and progressions of the Municipality to avoid wastage of public funds, delay, inefficiency and haphazard implementation.</p>
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Penales	
R.A. No. 7160	Job Order and Resolution No. 81, Series of 2013 ⁷
<p style="text-align: center;">Article VIII The Engineer⁸</p> <p>Sec. 477. Qualifications, Powers and Duties. (a) x x x</p> <p>(b) The engineer shall take charge of the engineering office and shall:</p> <p>(1) x x x</p> <p>(2) Advise the governor or mayor, as the case may be, on infrastructure, public works, and other engineering matters;</p> <p>(3) Administer, coordinate, supervise, and control the construction, maintenance, improvement, and repair of roads, bridges, and other engineering and public works projects of the local government unit concerned;</p> <p>(4) Provide engineering services to the local government unit concerned, including investigation and survey, engineering designs, feasibility studies, and project management;</p> <p>(5) x x x</p>	<p>(1) Advise the Mayor on infrastructure, Public Works and other Engineering matters.</p> <p>(2) Assist and act as a lead man of the Composite Team that forms or Inspects all the buildings, issued permits and roads within the Municipality of Panglao.</p> <p>(3) Provide support to the Local Building Officials on the investigation, and survey on engineering designed project management</p>

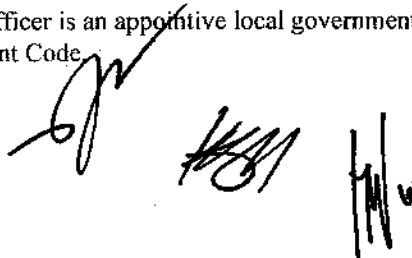
⁷ Exhibits "FF-2-B" and "8".

⁸ A Municipal Engineer is an appointive local government official under Section 477, Article VII of the Local Government Code.

Reyes	
R.A. No. 7160	Job Order and Resolution No. 82, Series of 2013 ⁹
Article XVI The Information Officer¹⁰	
<p>Sec. 486. Qualifications, Powers and Duties. (a) x x x</p> <p>(b) The information officer shall take charge of the office on public information and shall:</p> <ol style="list-style-type: none">(1) Formulate measures for the consideration of the sanggunian and provide technical assistance and support to the governor or mayor, as the case may be, in providing the information and research data required for the delivery of basic services and provision of adequate facilities so that the public becomes aware of said services and may fully avail of the same;(2) Develop plans and strategies and, upon approval thereof by the governor or mayor, as the case may be, implement the same, particularly those which have to do with public information and research data to support programs and projects which the governor or mayor is empowered to implement and which the sanggunian is empowered to provide for under this Code;(3) In addition to the foregoing duties and functions, the information officer shall:<ol style="list-style-type: none">i. Provide relevant, adequate, and timely information to the local government unit and its residents;	<ol style="list-style-type: none">(1) To act as a Public Information Officer of the LGU, Panglao, Bohol;(2) Takes documentations, writing news, and take photos on public affairs and community and civic programs of the LGU;(3) Responsible in the publication of more important news, stories and public affairs through broadcast, news articles regarding the LGU and its constituents; and(4) Provide information and research data for basic services and for the public to become aware of said services.

⁹ Exhibits "FF-3-B" and "9".

¹⁰ An Information Officer is an appointive local government official under Section 486, Article XVI of the Local Government Code.



<p>ii. Furnish information and data on local government units to government agencies or offices as may be required by law or ordinance; and non-governmental organizations to be furnished to said agencies and organizations;</p> <p>iii. Maintain effective liaison with the various Sectors of the community on matters and issues that affect the livelihood and the quality of life of the inhabitants and encourage support for programs of the local and national government;</p> <p>(4) Be in the frontline in providing information during and in the aftermath of manmade and natural calamities and disasters, with special attention to the victims thereof, to help minimize injuries and casualties during and after the emergency, and to accelerate relief and rehabilitation;</p> <p>(5) Recommend to the sanggunian and advise the governor or mayor, as the case may be, on all other matters relative to public information and research data as it relates to the total socioeconomic development of the local government unit;</p> <p>x x x</p>	
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As for Fudalan, he was engaged to perform the following functions that pertain to a PESO Officer:

- 1) Preparation for an IT capable organization with all offices on the use of computers to perform daily routinely task and can do technical troubleshooting;
- 2) Adoption of a computer-based information system that would aide individual users in an office function;
- 3) Assist in the establishment of a Community training and Employment Program and PESO to answer unemployment problem



in the locality by scouting applicants that are interested in different slots available for training given/deployed by National Government Agencies;

- 4) Help in the installation of Human Resource Information System (HRIS) that would help both the old and new hired employees of the entire organization to include automatic attendance monitoring system (in biometric approach) linking to Accounting Department for an automatic payroll preparation/computation; and
- 5) Provide training to all heads of department and staff on current computer application suited for their office.¹¹

During a regular session of the Sangguniang Bayan of Panglao, losing candidate Hormachuelos even admitted that he knew of the legal impediment for his appointment to public office, which is why he was hired as a job order personnel instead. To reiterate, the pertinent portion¹² of the Minutes of the Regular Session of the Sangguniang Bayan of Panglao, Bohol held on July 8, 2013 at the SB Session Hall, Panglao, Bohol reads:

“XXX XXX XXX XXX

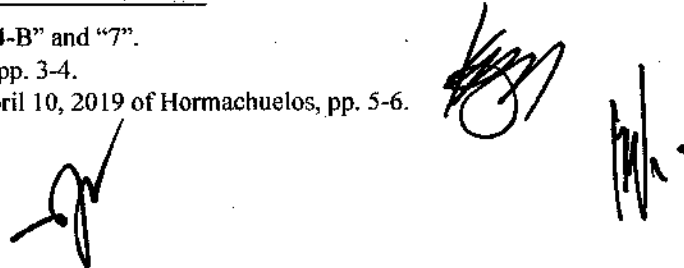
Each of the consultants present were given the floor. Mr. Noel Hormachuelos was first recognized. After the usual greetings, he said that they all knew that for a long time, the position of the Municipal Administrator who is in charge of administrative activity has long been vacant. He told them that Panglao at present is different than before and the affairs has been becoming complicated especially on the infra projects like big hotels, so they should have one person who will focus not just on simple administration but in charge on the waste management of the whole municipality especially the public market. So he appeared before them to present himself if he can be of help to the municipality. **He continued that he knew that all of them were aware of the legal impediment because he was a candidate on the past elections but he has legal basis from Atty. Paredes that they can be hired as casual or by contract. The nature of his employment is not subject to the review by the Civil Service Commission because the applicant is not subject to the same privilege as enjoyed by other employees like PERA, ACA and other allowances. He also said that as a matter of legal procedure, before the Honorable Mayor can give a go signal, all must be passed upon and reviewed by the Sangguniang Bayan.** [Emphasis supplied]

Hormachuelos also admitted that they did not sign any documentary proof that they were receiving monthly salary in cash during the one-year appointment ban. After the said period, however, they were made to sign pay slips regularly as job order personnel under the Office of the Mayor.¹³

¹¹ Exhibits “FF-4-B” and “7”.

¹² Exhibit “10”, pp. 3-4.

¹³ TSN dated April 10, 2019 of Hormachuelos, pp. 5-6.



Montero bypassed the approval of the Sangguniang Bayan. The four losing candidates started working days before the Sangguniang Bayan resolutions authorizing her to hire executive assistants as job order personnel were adopted on July 8, 2013.¹⁴ Hormachuelos, Reyes, Penales, and Fudalan assumed their respective duties the day following Montero's assumption as Mayor on July 1, 2013. Evidence show that they performed public officer duties from July 1, 2013 to July 31, 2014,¹⁵ which was way beyond the six month period allowed for job order contracts under Civil Service Commission (CSC) rules¹⁶ and Section 77 of the Local Government Code, which Montero cited in her motion. These show that Montero was manifestly partial in giving them unwarranted benefits, advantage, or preference, even if they were disqualified from being appointed to public office.

Finally, Montero, on her own, decided that the four losing candidates were each to be paid a fixed rate of Twenty Five Thousand Pesos (Php 25,000.00) monthly, regardless of the number of days that they actually reported to work.¹⁷ There was no job order contract stating the amount that should be paid to the four losing candidates so there was no basis for Montero to give the said monthly rate. Also, the amount was way beyond the rate of job order personnel at that time, which is Two Hundred Pesos (Php 200.00) per day of work.¹⁸

All the foregoing circumstances negate Montero's claim of good faith as it was proven beyond reasonable doubt that she knew of the legal impediment prohibiting the appointment of the four losing candidates to public office. To evade said ban, Montero hired them as job order personnel under the Office of the Mayor. Montero's circumvention of the Constitution and the law by hiring losing candidates as job order personnel to perform the regular tasks of municipal officials was clearly attended with bad faith and manifest partiality

WHEREFORE, the Motion for Reconsideration dated November 7, 2022 of Leonila Paredes Montero is **DENIED** for lack of merit.

SO ORDERED.

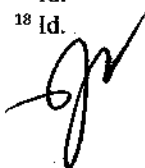
¹⁴ Exhibits, "6", "7", "8", "9", and "G" to "GG"

¹⁵ Exhibits "G" to "GG".

¹⁶ Decision, p. 41.

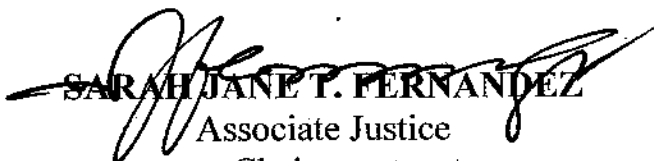
¹⁷ Id.

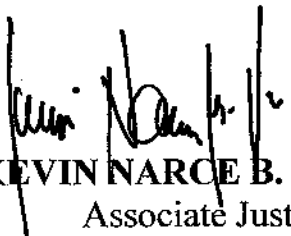
¹⁸ Id.




KARL B. MIRANDA
Associate Justice

WE CONCUR:


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson


KEVIN NARCE B. VIVERO
Associate Justice