REPUBLIC OF THE PHILIPPINES
Sandiganbayan
QUEZON CITY

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SEVENTH DIVSION

MINUTES of the proceedings held on April 3, 2023

Present:

Justice MA. THERESA DOLORES C. GOMEZ-ESTOESTA-- Chairperson
Justice ZALDY V. TRESPESES----------Member
Justice GEORGINA D. HIDALGO----------Member

The following resolution was adopted:

Crim Case No. SB-12-CRM- 0127 to 0128 –People of the Philippines vs. Amado A. Inocentes, Celestino Cabalitasan, Ma. Victoria Leonardo, Jerry Balagtas and Jose de Guzman

This resolves the following:

1. Accused Jerry Balagtas and Ma. Victoria Leonardo's Motion for Reconsideration dated March 9, 2023[1];
2. Accused Jose Q. de Guzman, Jr.'s Motion for Reconsideration dated March 3, 2023[2];
3. Accused Celestino Cabalitasan's Motion for Reconsideration dated March 18, 2023[3]; and
4. Prosecution's Consolidated Comment / Opposition dated March 27, 2023[4].

CONSOLIDATED RESOLUTION

HIDALGO, *J.*

Prompted by the decision of the court finding all accused guilty beyond reasonable doubt for two (2) counts of violation of Section 3 (e) Republic Act No. 3019 and sentencing them to suffer imprisonment for a period of six (6) years and one (1) month as minimum to ten (10) years as maximum and perpetual disqualification from public office, accused Celestino Tugawin Cabalitasan (accused Cabalitasan), Ma. Victoria Magat Leonardo (accused Leonardo), Jerry Manansala Balagtas (accused Balagtas) and Jose Quiambao

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[1] Record, Vol. 10, pp. 286 to 291A
[2] Record, Vol. 10, pp. 292 to 320
[3] Record, Vol. 10, pp. 322 to 356
[4] Record, Vol. 10 pp. 368 to 375

De Guzman (accused De Guzman) filed their respective Motions for Reconsideration, subject matter of this Consolidated Resolution.

Arguments in support of accused Balagtas and Leonardo's Motion for Reconsideration

In essence, both accused Balagtas and Leonardo allege that they merely acted in obedience to a lawful order of their superior.

To bolster their argument, they contend that the prosecution failed to establish that they conspired with their co-accused in the commission of the crime.

In support of this argument, they point out that the position or function they held and discharged under the *Bahay Ko Program* was not their official positions. They were merely assigned as credit investigator and property appraiser, respectively, by Amado Inocentes. Thus, it was not their own decision and free will to be part of the *Bahay Ko Program* but merely acted in obedience to an order of a lawful authority. That, having been designated as such, both of them cannot just disobey lawful orders from their superior. They emphasized that their primary goal as government employees is to fulfill and discharge the tasks assigned to them and not to defraud the government.

In negating the findings of the court that they conspired with their co-accused in the commission of the crime, accused Balagtas and Leonardo argue that it is erroneous to conclude that by being part of the team that implemented the *Bahay Ko Program,* and as a consequence thereof, they acted, performed and discharged their functions which negates conspiracy in the commission of the crimes charged. They assert that as "*lowly employees*", they are not capable of doing the crime. They further contend they were neither recipients nor beneficiaries of any amount that the GSIS released. In fact, they do not decide on money matters because the tasks assigned to them are tasks that have nothing to do with money, billings, check preparation, release of checks and subsequent payment in favor of the payee.

Lastly, accused Balagtas and Leonardo invoke that they should also enjoy the benefits of the application of the Doctrine of Inordinate Delay in the same manner that Amado Inocentes benefited therefrom. They maintain that the acts complained of arose from the same set of facts and involved the same persons.

Arguments in support of accused de Guzman Jr.'s Motion for Reconsideration

For his part, accused de Guzman argues that the prosecution failed to prove the existence of conspiracy, much less, that a crime has been committed.

The prosecution was not able to present direct, clear and convincing evidence that he was part of the conspiracy and he did positive acts which demonstrated his participation in the crimes charged. For his defense, he argues that he merely performed his functions as the president of the Jose Q. De Guzman Home Development Corporation (JQGHDC), one of the accredited private real estate developers of GSIS Tarlac Filed Office (GSIS-TFO).

He insists that no witness was presented to demonstrate that he conspired with the other accused nor testified on any act that will show that he contributed to the alleged conspiracy. He brings forth the argument that there was no document at all that was presented to show his culpability of the acts complained of. He adds that the non-examination of the prosecution witnesses should never be an issue in light of the legal precept that conviction of an accused should be based on the strength of the evidence of the prosecution and not on the weakness of the evidence of the accused as demanded by the [1987] Constitution. Additionally, he asserts that the court's finding of the existence of conspiracy is not supported by facts since nothing in the records of these cases, *i.e.* from the Fact Finding Investigation Report, the Audit Investigation Report to the testimonies of prosecution witnesses and from his co-accused showed that he was a privy to, had knowledge of or participated in the acts complained of.

Specifically, he points out that the alleged tampered or altered Transfer Certificates of Title (TCT) should not be used by the court to demonstrate his guilt since no witness from the Registry of Deeds testified on the same. The finding of tampering was a mere conclusion as can be gleaned from the GSIS Investigation Report which was not proven in the course of the trial. The alterations in the TCT relate only to the dates of issuance of the TCT. He explains that while the alterations in the dates of the TCT may be considered irregular, they do not make a borrower qualified or unqualified because of the legal requirement that no financial institution should approve a loan unless the same is already secured by a collateral. Having said so, the Government Service Insurance System (GSIS) sustained no actual loss due to such alterations. Additionally, he points out that only GSIS employees have access to the records and the books of entries bearing the dates of approval of the loan. Thus, only GSIS employees have the motivation to do the alteration. The prosecution was not able to prove beyond reasonable doubt that he did or that he instructed any of his employees to do the alteration.

With respect to the finding of this court as to the non-habitable condition of the housing units, he contends that in 2011 when the Fact Finding Investigation and the Audit Investigation Report were conducted, the housing units were unoccupied because many approved borrowers and owners were still actively employed and residing outside Tarlac City. He reminds the court that some borrowers obtained the loan not because the housing units will be used as their residence, but also because they will be used as an investment

for those who intend to occupy the same after retirement. He adds that the testimony of prosecution witness Gatpayat that the housing units were "not in good condition" is an exaggerated statement. The housing units were unoccupied when the Fact Finding and Audit Investigations were conducted, where dust already accumulated overtime causing the housing units to appear "not in good condition."

He challenges the finding of this court that it is highly irregular on his part, together with Miss Nuguid, to approach teachers who were applying for a loan in order to obtain their signatures in the application forms. He avers that this finding has no basis and therefore should be considered as hearsay to prosecution witness Gatpayat who testified about this matter when the teachers were interviewed. More, not a single teacher was presented to testify that he spoke with them to obtain their signatures for the loan application. Being engaged in an independent marketing, it is unlikely for him to still bother himself to meet with [loan applicants] and convince them to avail of the housing loans.

Relative to the findings of the court that the signature of witness Nagaño on the Contract to Sell was forged, he points out that his act of affixing his signature on the Contract to Sell does not mean that he was a privy to the forgery. He merely relied on the complete staff work of the independent marketing service provider. His negligence in relying on the document presented to him for signature, does not amount to, much less prove his participation in the conspiracy. The fact of alleged forgery was not proven since no expert witness was presented to prove the same.

As to the payment of transportation allowance, if indeed transportation allowance was extended to loan applicants, he insists that it was a legal marketing strategy. It is a strategy that a corporation shall take pride to attract prospective loan applicants. He likewise denies the payment of rebates and explains that rebates are paid only by someone who does not care about the company's future. He also maintains that it is not unusual for a real property developer to earn a reasonable return on his investment. All earnings from the transactions complained of are products of his hard work and legitimate toils.

Commenting on the findings of the court that he did not cross examine some witnesses for the prosecution, he explains that there was no necessity to do it because no witness was presented which linked him to the alleged transactions. He adds that no witness was presented to positively identify him as the one who personally tried to persuade loan applicants to sign loan applications in exchange for rebates.

As to the exact amount of the damage sustained by the government and the GSIS, he emphasizes that the determination of the actual loss is important because the criminal violations ascribed allegedly involved numerous

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transactions. He puts the burden on the prosecution to prove the actual amount of the damage sustained being in the proper position and has all the resources available to do so. He suspects the GSIS for not coming out with the correct amount after more than two (2) decades have passed.

In sum, there being no evidence against him, his exoneration must be granted as a matter of right.

Arguments in support of accused Cabalitasan's Motion for Reconsideration

In sum, his arguments revolve on the admission and admissibility of Memorandum Circular No. 22-02 (*Exhibit A- Rebuttal*).

Specifically, he insists that the prosecution has no evidence to show that he was aware of the existence of Memorandum Circular No. 22-02 because the original copy of the primary evidence (Memorandum Circular No. 22-02) offered by the prosecution was not presented in court. The prosecution only presented a photocopy of the same. Thus, it is erroneous on the part of the court to rely heavily on this evidence, much more to rule that he participated in the commission of the crime charged against him because (1) Memorandum Circular No. 22-02 which was presented to the court is a mere photocopy and, (2) the prosecution failed to satisfy the requirements for the presentation of a secondary evidence. Thus, Memorandum Circular No. 22-02 has no evidentiary value.

Lastly, he invokes the ruling of the Supreme Court in ***Amando A. Inocentes vs. People of the Philippines, et al, (GR Nos. 205963 and 205964).*** In the said case, the Supreme Court ruled that there was a violation of Amando Inocentes' right to due process and his right to speedy disposition of cases when the Ombudsman failed to act promptly on the complaint filed against him resulting in the granting of his Petition and the subsequent dismissal of the case filed against him. He asserts that the ruling in the said case should also be applied to his favor because said case and the present cases involve the same factual antecedents.

The Consolidated Comment / Opposition of the prosecution

The prosecution contends that both accused Balagtas and Leonardo cannot rely on their defense of the justifying circumstance of "obedience to a lawful order" to absolve them of their respective criminal liabilities. The prosecution adds that, before an accused can claim this benefit, the accused must first admit the charges filed against them. In the present case, the prosecution points out that accused's defense centered on ignorance *i.e.* that they were not informed of the *Bahay Ko Program* parameters pursuant to

Memorandum Circular No. 22-02. More, the elements of "obedience to a lawful order" as a justifying circumstance were not all present. Among the three elements, only the element of " order has been issued by a superior" was present. The purpose and the means employed cannot be lawful since accused contravened the rules provided in Memorandum Circular No. 22-02.

As regards the argument that they were merely designated as credit investigator and property appraiser, respectively, the prosecution claims that such designation is "of no moment" or [immaterial] in the present cases because they have been discharging their functions for a number years and both of them never questioned their respective designations. In short, they discharged their functions voluntarily.

As to the allegation of all accused that conspiracy was not clearly proven, the prosecution negates it by stating that the motions filed failed to exactly pinpoint where in the questioned Decision the error lies in the appreciation of the existence of conspiracy among all accused.

The prosecution likewise rebuts the allegation of accused Cabalitasan regarding the authenticity of Memorandum Circular No. 22-02 (*Exhibit "A-Rebuttal"*). The prosecution maintains that the same was admitted by this court considering that said Memorandum Circular No. 22-02 was marked and offered as *Exhibit "A-Rebuttal"* and as *Exhibit "K"* although offered for a different purpose. As to *Exhibit "A- Rebuttal"*, it was offered to prove the fact of receipt or notification of accused Balagtas, Leonardo and Cabalitasan of Memorandum Circular No. 22-02 and not to prove its contents. Thus, the Best Evidence Rule will not apply.

The prosecution also submits that the decision of the Supreme Court in the case of ***Amando A. Inocentes vs. People of the Philippines*** does not apply to accused Balagtas, Leonardo and Cabalitasan. The prosecution explains that this matter was already passed upon by this court as contained in a Minute Resolution dated March 20, 2017 when this court denied the motion of the said accused for lack of merit. Notably, after this court denied the same, they did not elevate the matter to the Supreme Court.

In response to the allegation of accused de Guzman relating the tampered Transfer Certificates of Title (TCT), the prosecution explains that when accused de Guzman raised this in his motion, it amounts to an implied admission that the TCTs were indeed tampered or altered with by implicating some of the GSIS employees. In fact, the tampered TCTs ultimately benefitted him because the same were used to facilitate the release of the proceeds of the loan application. Additionally, it was the legal stand of the prosecution that the non-presentation of a witness from the Register of Deeds did not affect their theory that the TCTs were tampered or altered with because one of their witnesses, Eden P. Seño, was able to show that she himself made the

examination and verification with the Registry of Deeds as shown by the Audit Investigation Report.

In effect, as argued by the prosecution, when accused de Guzman testified, he never denied categorically the findings of the Fact Finding Investigation Report and the Audit Investigation Report. It was only in his motion that he raised this issue making it a mere afterthought.

With respect to the argument of accused de Guzman that the testimony of witness Gatpayat relating to the inducements made to teachers in buying housing units from JQGHDC as hearsay, the prosecution admits that indeed witness Gatpayat was not present when the alleged inducements were made but the prosecution was able to present in court teachers in the persons of Gloria Sandoval, Anita Nagano and Miguela Acosta, who were victimized by the scheme. The prosecution reiterates that the issue in these cases relate to the fact that the teachers-borrowers were not from the territorial jurisdiction of the GSIS-TFO, the signatures of the teachers-borrowers were forged as proven by witness Nagano who disowned the signature appearing in her alleged application form, signed a blank loan application form and that they were not qualified to apply because of their financial status. From the above-mentioned issues, what is relevant to accused de Guzman is the defective application forms and pay slips which were submitted to GSIS-TFO by the company of accused de Guzman.

Lastly, the prosecution disagrees with the argument of accused de Guzman that there was no witness who testified to show his culpability. The prosecution maintains that it was able to present not only testimonial evidence but also documentary pieces of evidence.

After the court heard all the arguments of all the parties, the three (3) Motions for Reconsideration and the Comment / Opposition thereto were submitted for resolution.

Hence, this resolution.

The court shall resolve all the issues raised simultaneously.

The purpose of a Motion for Reconsideration is to grant an opportunity for the court to correct any actual or perceived error attributed to it by re-examination of the legal and factual circumstances of the case.[5] From the foregoing pronouncement of the Supreme Court, what can be deduced is that, it is incumbent upon the movant, either the prosecution or the defense, to show that the court committed any actual or perceived error in the appreciation of

[5] Republic of the Philippines, et al. vs. Abdulwahab A. Bayao, et al., GR No. 179492, June 5, 2013.

the case.

Allow this court to discuss points raised by all accused in their respective Motions for Reconsideration.

On the matter that the prosecution failed to prove the existence of conspiracy and the constituent elements of the crime.

It is a common defense among accused as contained in their respective Motions for Reconsideration that the prosecution was not able to provide evidence that they conspired together to commit the crime. More, all accused, in essence, question the findings of the court that the prosecution was able to prove all the elements of the crime. They contend that there were no direct, clear and convincing evidence that they did positive acts which demonstrated their participation in the crimes charged. Lastly, they insist that no witness much less, documentary evidence presented, to show their culpability of the acts complained of. On the other hand, the prosecution argues that the Motions for Reconsideration failed to exactly pinpoint where in the questioned Decision the error lies in the appreciation of the existence of conspiracy among all accused.

The court is not convinced with the arguments raised by all accused.

Direct evidence of the commission of a crime is not indispensable to criminal prosecutions; a contrary rule would render convictions virtually impossible given that most crimes, by their very nature, are purposely committed in seclusion and away from eyewitnesses.[6] This is but a recognition of the reality that in certain instances, due to the inherent attempt to conceal a crime.[7]

In fact, in the questioned Decision, the court squarely discussed and outlined the respective participation of all accused that led to the finding of their guilt beyond reasonable doubt. Contrary to the claim of the accused that the court relied heavily on the testimonies of witnesses Nagaño and Sandoval, the court considered and made a side by side comparison not only the testimonial evidence that the prosecution offered but also that of the defense. Additionally, documentary pieces of evidence offered by both parties were carefully scrutinized not only during the resolution of the formal offer of evidence but most especially during the final disposition of these cases.

Additionally, accused were charged with "giving unwarranted benefits,

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[6] Josephine Espinosa vs. Sandiganbayan and People of the Philippines, GR No. 191834, March 4, 2020

[7] Kyle Anthony Zabala vs. People of the Philippines, GR No. 210760, January 26, 2015

advantage and preference" to JQGHDC to the government's damage and prejudice. How the company was given unwarranted benefits, and to what extent the government was prejudiced by this, were already the subject of the discussion in the questioned Decision.

In sum, the existence of conspiracy and their culpability having been exhaustively discussed in the question Decision and for failure of accused Balagtas, Leonardo, Cabalitasan and de Guzman to raise new matters on the issue of conspiracy and their respective liabilities, the court sees no cogent reason to disturb its findings.

On the matter that accused Balagtas, Leonardo and Cabalitasan are also entitled to the relief of the dismissal of the criminal charges enjoyed by then co-accused, Amado A. Inocentes.

Accused Balagtas, Leonardo and Cabalitasan explain that they too should benefit from the dismissal of the cases against their former co-accused Amado A. Inocentes because the cases filed against them involve the same set of facts and pertain to the same issue. On the other hand, the prosecution contends that the dismissal of the case against Amado A. Inocentes by the Supreme Court does not apply to them because this matter was already passed upon by this court in a Minute Resolution dated March 20, 2017. Interestingly, after this court denied the same, they did not elevate the matter to the Supreme Court to seek further relief.

The court agrees with the prosecution.

To set the record straight, accused Balagtas and Leonardo filed their Motion to Dismiss dated February 10, 2017[8] on February 13, 2017, accused Cabalitasan filed his Motion to Dismiss dated February 13, 2017[9] on February 13, 2017 and lastly, accused de Guzman likewise filed his Motion to Dismiss dated February 8, 2017[10] on February 20, 2017. In the said motions, they relied and sought refuge on the decision of the Supreme Court in the Petition filed by their co-accused Amado A. Inocentes where the Supreme Court dismissed the case filed against the latter on the ground of violation of his right to speedy trial. Believing that they too are entitled to the same relief, they filed their respective motions raising the said issue. In a Resolution of this court dated March 20, 2017[11], this court denied their motions for having been filed out of time and for lack merit. The Motion for Reconsideration filed by accused de Guzman was also denied.[12]

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[8] Record, Vol. 5, pp. 129 to 134
[9] Record, Vol. 5, pp. 135 to 148
[10] Record, Vol. 5, pp. 163 to 168
[11] Record, Vol. 5, pp. 176 to 187
[12] Record, Vol. 5, pp. 246 to 249

After a careful examination of the facts of these cases and review of the records of these cases, the court opines that there is no need to discuss anew this issue since the same was already passed upon by this court as early as March 20, 2017.

To prove a point, portion of our March 20, 2017 resolution is interesting and is hereinunder quoted:

> " x x x
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> However, in the present cases, the parties in the certiorari petition before the Supreme Court are ***not*** identical to the parties in the present cases. Accused Inocentes was the lone petitioner in the petition before the Supreme Court. None of the other accused intervened or participated therein.
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> x x x
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> Motions to dismiss based on the violation of the right to speedy disposition are actually motions to quash the Information. This is because the violation of the right to speedy disposition of a case ousts the prosecution of its authority to file the Information, which, under Section 3 (d), Rule 117 of the Revised Rules of Criminal Procedure, is a ground for the quashal of the Information.
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> x x x
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> In the case at bar, however, the accused movants have long entered their respective pleas, and are now, in fact, actively participating in the proceedings for the presentation of the prosecution's evidence. "

This being the case, the court is not inclined anymore to discuss the issue relating to the applicability of the decision of the Supreme Court in the ***Amado A. Inocente*** case since the court as early as 2017 has exhaustively discussed the said issue. To reiterate, this issue had long been considered and already found without merit as discussed in our Minute Resolution dated March 20, 2017.

On the admissibility of certain documentary evidence.

This issue deserves no lengthy discussion since this has been long discussed and settled in the Prosecution's Formal Offer of Exhibits.[13] However, it should be reminded that although admitted by the court, said pieces of evidence were still subject to strict evaluation and its applicability in the present cases.

On the argument that accused Balagtas and Leonardo are mere lowly employees and they merely acted in obedience to a lawful order. Hence, they are not capable of committing the crime.

Our criminal law does not look into the physical appearance of a person. The liability of a person under our criminal law is not dependent whether a person is educated or not, whether the person occupies a higher echelon or belonging in the so called marginal society, whether a person is a high ranking government official or not. Once all the elements of the crime have been proven, our criminal law looks no favor.

The ruling of the Supreme Court in the case of ***Jose Vales vs. Simeon A. Villa, et al***[14] is interesting to note. The language of the Supreme Court is applied by analogy in the present cases. Thus:

> "All men are presumed to be sane and normal and subject to be moved by substantially the same motives. x x x In their relation with others in the business of life, wits, sense, intelligence, training, ability and judgment meet and clash and contest, sometimes with gain and advantage to all, sometimes to a few only, with loss and injury to others. x x x One man cannot complain because another is more able, or better trained, or has better sense of judgment than he has; and when the two meet on a fair field the inferior cannot murmur if the battle goes against him. The law furnishes no protection to the inferior simply because he is inferior, any more than it protects the strong because he is strong. The law furnishes protection to both alike — to one or more or less than to the other. It makes no distinction between the wise and the foolish, the great and the small, the strong and the weak. The foolish may lose all they have to the wise; but that does not mean that the law will give it back to them again. Courts cannot follow one every

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[13] Minute Resolution dated January 6, 2020, Record, Vol. 8, pp. 93 to 96
[14] GR No. 10028, December 16, 1916

> step of his life and extricate him from bad bargains, protect him from unwise investments, relieve him from one-sided contracts, or annul the effects of foolish acts. Courts cannot constitute themselves guardians of persons who are not legally incompetent. Courts operate not because one person has been defeated or overcome by another, but because he has been defeated or overcome illegally. Men may do foolish things, make ridiculous contracts, use miserable judgment, and lose money by them — indeed, all they have in the world; but not for that alone can the law intervene and restore. There must be, in addition, a violation of law, the commission of what the law knows as an actionable wrong, before the courts are authorized to lay hold of the situation and remedy it."

In sum, after a careful study of the arguments raised in their respective Motions for Reconsideration as well as the arguments raised in the prosecution's Consolidated Comment and even after a re-assessment of the records of these cases, this court finds no cogent reason that could persuade it to reconsider or set aside its questioned Decision promulgated on March 3, 2023.

WHEREFORE, finding the matters raised by accused Celestino Tugawin Cabalitasan, Ma. Victoria Magat Leonardo, Jerry Manansala Balagtas and Jose Quiambao De Guzman a mere rehash of their previous arguments, and there being no cogent reason to modify, much less, reverse our questioned Decision dated March 3, 2023, all the Motions for Reconsideration filed are denied for lack of merit.

SO ORDERED.

GEORGINA D. HIDALGO
Associate Justice

WE CONCUR:

MA. THERESA DOLORES C. GOMEZ-ESTOESTA
Associate Justice
Chairperson

ZALDY V. TRESPESES
Associate Justice