



Republic of the Philippines
SANDIGANBAYAN
Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,

Plaintiff,

SB18CRM0351 - SB18CRM0354
For: Violation of Section 3(e) of
Republic Act (R.A.) No. 3019

-versus-

**REINERIO BERMIO
BELARMINO, JR.,
FRANCISCO CABULOY
CASIL, AVELINA OSORIO
SORIANO, and LOURDES
VALDEZ GONZALES,**

Accused,

SB18CRM0359 - SB18CRM0362
For: Malversation of Public Funds
under Article 217 of the Revised
Penal Code (RPC)

PEOPLE OF THE PHILIPPINES,

Plaintiff,

SB18CRM0355 - SB18CRM0358
For: Violation of Section 3(e) of R.A.
No. 3019

-versus-

**REINERIO BERMIO
BELARMINO, JR.,
FRANCISCO CABULOY
CASIL, AVELINA OSORIO
SORIANO, LOURDES
VALDEZ GONZALES,
MARIBEL BAUTISTA
CABRADILLA, and
JONATHAN CARIÑO
BUGAOAN,**

Accused,

SB18CRM0363 - SB18CRM0366
For: Malversation of Public Funds
under Article 217 of the RPC

PRESENT:

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

Promulgated:

July 7, 2023

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RESOLUTION

MIRANDA, J.:

This resolves the Partial Motion for Reconsideration dated April 13, 2023 filed by accused Lourdes V. Gonzales (Gonzales) and the Comment/Opposition dated May 5, 2023 filed by the prosecution.

[Handwritten signatures]

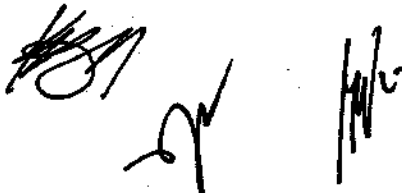
In her partial motion for reconsideration, accused Gonzales argues that: 1) the acts of the accused as member of the BAC do not by themselves produce the crime of violation of Section 3(e) of R.A. No. 9184; 2) as members of the Bids and Awards Committee (BAC), they merely conducted the bidding process and recommended the award of the procurement contracts to the Head of the Procuring Entity (HOPE); and 3) the evidence of the prosecution is hearsay and inadmissible because witnesses who have personal knowledge of the transactions and/or participated in the audit review did not testify.

In its comment/opposition, the prosecution alleges that: 1) the partial motion for reconsideration failed to address the portion of the decision where the Court made an error; 2) the prosecution proved all the elements of violation of Section 3(e) of R.A. No. 3019; 3) the procurement of the liquid foliar fertilizers and its supporting documents were irregular; 4) the documentary evidence of the prosecution are admissible because they are public documents identified by their official custodians in the Commission on Audit (COA) and/or Department of Agriculture Regional Field Unit I (DA RFU I); and 5) public documents enjoy presumption of regularity and prima facie evidence of the facts stated therein and a conclusive presumption of existence and due execution.

After a review of the records of this case and the arguments raised by the parties, the court **denies** the Partial Motion for Reconsideration dated April 13, 2023 of accused Gonzales.

The arguments of accused Gonzales on the violation of Section 3(e) of R.A. No. 3019 are without merit. These are the same issues and arguments that have already been considered and passed upon by the court in its Decision dated March 29, 2023.

To reiterate, the prosecution proved the elements of violation of Section 3(e) of R.A. No. 3019. *First*, the parties stipulated that accused Gonzales is a public officer discharging administrative or official functions at the time material to the allegations in the Informations. *Second*, accused Gonzales acted with manifest partiality, evident bad faith, and gross inexcusable negligence when the Bids and Awards Committee (BAC) procured the Farmate HMZ 2000 liquid foliar fertilizer and Algazinc Plus liquid foliar fertilizer from Farmate International Technologies, Inc. (FITI) and Central Luzon Farmers Agro Center (CLFAC), respectively, through direct contracting without complying with the Implementing Rules and Regulations-A (IRR-A) of R.A. No. 9184. Accused Gonzales also knew that FITI and CLFAC were not exclusive distributors or manufacturers of the liquid foliar fertilizers. *Third*, the government suffered undue injury amounting to Three Million Four Hundred Fourteen Thousand Four Hundred Sixty-Nine Pesos (Php3,414,465.00) while accused Gonzales gave FITI and CLFAC



unwarranted benefits, advantage, and preference because of the irregularities in the procurements of the liquid foliar fertilizers and their non-delivery to the intended beneficiaries. *Lastly*, accused Gonzales conspired with the other accused when they facilitated the procurements of liquid foliar fertilizers without complying with the IRR-A of R.A. No. 9184.

The fact that the members of the BAC merely recommended the award of the procurements of liquid foliar fertilizers to the HOPE will not relieve them of their liabilities. It was the BAC that facilitated the procurement of the liquid foliar fertilizers in violation of the IRR-A of R.A. No. 9184.

The argument of accused Gonzales on the inadmissibility of the evidence of the prosecution also deserves scant consideration.

Hearsay evidence is defined as "evidence not of what the witness knows himself but of what he has heard from others." The hearsay rule bars the testimony of a witness who merely recites what someone else has told him, whether orally or in writing. It does not have evidentiary weight and is inadmissible as evidence.¹

An exception to the hearsay rule is Section 46, Rule 130 of the Rules of Court, which states:

Section 46. *Entries in official records.* Entries in official records made in the performance of his or her duty by a public officer of the Philippines, or by a person in the performance of a duty specially enjoined by law, are prima facie evidence of the facts stated therein stated.

For entries in official records to be admissible, the document itself or a copy thereof certified by its legal keeper must be properly presented in evidence. Secondary evidence in the form of a certified copy is allowed under Section 8, Rule 130 of the Rules of Court, which states that when the original of the document is in the custody of a public officer or is recorded in a public office, its contents may be proved by a certified copy issued by the public officer in custody thereof.²

In these cases, the public documents adduced in evidence by the prosecution were identified by their respective official custodians from the COA and DA RFU I. Said public documents enjoy presumption of regularity and prima facie evidence of the facts stated therein.

The trustworthiness of public documents and the value given to the entries made therein is because of the following reasons: 1) the sense of

¹ *Calicdan v. Cendaña*, G.R. No. 155080, February 5, 2004.

² *Guerrero v. Philippine Phoenix Surety & Insurance, Inc.*, G.R. No. 223178, December 9, 2020.

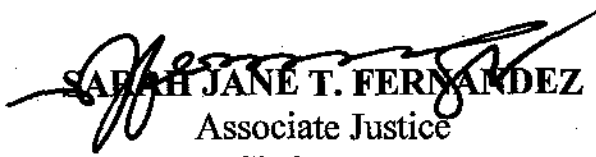
official duty in the preparation of the statement made; 2) the penalty which is usually affixed to a breach of that duty; 3) the routine and disinterested origin of most such statements; and 4) the publicity of record which makes more likely the prior exposure of such errors as might have occurred.³

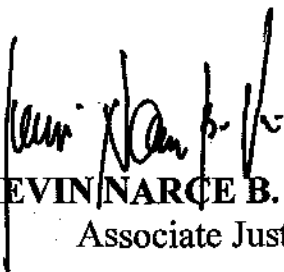
WHEREFORE, the Partial Motion for Reconsideration dated April 13, 2023 of accused Lourdes V. Gonzales is **DENIED** for lack of merit. The Decision of the Court promulgated on March 29, 2023 is **AFFIRMED**.

SO ORDERED.


KARL B. MIRANDA
Associate Justice

WE CONCUR:


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson


KEVIN NARCE B. VIVERO
Associate Justice

³ *Tecson v. Comelec*, G.R. No. 161434, March 3, 2004.