Republic of the Philippines
SANDIGANBAYAN
Quezon City

Fifth (5th) Division

PEOPLE OF THE PHILIPPINES *Plaintiff,*	**Crim. Case No. SB-18-CRM-0532** For: Violation of Section 3(e) of R.A. No. 3019, as amended
—versus—	
EDMUND LEE CASTAÑEDA, PAGASA ESTANISLAO PASCUAL, TERESA SANTOS SANTOS, and REYNALDO TORRES IBE, JR., *Accused.*	*Present:* **LAGOS, J., *Chairperson*, MENDOZA-ARCEGA, and MAÑALAC, JJ.**
	Promulgated: May 05, 2023

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RESOLUTION

LAGOS, J.:

This resolves the *Motion for Reconsideration*[1] filed by accused Edmund Lee Castañeda, Teresa Santos Santos, and Reynaldo Torres Ibe, Jr. through counsel assailing the Court's *Decision*,[2] the dispositive portion of which reads as follows:

> **WHEREFORE**, premises considered, the Court renders judgment as follows:
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> 1. Accused Edmund Lee Castañeda, Teresa Santos Santos, and Reynaldo Torres Ibe, Jr. are GUILTY beyond reasonable doubt of the charge in Criminal Case No. SB-18-CRM-0532 for violation of Section 3(e) of Republic Act No. 3019, as amended.

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[1] Records, Vol. 4, pp. 198-215 (accused *Motion for Reconsideration* dated 04 February 2023).
[2] *Id.*, pp. 145-187 (Court's *Decision* promulgated on 27 January 2023).

Accordingly, the Court sentences each of said accused to suffer an indeterminate penalty of imprisonment ranging from **SIX (6) YEARS AND ONE (1) MONTH, as minimum to EIGHT (8) YEARS, as maximum,** with perpetual disqualification to hold public office.

2. Criminal Case No. SB-18-CRM-0532 is DISMISSED as against accused Pagasa Estanislao Pascual on account of her death.

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SO ORDERED.

In their motion, accused Castañeda, Santos, and Ibe, Jr. argue that the Court erred in convicting them for violation of Section 3(e) of Republic Act No. 3019, as amended. In asserting their innocence, accused Castañeda and Santos stated that their actions in the appointment of accused Ibe, Jr. to the Board of the Orani Water District through the issuance of *Resolution No. 18, series of 2010* was not attended by evident bad faith, manifest partiality, and gross inexcusable negligence.

Accused Castañeda and Santos argue that there was no bad faith or manifest partiality in appointing accused Ibe, Jr. as a member of the Board of Directors. They reiterate their compliance with Presidential Decree No. 198 ("P.D. No. 198") which laid down the process in filling up the vacancy in the Board i.e., process of announcing the vacancy and call for nominations, informing the Mayor of Orani of said vacancy to appoint a member of the Board, the Board's exercise of authority to fill in the vacancy in the event that the appointed authority failed to do so. They insisted that the foregoing acts were not done with fraudulent and dishonest purpose and instead, such acts were done in good faith and was in the performance of their functions pursuant to P.D. No. 198.[3]

Moreover, in insisting that no gross inexcusable negligence can be attributed to their acts leading to the issuance of *Resolution No. 18*, accused Castañeda and Santos claimed that they "carefully thread the law when they exercised their function as member of the Board of the Orani Water District in filling up the vacancy of the Board of the Water District"[4] and that they "complied with the requirements of Section 12 of P.D. No. 198. They did not overstep on their authority and merely exercised their mandate for them to choose and appoint a member of the Board. It was only after giving notice to then Mayor Benjamin Serrano and the latter failed to exercise his duty to appoint the member of the Board that the Board exercised its mandate to fill up the vacancy in the Board of the Water District."[5]

Accused Castaneda and Santos insist that they were not aware of the one (1) year appointment ban imposed upon losing candidates following an election since they are not lawyers and cannot be presumed to know the law

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[3] Records, Vol. 4, p. 203.
[4] *Id.* at p. 206.
[5] *Id.*

and its applications. Instead, they highlighted the absence of any circular or memorandum from the Local Water Utilities Administration ("LWUA") regarding the disqualifications of a person to be appointed as a Board member of a Water District if such appointment occurred within one year from the time the nominee/appointee participated in an election.

For his part, accused Ibe, Jr. claims that his acceptance of his appointment as a Member of the Board of Directors did not constitute evident bad faith. Neither was there evidence that his spouse influenced the other Board Members to nominate and appoint him. He insists that he was not aware that he is prohibited from being appointed as a member of the Board of the Water District until LWUA issued a letter informing him of such disqualification.[6] He reiterates that he was unaware of the existence of his temporary disqualification in asserting that no gross inexcusable negligence can be attributed to him in accepting his appointment as a Board Director of the Water District. The fact that he is a politician and had won in the previous election does not mean that he is well-versed with the election laws including the prohibition on his appointment.[7]

The accused insist that there was no conspiracy between accused Castaneda, Santos, and Ibe, Jr. in the latter's appointment as a Board Member, pointing out that the overt acts enumerated by the Court are not sufficient to establish conspiracy. Specifically, accused Ibe, Jr. had no participation in such overt acts and thus, conspiracy cannot be established as to him.[8]

From the foregoing, all accused invoke the constitutional right of presumption of innocence afforded to an accused and that said presumption was not overturned by the prosecution beyond reasonable doubt. They pray that their *Motion for Reconsideration* be granted and the *Decision* dated 27 January 2023 be reconsidered which will lead to their acquittal in the case at bar.

In its *Comment*,[9] the prosecution briefly maintains that the accused's *Motion* failed to specifically point out any findings or conclusions of the decision that are not supported by evidence or are contrary to law as a ground under Section 3, Rule 121 of the Rules of Criminal Procedure which states that "[t]he court shall grant reconsideration on the ground of errors of law or fact in the judgment, which requires no further proceedings."[10] The *Motion* also never assigned any error in the Court's *Decision* to warrant a reconsideration thereof, and that the arguments raised are just a reiteration of their arguments in their *Memorandum* that the Court already resolved in the said *Decision*.[11]

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[6] Records, Vol. 4, p. 203.
[7] *Id.* at p. 206.
[8] *Id.* at pp. 211-212.
[9] *Id.* at pp. 220-223.
[10] *Id.* at p. 121.
[11] *Id.*

By way of *Reply*,[12] the accused reiterate the arguments laid down in their *Motion for Reconsideration* and urge the Court to reflect on the *Decision* it earlier rendered. They assert that they did not commit gross inexcusable negligence in the appointment of accused Ibe, Jr. to the Board of the Orani Water District. They claim that their lack of knowledge "on the existence of the temporary prohibition or disqualification of accused Ibe, Jr. cannot be equated as gross inexcusable negligence. Their being Board Directors cannot be presumed that they know the law on the one year ban or prohibition against appointment of a candidate to a government position when such appointment is within the one year period from the preceding election which the said candidate participated. All of the accused may be experts in their own professional field of endeavor but definitely they are not lawyers knowledgeable about election law."[13] Accused Ibe, Jr. adds that he did not apply or solicit his appointment to the Board of the Water District because he was nominated by accused Pagasa Pascual when the Municipal Mayor failed to fill up the vacancy. He claims that he performed his duties as a Board member and stepped down when his appeal was denied. And that as a sign of good faith, he returned all the monetary benefits he received in the amount of ₱274,400.00, and thus no undue injury was suffered by the government.[14]

RULING

The Court resolves to grant the *Motion for Reconsideration.*

Among the ends to which a motion for reconsideration is addressed, one is precisely to convince the court that its ruling is erroneous and improper, contrary to the law or the evidence and in doing so, the movant has to dwell of necessity upon the issues passed upon by the court.[15] Its purpose is to grant an opportunity for the court to correct any actual or perceived error attributed to it by the re-examination of the legal and factual circumstances of the case.[16]

The Court reconsiders its finding of gross inexcusable negligence with respect to the accused Castañeda and Santos.

At the outset, accused Castañeda and Santos insist that they adhered to the process provided for in P.D. No. 198 in appointing a new member of the Board. After a thorough re-evaluation of the case records, the Court deems to

[12] Accused's *Reply* dated 06 March 2023.
[13] *Id.* at pp. 2-3.
[14] *Id.* at p. 6.
[15] Valen CIA (Bukidnon) Farmers Cooperative Marketing Association, Inc., v. Heir of Amante P. Cabotaje, G.R. No. 219984, April 3, 2019
[16] Republic of the Philippines v. Abdulwahab A. Bayao, et al., G.R. No. 179492, June 5, 2013.

reconsider its earlier finding of gross inexcusable negligence on the part of the accused Castañeda and Santos when they issued *Resolution No. 18*.

The process for the nomination and selection of a Board member is provided for in P.D. No. 198 in instances when the appointing authority failed to appoint one, thus:

> **Section 12.** *Vacancies.* – In the event of a vacancy in the board of directors occuring more than six months before expiration of any director's term, the remaining directors shall, within 30 days, serve notice or request the secretary of the district for nominations and within 30 days thereafter a list of nominees shall be submitted to the appointing authority for his appointment of a replacement director from the list of nominees. In the absence of any such nominations, the appointing authority shall make such appointment. Vacancies occuring within the last six months of an unexpired term may be filled by a vote of a majority of the remaining members of the board of directors constituting a quorum. The director thus appointed shall serve the unexpired term only.

Accused Santos testified that their staff posted the Water District's announcement of the vacancy in the bulletin board in public places and that she saw the said announcement.[17] Thereafter, the Board sent a letter (dated 10 March 2010) to Mayor Serrano, Jr. informing him that the Water District did not receive any nominations for the vacancy of the Board Member representing the Professional Sector and that he has thirty (30) days from receipt of the letter to make an appointment.[18] The Office of the Municipal Mayor received the letter on 11 March 2010.

However, the thirty-day period for the Mayor to make an appointment lapsed so the Board of Directors of Orani Water District convened to nominate and appoint a Board member to replace Godofredo B. Galicia, Jr. to serve the latter's unexpired term. The Board of Directors issued *Resolution No. 18* pursuant to the agenda during the said Board Meeting.[19] Subsequently, the Water District sent a letter to Mayor Serrano, Jr. (dated 15 November 2010) that the Board of Directors appointed a member to fill up the vacancy considering that the latter had not received any nomination from the Mayor within the period provided to make an appointment.[20] On even date, the Board likewise informed accused Ibe, Jr. of his appointment as a new member of the Board of Directors of Orani Water District to serve the unexpired term in the Professional Sector until 31 December 2012.[21]

From the foregoing, the Court finds that the accused Board of Directors substantially complied with the requirements in exercising their substituted authority to appoint a Board Member. There appears no procedural infirmity from the time that they posted notices or announcement regarding the vacancy

[17] TSN dated 21 April 2022, p. 19 and Exhibit "14".
[18] Exhibit "3".
[19] Exhibit "12".
[20] Exhibit "3-a".
[21] Exhibit "15"

in the Board left by Galicia, Jr. until the issuance of *Resolution No. 18*. The only impediment was accused Ibe, Jr.'s temporary disqualification to hold the position due to the post-elections appointment ban.

Notably, the accused shifted the blame on LWUA's lack of guidance or issuances regarding the temporary disqualification to justify their lack of knowledge on the one year election ban and pointed out that it was only on 2015 and 2016 that LWUA issued such guidelines as to the qualification of the Board of the Water District and prohibition regarding the one year election ban. However, assuming the position of a member of the Board of Directors carries with it duties and responsibilities that accused should have been mindful of, which among others, includes the qualifications and disqualifications of a member of the Board. In *City Mayor of Zamboanga v. Court of Appeals, et al.*[22] the Supreme Court reminds us that:

> Upon appointment to a public office, an officer or employee is required to take his oath of office whereby he solemnly swears to support and defend the Constitution, bear true faith and allegiance to the same; obey the laws, legal orders and decrees promulgated by the duly constituted authorities; and faithfully discharge to the best of his ability the duties of the position he will hold.

The Court is still of the opinion that the accused Board of Directors were negligent in failing to conduct due diligence or background check on accused Ibe, Jr. and solely relied on accused Pascual's nomination and perhaps, his very close relations with Maridel Ibe. However, the Court reconsiders that such negligence cannot tantamount to gross inexcusable negligence considering that aside from the fact that there was substantial compliance in the selection and appointment of accused Ibe, Jr. the Prosecution fell short of providing further evidence to show that the actions of the accused Board of Directors were marred with evident bad faith, manifest partiality or gross inexcusable negligence. Verily, their inadvertence led to the appointment of accused Ibe, Jr., which greatly benefitted the latter, however, it was not sufficiently proven that such action was malicious or grossly negligent.

In *Uriarte v. People of the Philippines*,[23] the Supreme Court's definition of what constitutes manifest partiality, evident bad faith or gross inexcusable negligence is enlightening:

> Section 3(e) of R.A. 3019 may be committed either by *dolo*, as when the accused acted with evident bad faith or manifest partiality, or by *culpa* as when the accused committed gross inexcusable negligence. There is **manifest partiality** when there is a clear, notorious or plain inclination or predilection to favor one side or person rather than another. **Evident bad faith** connotes not only bad judgment but also palpably and patently fraudulent and dishonest purpose to do moral obliquity or conscious

[22] G.R. No. 80270, February 27, 1990.
[23] G.R. No. 169251, December 20, 2006.

> wrongdoing for some perverse motive or ill will. It contemplates a state of mind affirmatively operating with furtive design or with some motive or self-interest or ill will or for ulterior purposes. **Gross inexcusable negligence** refers to negligence characterized by the want of even the slightest care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally, with conscious indifference to consequences insofar as other persons may be affected. *(Emphasis and underscoring supplied)*

Mere bad faith or partiality and negligence *per se* are not enough for one to be held liable under the law since the act of bad faith or partiality must in the first place be *evident* or *manifest*, respectively, while the negligent deed should both be *gross* and *inexcusable*.[24]

The High Court held in *Collantes v. Marcelo, et al.* [25] that "[a] public officer is presumed to have acted in good faith in the performance of his duties. Mistakes committed by a public officer are not actionable absent any clear showing that they were motivated by malice or gross negligence amounting to bad faith." Here, the Court believes that malice and bad faith were absent on the part of accused Castañeda and Santos. At worst, their ignorance of the one (1) year ban on appointing losing candidates only amounted to simple negligence, resulting from an administrative misstep.

The case of *Dr. Posadas, et al. v. Sandiganbayan, et al.*[26] can be applied to the case at bar. To briefly summarize, Dr. Posadas was Chancellor of University of the Philippines. He, with other UP Diliman Officials, were selected and authorized to attend the foundation day of the state university in Fujian, China from 30 October to 06 November 1995. Before he left, Dr. Posadas formally designated Dr. Dayco, then UP Diliman Vice-Chancellor for Administration, as Officer-in-Charge (OIC) in his absence. On 07 November 1995, his last day as OIC Chancellor, Dr Dayco appointed Dr. Posadas as "Project Director of the TMC [Technology Management Center] Project from September 18, 1995 to September 17, 1996." In an undated letter, Dr. Dayco also appointed Dr. Posadas consultant to the project. The appointments were to retroact to 18 September 1995 when the project began. After COA conducted an audit, a case for violation of Section 3(e) of R.A. No. 3019 was filed against Dr. Posadas and Dr. Dayco, in which they were eventually found guilty. Upon Motion for Reconsideration before the Supreme Court, the High Court reconsidered its earlier ruling of sustaining Dr. Dayco's and Dr. Posadas' conviction and thus, they were acquitted. In reversing its earlier ruling, the High tribunal held that:[27]

[24] Sistoza v. Desierto, G.R. No. 144784, September 3, 2002.
[25] G.R. Nos. 167006-07, August 14, 2007.
[26] G.R. Nos. 186951 & 169000, November 27, 2013.
[27] *Id.*

1. The appointments were in good faith

The bad faith that Section 3(e) of Republic 3019 requires, said this Court, does not simply connote bad judgment or negligence. It imputes a dishonest purpose, some moral obliquity, and a conscious doing of a wrong. Indeed, it partakes of the nature of fraud.

Here, admittedly, Dr. Dayco appears to have taken advantage of his brief designation as OIC Chancellor to appoint the absent Chancellor, Dr. Posadas, as Director and consultant of the TMC Project. But it cannot be said that Dr. Dayco made those appointments and Dr. Posadas accepted them, fraudulently, knowing fully well that Dr. Dayco did not have that authority as OIC Chancellor.

All indications are that they acted in good faith. They were scientists, not lawyers, hence unfamiliar with Civil Service rules and regulations. The world of the academe is usually preoccupied with studies, researches, and lectures. Thus, those appointments appear to have been taken for granted at UP. It did not invite any immediate protest from those who could have had an interest in the positions. It was only after about a year that the COA Resident Auditor issued a notice of suspension covering payments out of the Project to all UP personnel involved, including Dr. Posadas.

Still, in response to this notice, the UP Diliman Legal Office itself rendered a legal opinion that "confirmed the authority of Dr. Dayco, while he was OIC Chancellor, to appoint Dr. Posadas as project director and consultant of the TMC Project." Not only this, the COA Resident Auditor, who at first thought that the OIC Chancellor had no power to make the designations, later accepted the Legal Office's opinion and withdrew the Notices of Suspension of payment that he issued. All these indicate a need for the Court to reexamine its position that Dr. Dayco and Dr. Posadas acted in bad faith in the matter of those appointments.

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3. The misstep was essentially of the administrative kind

The worst that could be said of Dr. Dayco and Dr. Posadas is they showed no sensitivity to the fact that, although Dr. Dayco may have honestly believed that he had the authority to make those appointments, he was actually appointing his own superior, the person who made him OIC Chancellor, however qualified he might be, to those enviable positions. But this should have been treated as a mere administrative offense for:

First. No evidence was adduced to show that UP academic officials were prohibited from receiving compensation for work they render outside the scope of their normal duties as administrators or faculty professors.

Second. COA disallowances of benefits given to government personnel for extra services rendered are normal occurrences in government offices. They can hardly be regarded as cause for the filing of criminal charges of corruption against the authorities that granted them and those who got paid.

Section 4 of the COA Revised Rules of Procedure merely provides for an order to return what was improperly paid. And, only if the responsible

> parties refuse to do so, may the auditor then (a) recommend to COA that they be cited for contempt; (b) refer the matter to the Solicitor General for the filing of the appropriate civil action; and (c) refer it to the Ombudsman for the appropriate administrative or criminal action. Here, Dr. Dayco and Dr. Posadas were not given the chance, before they were administratively charged, to restore what amounts were paid since the Resident Director withdrew his notice of disallowance after considering the view of the UP Diliman Legal Office.
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> If the Court does not grant petitioners' motions for reconsideration, the common disallowances of benefits paid to government personnel will heretofore be considered equivalent to criminal giving of "unwarranted advantage to a private party," an element of graft and corruption. This is too sweeping, unfair, and unwise, making the denial of most benefits that government employees deserve the safer and better option.
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> Third. In other government offices, the case against Dr. Dayco and Dr. Posadas would have been treated as purely of an administrative character. The problem in their case, however, is that other factors have muddled it. The evidence shows that prior to the incident Dr. Posadas caused the administrative investigation of UP Library Administrative Officer Ofelia del Mundo for grave abuse of authority, neglect of duty, and other wrong-doings. This prompted Professor Tabbada, the Acting UP TMC Director, to resign his post in protest. In turn, Ms. Del Mundo instigated the UP President to go after Dr. Posadas and Dr. Dayco. Apparently, the Office of the Ombudsman played into the intense mutual hatred and rivalry that enlarged what was a simple administrative misstep.
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> Fourth. The fault of Dr. Dayco and Dr. Posadas, who spent the best parts of their lives serving UP, does not warrant their going to jail for nine to twelve years for what they did. They did not act with manifest partiality or evident bad faith. Indeed, the UP Board of Regents, the highest governing body of that institution and the most sensitive to any attack upon its revered portals, did not believe that Dr. Dayco and Dr. Posadas committed outright corruption. Indeed, it did not dismiss them from the service; it merely ordered their forced resignation and the accessory penalties that went with it.
>
> The Board did not also believe that the two deserved to be permanently expelled from UP. It meted out to them what in effect amounts to mere suspension for one year since the Board practically invited them to come back and teach again after one year provided they render a public apology for their actions. The Board of Regents did not regard their offense so morally detestable as to totally take away from them the privilege of teaching the young.

From the foregoing, the conviction of the accused must rest, not on the weakness of the defense, but on the strength of the prosecution evidence. The burden is on the prosecution to prove guilt beyond reasonable doubt, not on the accused to prove his innocence.[28] Should the prosecution fail to discharge its burden, acquittal must follow as a matter of course.[29]

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[28] Macayan, Jr. v. People of the Philippines, G.R. No. 175842, March 18, 2015.
[29] Daayata, et al. v. People of the Philippines, G.R. No. 205745, March 8, 2017.

The Court maintains its findings of unwarranted benefits and advantage conferred upon accused Ibe, Jr. in his appointment as a Board Director.

The Court however, maintains its findings in the *Decision* that accused Ibe, Jr. was given unwarranted benefits and advantage when he was appointed as a Board Director despite his temporary disqualification to hold a government position by reason of the one (1) year election ban imposed on losing candidates, notwithstanding the negative findings of gross inexcusable negligence on the part of the accused Board of Directors in nominating Ibe, Jr. as a Board Member and issuing *Resolution No. 18*.

Again, the Court finds that it is of no moment whether accused Ibe, Jr. returned the *per diems* and allowances he received as a Board Director. It is sufficient that unwarranted benefits were conferred upon him because of his appointment as a Board Director. He received *per diems* and allowances allocated for Directors despite his temporary disqualification to hold the position. In *Villanueva v. People of the Philippines*,[30] the Supreme Court stressed that there are two (2) ways by which a public official violates Section 3 (e) of RA 3019: by causing undue injury to any party, including the Government, **or** by giving any private party unwarranted benefits, advantage, or preference. The accused may be charged under either way, or under both. The presence of one way would suffice for conviction. In this case, even if there was no indue injury inflicted to any party, accused Ibe, Jr. was given an advantage in his appointment as a Board of Director, thereby satisfying one of the elements of R.A. No. 3019, Section 3(e).

The mere fact that Director Maridel Ibe had to abstain during the special meeting for accused Ibe, Jr.'s nomination and appointment should have signaled that a potential conflict of interest would arise. It is likewise unusual for both spouses to form part of the Board of Directors of a government-owned and controlled corporation or GOCC. As observed by LWUA's legal department:[31]

> "...And despite the fact that she [Maridel Ibe] abstained during the exercise of the Board's substituted appointing authority, her being part of said Board may have strongly influenced the remaining directors to vote affirmatively for her husband's appointment, and may very well be a circumvention of the rule against nepotism. It is apparent from the fact that Mrs. Ibe abstained that she is well aware that she cannot appoint her husband to the vacant position. What the law seeks to prohibit directly cannot be done indirectly."

Even if the findings of gross inexcusable negligence of the accused Board of Directors were reconsidered, the Court cannot disregard the fact that accused Ibe, Jr. had the advantage of being appointed to the position, albeit

[30] Villanueva v. People of the Philippines, G.R. No. 218652, February 23, 2022.
[31] Exhibit "K-1".

the absence of a background check, and was highly favored by the Board of Directors that no less than his spouse was also a member thereof. Notwithstanding that Director Maridel Ibe abstained from voting on accused Ibe, Jr.'s appointment, the latter's nomination came from one of his spouse's colleagues. Hence, the mere fact that accused Ibe, Jr.'s spouse was part of the Board that nominated and appointed him was very advantageous and favorable for his situation at that time.

The Court, however, cannot sustain accused Ibe, Jr.'s conviction considering that conspiracy was not proven beyond reasonable doubt.

There is conspiracy when two or more persons come to an agreement regarding the commission of an offense and decide to commit it.[32] Thus, mere knowledge, acquiescence to, or approval of the act, without cooperation or agreement to cooperate, is not enough to constitute one a party to a conspiracy absent the intentional participation in the transaction with a view to the furtherance of the common design and purpose.[33] In *Macapagal-Arroyo v. People of the Philippines, et al.*,[34] the Supreme Court held that to be considered a part of the conspiracy, each of the accused must be shown to have performed at least an overt act in pursuance or in furtherance of the conspiracy, for without being shown to do so none of them will be liable as a co-conspirator, and each may only be held responsible for the results of his own acts.

To recall, the Court held in its *Decision* that conspiracy existed among the accused Board of Directors and Ibe, Jr. through the following overt acts:

1) the Board did not conduct any background check on accused Ibe, Jr., especially to check his qualifications as well as disqualifications;
2) Director Pascual, who was a colleague of accused Ibe, Jr.'s spouse, nominated him; and,
3) the Board of Directors did not object to the said nomination and voted thereon, except Director Maridel Ibe who abstained.

The Court reconsiders its findings on the presence of conspiracy among accused Castañeda, Santos, and Ibe, Jr. considering that it was not proven beyond reasonable doubt that the accused Board Members' acts of appointing accused Ibe, Jr. was attended by evident bad faith or gross inexcusable negligence. It was not sufficiently established that the Board of Directors' failure to conduct due diligence and background check before appointing accused Ibe, Jr. was malicious and deliberate on their part or that they were

[32] Taer v. Court of Appeals, et al., G.R. No. 85204, June 18, 1990.
[33] *Id.*
[34] G.R. No. 220598, April 18, 2017.

grossly negligent. If at all, such failure can be viewed as carelessness or inadvertence on their part. The accused Directors' vote to appoint accused Ibe, Jr. was grounded on their belief that the latter was wholly qualified to be appointed as a Board Director and as already discussed earlier, mistakes committed by a public officer are not actionable absent any clear showing that they were motivated by malice or gross negligence amounting to bad faith.[35]

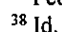
Moreover, and although it was held in *People of the Philippines v. Go*[36] that "where the public officer may no longer be charged in court, as in the present case where the public officer has already died, the private person may be indicted alone", a review of the records show that accused Pascual was the one who brought up accused Ibe, Jr.'s nomination during their Board Meeting. As such, the Court believes that her testimony on the matter is important in ascertaining whether she and accused Ibe, Jr. conspired with one another to appoint the latter. Because of the demise of accused Pascual, she was not presented to testify and therefore, the Court cannot fully determine whether her decision to nominate accused Ibe, Jr. was caused by other factors or whether she influenced her fellow directors or conspired with them to vote for him. The Prosecution's evidence was insufficient to point out any overt act showing that accused Castañeda and Santos conspired with accused Ibe, Jr. and as a consequence thereof, conspiracy was not established beyond reasonable doubt.

The accused has in their favor the presumption of innocence which the Bill of Rights guarantees. Unless their guilt is shown beyond reasonable doubt, they must be acquitted.[37] This reasonable doubt standard is demanded by the due process clause of the Constitution which protects the accused from conviction except upon proof beyond reasonable doubt of every fact necessary to constitute the crime with which they are charged.[38]

WHEREFORE, premises considered, the *Motion for Reconsideration* filed by Accused Edmund Lee Castañeda, Teresa Santos Santos, and Reynaldo Torres Ibe, Jr. is GRANTED. The *Decision* promulgated on 27 January 2023 is REVERSED and SET ASIDE. Accordingly, accused Edmund Lee Castañeda, Teresa Santos Santos, and Reynaldo Torres Ibe, Jr. are hereby ACQUITTED of the charge against them in Criminal Case No. SB-18-CRM-0532.

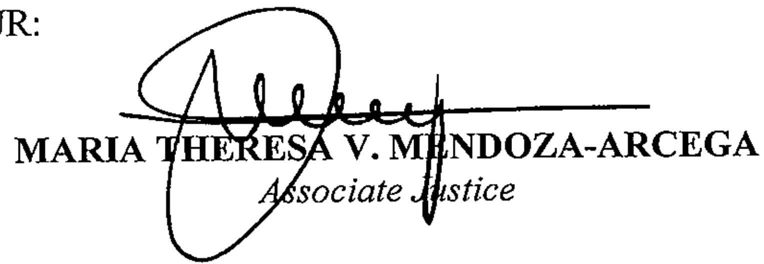
SO ORDERED.

RAFAEL R. LAGOS
Associate Justice/Chairperson

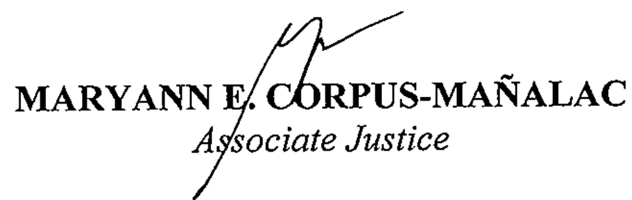


[35] *Collantes v. Marcelo, et al.*
[36] People of the Philippines v. Henry T. Go, G.R. No. 168539, March 25, 2014.
[37] People of the Philippines v. Elizabeth Ganguso y Decena, G.R. No. 115430, November 23, 1995.
[38] Id.

WE CONCUR:



MARIA THERESA V. MENDOZA-ARCEGA
Associate Justice



MARYANN E. CORPUS-MAÑALAC
Associate Justice