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eight (8) years and six (6) months, as maximum, with perpetual disqualification from public office. He was also ordered to pay private complainant Lutgarda T. Arceo the sum of Php100,000.00 as temperate damages, with legal interest of six percent (6%) *per annum* from finality of this *Decision* until fully paid.

In his plea for reconsideration, accused-appellant Tupaz, a Brgy. Captain of Brgy. M.H. del Pilar, Dulag, Leyte, asserts that he did not act with *manifest partiality* and *gross inexcusable negligence* because he merely acted in good faith when he ordered the demolition of the houses of private complainants Lutgarda T. Arceo and four(4) other occupants of the subject real property as part of the enforcement of a barangay settlement agreement pursuant to Section 417 of the Local Government Code. He points out that there are two(2) documents involved in the case. Explaining his point, he contends that assuming *arguendo* that Lutgarda Arceo had an interest over a portion of the subject real property, the same is not known to him because he was neither a party nor a witness to the first document entitled "*Deed of Sale with Right to Repurchase of Three(3) Ideal Shares*" dated August 30, 1997 where the three (3) heirs of Antonio Abarrientos conveyed their respective shares (3/5) over the subject land to herein private complainant Lutgarda T. Arceo.

On the second document captioned "*Deed of Release of Sale with the Right of Repurchase of a Portion of a Parcel of Land*" dated June 7, 1999, where a portion (1/5) of the real property subject of the case was redeemed or released to the Legaspis, accused-appellant Tupaz contends that the said document did not mention that the remaining portion is owned or mortgaged to Lutgarda T. Arceo.

Accused-appellant Tupaz further argues that the validity of the agreement which the parties referred to as "*Affidavit/Panumduman*" was never an issue during the trial, hence, the finding that accused-appellant Brgy. Captain proceeded with undue haste in inducing the occupants to sign the said agreement is unfounded considering that the prosecution and the defense stipulated during the pre-trial that the respondent-occupants agreed to vacate the premises and removed their respective houses within a period of three(3) months from execution of the agreement. He asserts that he merely relied in good faith on the agreement executed by the parties during the mediation conference.

Finally, accused-appellant submits that the prosecution failed to prove the undue injury to private complainant Lutgarda Arceo who was not among the aggrieved parties stated in the *Information* in violation of his right to be informed of the nature and cause of the accusation against him.



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The Ombudsman, through the Office of the Special Prosecutor (OSP) representing Plaintiff-appellee, counters in its *Comment*,³ dated March 30, 2023 (received on April 11, 2023), that accused-appellant's *Motion for Reconsideration* lacks merit for being a mere rehash of the arguments which he previously raised before this Honorable Court.

Responding to the denial of accused-appellant Tupaz that the antecedents to the demolition of the houses of private complainants Arceo, et. al. was tainted with *manifest partiality* and *gross inexcusable negligence*, the OSP argues that the act of Tupaz in calling the occupants of the houses and making them sign the "*Affidavit/Panumduman*," and in issuing and assisting in the demolition of their houses were done to unduly favor Florencia and Ma. Luz Legaspi, as well as the Elbin spouses. Nowhere was it stated in the said document that they consented to the demolition of the structures, thus accused-appellant Tupaz exceeded his authority when he issued the writ of demolition instead of merely ordering them to vacate the premises.

Despite the knowledge of accused-appellant Tupaz of private complainant Lutgarda Arceo's interest in the subject real property, argues the OSP, as he himself signed as a witness to the "*Deed of Release of Sale with the Right of Repurchase of a Portion of a Parcel of Land*" where Florencia and (Ma.Luz Legaspi) redeemed only 1/5 portion of the subject property, yet she (Lutgarda) was not notified at all of the proceedings in the barangay that led to the demolition of her house, while her niece, Rhea Tupaz, received the copy of the writ of demolition only in the afternoon of the day before the scheduled demolition on October 1, 1999. Citing the case of *Sison vs. People*⁴, the OSP avers that these facts constitute *manifest partiality* in favor of Florencia and (Ma. Luz Legaspi) as well as the Elbin spouses, and *gross inexcusable negligence* on his part (Tupaz) in the conduct of the proceedings which eventually led to the demolition of the houses of private complainants notwithstanding her pleas to stop the demolition and allow the presentation of legal documents to establish her rights.

Anent accused-appellant Tupaz' argument that the prosecution failed to prove *undue injury* under Section 3(e) of R.A. 3019, the OSP emphasizes that apparent from the allegations of the Information, accused-appellant Tupaz was principally charged under the second mode, that is, *giving unwarranted benefits, advantage or preference* to Florencia and Ma. Luz Legaspi which, as ruled by the Honorable Court based on the evidence on the records, quoting the pertinent portion⁵ on page 31 of the *Decision*, found him liable for violation of Section 3(e) of R.A. No. 3019. The disjunctive term "or" under Section 3(e) of R.A. 3019 in reference to the two(2) modes

³ Records, pp. 219-225 [

⁴ G.R. No. 70339, 1700398-403, March 9, 2010

⁵ See OSP Comment, p. 5

by which a public officer violates said section of the law connotes that either act qualifies as a violation of Section 3(e) of R.A. 3019. The presence of one would suffice for violation, citing the case of *Tiongco vs. People*.⁶

DISCUSSION AND RULING

After a thorough review of arguments raised in the *Motion for Reconsideration*, this Court is convinced that the grounds raised thereon are not at all novel and substantial which would warrant any deviation from the *Decision* promulgated on February 17, 2023. The arguments raised thereon have already been thoroughly considered and passed upon by the Court in the assailed *Decision*.

Notwithstanding the foregoing, the Court is not persuaded that accused-appellant Tupaz was in good faith when he caused the demolition of the respective houses of private complainants Lutgarda T. Arceo and the other four(4) occupants of the real property in question.

Good faith implies honesty of intention, and freedom from knowledge of circumstances which ought to put a person on inquiry.⁷ The application of the doctrine of good faith is subject to the qualification that the public official has no foreknowledge of any facts or circumstances that would prompt him to investigate or exercise a greater degree of care.

Case law guides us that good faith is an intangible and abstract quality with no technical meaning or statutory definition, and it encompasses, among other things, an honest belief, the absence of malice and the absence of design to defraud or to seek an unconscionable advantage. It implies honesty of intention, and freedom from knowledge of circumstances which ought to put the holder upon inquiry.⁸ Conversely, a lack of good faith implies acting with reckless, indifferent, arbitrary, or intentional disregard for the well-being of other parties.

Where, as in the instant case, a public officer like accused-appellant Brgy. Captain Tupaz, acting in official capacity as Chairman of the *Lupon ng Tagamapayapa*, has foreknowledge as a witness to the execution of the document between Lutgarda T. Arceo and the Legaspis captioned "*Deed of Release of Sale with the Right of Repurchase of a Portion of a Parcel of Land*" dated June 7, 1999 that a portion (1/5) of the real property subject of the case was redeemed or released to the Legaspis should have prompted him to make further inquires: (i) why only 1/5 portion of the subject property

⁶ G.R.No. 218709-10, November 14, 2018

⁷ *Gabutan vs. Nacalaban*, G.R. No. 185857-58 consolidated with *Nacalaban vs. Gabutan*, G.R. No. 194314-15, June 29, 2016, citing *Occena vs. Esponilla*, G.r. No. 156973, June 4, 2004, 431 SCRA 116

⁸ *Ochoa vs. Apeta and Almazan*, G.R. No. 146259, September 13, 2007; *PNB vs. De Jesus*, G.R. No. 149295, September 23, 2003

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was redeemed or released to the Legaspis; and (ii) since the 1/5 portion was redeemed or released, who owns the remaining 4/5 portion of the subject property. This he did not do at all. The said fact or circumstance can be readily seen in the document itself. Common sense dictates that if 1/5 portion was redeemed or released to the Legaspis, there remains therefore 4/5 portion of the subject property which may be owned by either the original owner, Antonio Abarrientos, or his compulsory heirs, or other third person. Had he made further inquiries, he would have found that private Lutgarda T. Arceo purchased two(2) years earlier, or on August 30, 1997, the said 3/5 portion from the other heirs of Antonio Abarrientos, owner of the 1,380 square meter property.

Moreover, the argument of accused-appellant Tupaz that undue injury under Section 3(e) of R.A. 3019 was not proven by the prosecution was the same argument raised in his *Accused-appellant's Brief* which was judiciously considered by the Court and found the same to be without merit. It must be noted that he was principally charged under the Information with violation of Section 3(e) of R.A. 3019 by *giving unwarranted benefits, advantage or preference* to Florencia and Ma. Luz Legaspi, which turned out later, as testified to by the witness for defense, Alexander Cagara, redounded to the benefit or advantage of his first cousin, Editha C. Elbin, who purchased the subject property after the demolition on October 1, 1999 and built a house thereon.⁹

Clearly, as ruled by the Court, the prosecution has clearly established by sufficient evidence, both testimonial and documentary, the *unwarranted benefits, advantage or preference* to the Legaspis which, as events transpired after the mediation proceedings, resulted to the damage to property or injury of the rights of private complainants in the criminal case as they were deprived of their dwelling or means of abode. Section 3(e) of R.A. No. 3019 speaks of two(2) modes or ways of violation of the law by a public official: (i) by causing undue injury to any party, including the Government, or (ii) by giving any private party any unwarranted benefit, advantage or preference. The disjunctive term "or" under Section 3(e) of R.A. 3019 in reference to the two(2) modes by which a public officer violates said section of the law connotes that either act qualifies as a violation of Section 3(e) of R.A. 3019. The presence of one would suffice for violation.¹⁰ Here, the damage to property or injury to the rights of private complainants is but the necessary consequence of the unwarranted benefits, advantage or preference given to the Legaspis.

There being no compelling and justifiable reason to veer away from our pronouncements in the assailed Decision as no new matters have been raised by accused-appellant to warrant a reconsideration of the judgment rendered in this case, the Court finds no necessity to discuss and rule again


⁹ TSN, March 25, 2012, Records, p. 392

¹⁰ Tionco vs. People, G.R. Nos. 218709-10, November 14, 2018


on the grounds raised since this would be a useless ritual invariably involving merely reiteration of the reasons already set forth in the Decision.


WHEREFORE, in view of the foregoing, the *Motion for Reconsideration* filed by accused-appellant Tupaz is hereby **DENIED** for lack of merit.

SO ORDERED.


RAFAEL R. LAGOS
Chairperson
Associate Justice

WE CONCUR:


**MARIA THERESA V.
MENDOZA-ARCEGA**
Associate Justice


**MARYANN E.
CORPUS- MAÑALAC**
Associate Justice