



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
QUEZON CITY

THIRD DIVISION

PEOPLE OF THE
PHILIPPINES,

Plaintiff,

- versus -

Criminal Cases Nos.
25596-25631 & 25633-
25636

For: Violation of Section 3 (e)
of Republic Act No. 3019

ANTONIO DELA PEÑA
BELICENA, ULDARICO P.
ANDUTAN, JR., ASUNCION M.
MAGDAET, EVELYN C.
DIFUNTORUM, MA. CRISTINA
S. MONCADA, ANNABELLE J.
DIÑO, MARK A. BINSOL,
CHERRY L. GOMEZ,
SYLVIALINA F. DAGUIMOL,
MEROSE L. TORDESILLAS,
EMELITA T. TIZON, GEMMA
O. ABARA, GREGORIA V.
CUENTO, RAUL C. DE VERA,
PURITA S. NAPEÑAS,
CHARMELLE P. RECOTER,
JAMIE SIA LING,
WILHELMINA ANG LING,
ALBERT SIA LING, WILBERT
SIA LING, VINALYN SIA LING,
ANGEL O. JIMENEZ,
BERNARD T. SANTOS, and
JOHN DOES,

Accused.

Present:

CABOTAJE-TANG, P.J.,
Chairperson,
FERNANDEZ, B., J. and
MORENO, J.

Promulgated:

FEBRUARY 8, 2024 

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RESOLUTION

CABOTAJE-TANG, P.J.

This resolves the [1] *Motion for Reconsideration (Re: Decision dated 11 August 2023)* dated August 29, 2023,¹ filed by accused Raul C. De Vera, [2] *Consolidated Motion for Reconsideration (On the Decision Promulgated on August 11, 2023 of the Honorable Court)* dated August 21, 2023,² of accused Asuncion M. Magdaet, Mark A. Binsol, Cherry L. Gomez, Merosse L. Tordesillas, Gemma O. Abara, Gregoria V. Cuento, and Purita S. Napeñas, and [3] *Consolidated Opposition with Leave of Court* dated September 11, 2023,³ filed by the prosecution. The motions for reconsideration filed by the accused-movants assail the Court's *Decision* promulgated on August 11, 2023.⁴

**ACCUSED DE VERA'S MOTION
FOR RECONSIDERATION**

Accused-movant De Vera claims that the Court erred in finding him guilty of two (2) counts of Violation of Section 3(e) of R.A. No. 3019, as amended, mainly on the ground that the required quantum of evidence to sustain his conviction was not positively and distinctly established by the prosecution. Thus, he asserts that the finding of guilt against him violated his right to due process.

First. Accused-movant De Vera argues that the witnesses who were presented by the prosecution had no personal knowledge of the material facts and allegations in the *Informations* in the present cases. Rather, they merely testified as to the existence of documents none of which supposedly pinpointed his participation in the alleged delictual acts.

He likewise contends that the acts imputed to him, particularly his acts of signing and approving the Evaluation Reports as Supervising Tax Specialist, and signing of the Tax Credit Certificates ("**TCCs**") on behalf of accused Andutan and/or Belicena, do not adequately prove the crime of a Violation of Section 3(e) of R.A. No. 3019. He claims that the violation involved was Scope Industries, Inc.'s ("**Scope's**") act of submitting spurious and fabricated

¹ pp. 165-181, Volume XIX, Record

² pp. 184-230, Volume XIX, Record

³ pp. 275-285, Volume XIX, Record

⁴ pp. 1-155, Volume XIX, Record



documents to support its claims for tax credits, an act for which he cannot be faulted since he had no hand in the preparation of such spurious documents nor did he have any knowledge regarding the same.

He further avers that “[h]is duty was a mere table audit and **checklisting of requirements** [;] that there is a prepared checklist of requirements to be submitted by the claimants and from there, [he] will check the mathematical computation of his subordinates based on the submitted documents.”⁵ Accordingly, it was beyond his mandate to verify the genuineness and authenticity of the documents. He claims that he did not have the skills to know whether the documents were falsified and he merely relied in good faith on the attestation found in the Claimant Information Sheets (“**CIS**”) submitted by Scope.

As regards the matter of the issuance of the TCCs, accused-movant De Vera claims that he “had no participation and involvement in the preparation, utilization, and issuance”⁶ of the same. He insists that he merely signed some of the TCCs, on behalf of accused Andutan and/or accused Belicena, on the honest belief that he had the authority to do so.

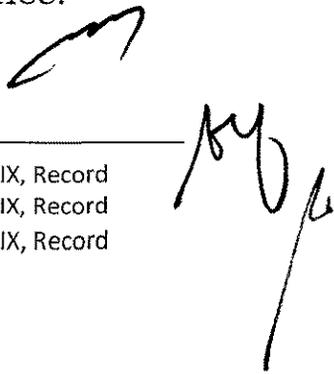
Taking all of the aforementioned circumstances together, accused-movant De Vera submits that the element of gross inexcusable negligence is not present. It was beyond his duty to verify the genuineness and authenticity of the submitted documents; and, he was not even trained to scrutinize documents. He further claims that the element of undue injury is likewise absent since the theory that he supposedly gave unwarranted benefits, advantage, or preference to Scope was a mere conjecture, speculation, or baseless accusation. He asserts that no evidence was offered to prove this claim, and that at most, the evidence offered “merely suggested but did not positively assert this conclusion.”⁷

Accused-movant De Vera also posits that in the entire process of evaluating and approving tax credit applications, he merely relied on his subordinates which is an accepted norm based on jurisprudence.

⁵ p. 174, Volume XIX, Record

⁶ p. 175, Volume XIX, Record

⁷ p. 177, Volume XIX, Record

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**CONSOLIDATED MOTION FOR RECONSIDERATION OF
ACCUSED MAGDAET, BINSOL, GOMEZ, TORDESILLAS, ABARA,
CUENTO, AND NAPEÑAS**

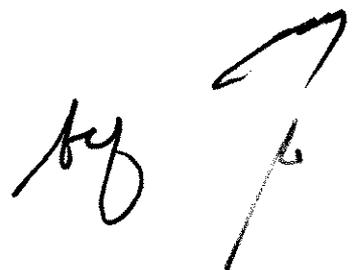
In their Consolidated Motion, the said accused-movants initially assail the *Decision* on the ground that it is supposedly contrary to the evidence established during the trial. They claim that the Court should not have admitted the testimonies of witnesses Philip R. Santiago, Leonides Pilapil Rosel, and Teddy J. Sandan as there were lingering doubts on the origins or sources of the documents they identified. In opposing the testimonies, they particularly cite (1) the lack of audit when the documents were turned over when Santiago assumed the post as custodian of the One-Stop-Shop Inter-Agency Tax and Duty Drawback Center ("**OSS Center**"), (2) the presence of the documents in Court by the time Rosel testified, and (3) the fact that Sandan was not yet the Documentation Manager for "K" Line when the spurious bills of lading were supposedly issued in 1994 or 1995.

They similarly assail the admission of the testimonies of Bimal Chand Bhandari and Rodolfo Del Castillo, Jr., claiming that because of the "res inter alios acta rule" under Rule 130, Section 29 of the Rules of Court, and considering their counsel's vehement objection to the presentation of Bhandari and Del Castillo, Jr., they should not have been prejudiced by the witnesses' declarations and statements.⁸

Like accused-movant De Vera, the accused-movants claim in their Consolidated Motion that the Court erred in finding them guilty of violating Section 3(e) of R.A. No. 3019. They aver that when they evaluated Scope's applications for tax credits, they merely followed established procedures which were taught to them by the employees of the Board of Investments ("**BOI**"), who were the first to process and grant tax credit claims. They also state that when they processed the applications, accused Belicena issued various Office Orders which allowed the submission of photocopies of supporting documents. Thus, it was erroneous for the Court to fault them for failing to note that the documents submitted by Scope were certified by a single person.

They similarly assert that their duties merely involved checklisting and computation of the applicable tax credit. As noted

⁸ pp. 208-209, Volume XIX, Record



in the testimonies of various witnesses, they contend that the OSS Center had a Monitoring and Verification Division which was responsible for verifying the authenticity and genuineness of the supporting documents submitted by the applicants to the OSS Center. Thus, it was not their duty to verify the documents submitted by Scope.

Moreover, the accused-movants claim that Scope is a BOI-registered company. As such, it is entitled under Executive Order No. 226 to avail of and enjoy certain tax incentives, including tax credits. When it filed applications for tax credits with the OSS Center, it made an undertaking that the documents it submitted were authentic. Taking together Scope's status as a BOI-registered corporation and the alleged lack of alterations in the supporting documents which made them appear authentic, the accused-movants contend that they cannot be faulted for granting Scope's applications since there were no glaring irregularities in the documents nor were they aware of any falsity regarding the same. The accused-movants likewise aver that their duties were merely ministerial and absent any showing of any corrupt intent to favor Scope, they cannot be found guilty of gross inexcusable negligence that would make them liable under Section 3(e) of R.A. No. 3019.

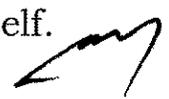
The accused-movants also argue that "the government thru the Bureau of Internal Revenue and Bureau of Customs have imprescriptible action against Scope Industries Inc. and can still collect and recover the tax credits utilized by Scope Industries, Inc."⁹

THE PROSECUTION'S CONSOLIDATED OPPOSITION

In response to the motions filed by accused-movants De Vera, Magdaet, Binsol, Gomez, Tordesillas, Abara, Cuento, and Napeñas, the prosecution filed its *Consolidated Opposition with Leave of Court* dated September 11, 2023.¹⁰ The prosecution avers that a review of the arguments advanced by the accused-movants shows that they failed to raise substantial arguments or to point out serious errors or irregularities that would warrant the reversal of the challenged *Decision*. Thus, it would be a useless ritual for the Court to reiterate itself.

⁹ p. 223, Volume XIX, Record

¹⁰ pp. 275-285, Volume XIX, Record




It posits that during the trial, it was able to successfully establish, through testimonial and documentary evidence, all the elements of a Violation of Section 3(e) of R.A. No. 3019. Specifically, it avers that it was able to prove that at the time material to the cases, the accused-movants were all public officers of the OSS Center. It was also able to show that the accused-movants acted with gross inexcusable negligence in the processing of the various applications of Scope for the issuance of tax credit certificates and the corresponding approval and issuance thereof. Its testimonial and documentary evidence established that the supporting documents which Scope used to secure the tax credit certificates were spurious. Despite this, the accused in these cases still granted Scope's various applications. As for the third element, the prosecution states that it was able to show that the accused-movants caused undue injury to the government and gave unwarranted benefits to Scope since they allowed Scope and its transferees to use the TCCs issued without legal basis for the payment of their taxes and duties.

The prosecution likewise noted that among the accused in these cases, accused Uldarico P. Andutan and Annabelle J. Diño failed to file their respective motions for reconsideration of the *Decision* despite the lapse of a considerable period of time. It thus prayed for leave of court to file the Comment/Opposition, and for the Court to admit and consider the same without further waiting for the two (2) accused to file their respective motions for reconsideration.

THE RULING OF THE COURT

The Court finds the subject motions for reconsideration filed by the accused-movants **BEREFT OF MERIT**. The motions do not raise any new substantial argument and the issues raised in the motions were already passed upon by the Court in the *Decision* promulgated on August 11, 2023.

A. The testimonies of the prosecution witnesses were properly admitted and evaluated by the Court.
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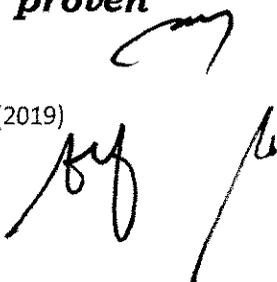
Accused-movants Magdaet, Binsol, Gomez, Tordesillas, Abara, Cuento and Napeñas preliminary raise the issue that the testimonies of Santiago, Rosel, and Sandan should not have been admitted by the Court in the first place due to doubts regarding the origins of the documents which they identified. However, the prosecution was able to show, and Santiago, Rosel, and Sandan confirmed during the course of their testimonies, that they were the lawful and proper custodians of the documents which they identified during trial. Additionally, for Santiago and Rosel, the prosecution was able to show that the documents they identified were what they purport to be. For Sandan, his testimony involved entries made in the performance of duty and in the ordinary or regular course of business. Moreover, their testimonies were not the only testimonies relied upon by the Court as there were corroborating testimonies from other prosecution witnesses regarding the matters and documents which they testified to.

The accused-movants likewise contend that under the *res inter alios acta* rule, and considering that their counsel vehemently objected to the testimonies of prosecution witnesses Bhandari and Del Castillo, Jr., their testimonies are inadmissible and should not have prejudiced them.

This argument is simply misplaced. The principle of *res inter alios acta* provides that the rights of a party cannot be prejudiced by an act, declaration, or omission of another. This rule, however, applies only to extrajudicial declarations or admissions. It does not apply to testimonies given on the witness stand where the party adversely affected had the opportunity to cross-examine the declarant.¹¹ In this case, the statements made by Bhandari and Del Castillo, Jr. were not extrajudicial declarations or admissions. Rather, they were all made in court as part of their testimonies. Additionally, when Bhandari and Del Castillo, Jr. were presented as witnesses for the prosecution, the accused-movants, through their respective counsels, were all able to cross-examine them. Thus, the accused-movants' assertion regarding the applicability of the *res inter alios acta* rule is unavailing.

**B. All the elements of a
Violation of Section 3(e) of
R.A. No. 3019 were proven**

¹¹ *People v. Batulan y Macajilos*, 911 SCRA 1 (2019)

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***and established by the
prosecution.***
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As for their main contention in their motions for reconsideration, the accused-movants uniformly argue that the Court erred in finding them guilty of gross inexcusable negligence with respect to the evaluation and issuance of the TCCs to Scope. They claim that they all merely followed the established procedure in the OSS Center with respect to the processing of applications for TCCs, as taught to them by employees from the BOI. They also uniformly claim that it was outside the scope of their duties to verify the authenticity of the supporting documents which the applicants submit, together with their applications. They aver that the OSS Center had a Monitoring and Verification Division which supposedly was tasked with verifying said supporting documents.

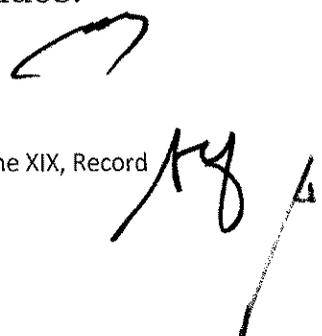
Regarding some of the documents, the accused-movants cite Sandan, whose testimony they earlier claim should not have been admitted by the Court, in arguing that the falsities cannot be determined at the first instance of evaluation without comparison with the genuine documents. Since they were not trained to spot such falsities, they claim that the Court cannot lay the blame on them for failing to flag such irregularities.

These arguments, however, were already duly considered and adequately passed upon by the Court in its assailed *Decision*.¹² The Court is aware that 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 law or evidence. In doing so, the movants have to dwell of necessity upon the issues passed upon the Court.¹³ **Nonetheless, the arguments raised by the accused-movants against the *Decision* are insufficient to persuade the Court to reconsider its ruling. On the contrary, the rehash of the arguments only proves that the Court did not miss anything important and only reinforces the soundness of its conclusion.**

Section 3(e) of R.A. No. 3019 provides:

¹² See pp. 137-144 of the *Decision* dated August 11, 2023, Volume XIX, Record

¹³ *Dineros v. Roque*, 177 Phil. 494 (1979)

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Section 3. Corrupt practices of public officers. – In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and hereby declared to be unlawful:

... ..

(e) Causing any undue injury to any party, including the Government or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

To sustain a conviction for the crime of a Violation of Section 3(e) of R.A. No. 3019, the following elements must concur: (1) the accused must be a public officer discharging administrative, judicial, or official functions; or a private individual acting in conspiracy with such public officers; (2) he/she acted with manifest partiality, evident bad faith, or gross inexcusable negligence; and (3) his/her action caused any undue injury to any party, including the government, or gave any private party unwarranted benefits, advantage, or preference in the discharge of his/her functions.¹⁴

Here, the accused-movants do not dispute the existence of the first element as all of them were, at the time material to these cases, working at the OSS Center. Further, the acts complained of, *i.e.*, the processing, approval and issuance of TCCs to Scope despite its submission of spurious documents, were performed by the accused-movants in the discharge of their official duties in the OSS Center.

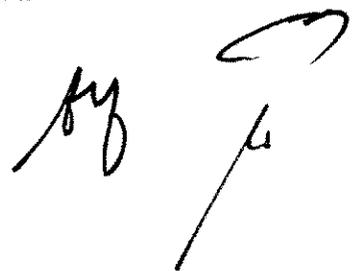
Thus, the only point of contention is whether the presence of the second and third elements was sufficiently established by the evidence of the prosecution.

With regard to the second element, jurisprudence provides that this element may be committed in three (3) ways, *i.e.*, through manifest partiality, evident bad faith, and/or gross inexcusable negligence. Proof of **any** of these three (3) in connection with the prohibited acts is **enough to convict**.¹⁵

The Court found the accused-movants to have acted with **gross inexcusable negligence** in the processing of the applications and the

¹⁴ *Fuentes v. People*, 822 SCRA 509 (2017)

¹⁵ *Abubakar v. People*, 843 Phil. 435 (2018)



issuance of the TCCs to Scope.¹⁶ As elucidated in the case of **Fuentes v. People**,¹⁷ gross inexcusable negligence is the kind of negligence that is characterized by the want of even slight care, **acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally with a conscious indifference to the consequences insofar as other persons may be affected**.¹⁸ It is the omission of that care even inattentive and thoughtless men never fail to take on their own property.¹⁹

The accused-movants decry the aforesaid finding as erroneous and not supported by the evidence on record. The Court disagrees.

As stated in the assailed *Decision*, the accused-movants were all employees of the **OSS Center**, a previous unit of the Department of Finance which was **specifically created to simplify and streamline the processing of tax credits and duty drawbacks** filed by qualified applicants.²⁰

It can hardly be considered unreasonable or erroneous to state that fulfilling the OSS Center's responsibility of simplifying the availments of tax credits **must not be done at the expense of safeguarding the system from the occurrence of undue claims. Reasonable caution and consciousness of the consequences of their actions must always be observed by the employees and officers of the OSS Center whenever they process applications since these tax credits must not be granted to just anyone applying for them. This is imperative to avoid undue damage and prejudice to the government**.²¹ As is oft heralded in jurisprudence, taxes are the lifeblood of the nation through which the government agencies continue to operate and with which the State effects its functions for the welfare of its constituents.²²

Judging the actions of the accused-movants from this lens, the Court affirms its ruling that they acted with gross inexcusable negligence.

The accused-movants do not deny that they evaluated and processed Scope's tax credit applications, and that the applications

¹⁶ pp. 140-144, *Decision*

¹⁷ 822 SCRA 509 (2017)

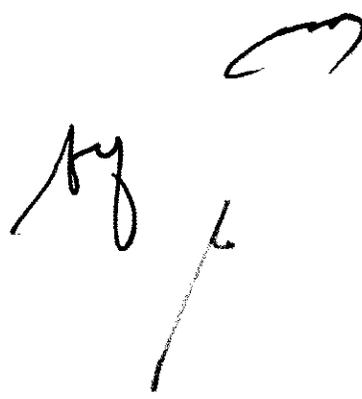
¹⁸ *Id*; Emphasis supplied

¹⁹ *Id*

²⁰ p. 127, *Decision*

²¹ p. 138, *Decision*

²² *Commissioner of Internal Revenue v. Court of Appeals*, 304 Phil. 518 (1994)

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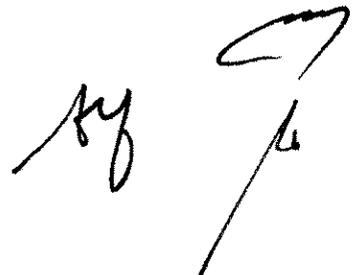
were subsequently approved due to the evaluation reports that they respectively authored, reviewed, and signed. Their claims that they cannot be faulted for anything since they merely followed the procedure adopted at the OSS Center in the processing of tax credit applications, and that “verifying” the authenticity or genuineness of the supporting documents submitted by an applicant was not part of their duties nor was it a part of the process that was taught to them with respect to processing and evaluation of tax credit claims, were already discussed and disposed of by the Court in its *Decision*.²³ The reiteration of these arguments does not persuade the Court since, as discussed in the *Decision*, **there were clear indicia and circumstances attending Scope’s applications that should have prompted the accused-movants to act more circumspectly. To be sure, these actions did not even require any special skillset.**

It was noted in the *Decision* that Scope filed at **least forty (40) applications** for tax credits, claiming to be a BOI-registered firm entitled to tax credits for importing raw materials that were used in the manufacturing, processing, production, and subsequent export of knitted fabrics to various buyers abroad. Appended to all of these forty (40) applications were (a) Claimant Information Sheets signed by the purported General Manager or Assistant General Manager of Scope, Angel O. Jimenez or Bernard Santos, and (b) supposed certified copies of supporting documents such as bills of lading, commercial invoices, import entries, export declarations, bank memos, and Bureau of Customs receipts.²⁴

A perusal of the photocopied “certified” documents shows that they were issued by **various private entities** – which included transportation companies, forwarding agents, and shippers or consignees from Taiwan, Singapore, Hong Kong, Thailand, and **public entities** like the Bureau of Customs. **Despite the fact that these documents were issued by different public and private entities, only one signatory “certified” the photocopies as true copies.** It was either Bernard T. Santos or Angel O. Jimenez – who, as mentioned above, are the Assistant General Manager or General Manager of Scope, respectively. Despite these evident circumstances on the faces of the submitted documents, none of the accused-movants, who admitted having processed these documents, noted such glaring irregularities. Rather, they merely proceeded with “checklisting” the supporting documents, evaluated Scope’s claims

²³ pp. 137, 139-144

²⁴ pp. 135-136, *Decision*



using these “certified” documents, which led to Scope being granted tax credits for its claimed activities.

As proven by the prosecution in the course of trial, the **supporting documents submitted by Scope, predictably, turned out to be spurious.** Contrary to its declarations, Scope was actually incapable of producing the knitted fabrics which it claimed to have exported. Despite these, it was able to secure tax credits from the government and subsequently used these tax credits for the payment of its taxes and duties.

The accused-movants contend that applicants like Scope were permitted to submit mere photocopies when they processed the applications. While applicants were presumably allowed to submit mere photocopies at the time, the fact was that Scope itself submitted to the OSS Center these “certified” documents. It was these dubious “certified” documents which the accused-movant received and processed in relation to Scope’s applications for tax credits and not any mere photocopied documents. Thus, had they scrutinized these documents instead of merely accepting them “as is” vis-à-vis the checklist of documents that the OSS Center required of applicants such as Scope, they would have readily noted that something was irregular on the face of the documents.

Regarding their claimed lack of duty to verify the genuineness of the supporting documents and their assertion that the OSS Center had a Monitoring and Verification Division, the Court reiterates that the accused-movants cannot hide behind these arguments since foremost, none of them can confirm whether the said division was actually functioning at the time the applications were processed. Further, while the Monitoring and Verification Division existed in the organizational chart of the OSS Center, the duty to verify the genuineness or regularity of the supporting documents was not within this Division’s sole purview. Specifically for accused-movants **Magdaet, Napeñas, Binsol, Cuento and Tordesillas**, their **Position Description Forms**, which they all signed while employed at the OSS Center, indicate that their **actual duties and functions** include “**verification to determine the genuineness and/or regularity and completeness of the documents submitted in support to (sic) request for tax credits.**”²⁵ The forms also clearly state that the processing of requests for tax credit, among others, include the “**evaluation and verification of the supporting documents to**

²⁵ Exhibit “C-4-a”



determine their authenticity, regularity, and sufficiency.²⁶ Thus, all of them were actually mandated to, at the very least, determine, if the documents submitted to them were regular.

Even setting aside the said duties, the Court emphasizes that had the accused conducted more than a mere cursory glance on the supporting documents submitted by Scope vis-à-vis the checklist of documents required for applications, and conducted a more thorough review of the documents submitted, even just as part of ordinary precaution given the amounts involved in each application, they would have readily noted that the supposedly “certified” true copies of the supporting documents appended to the forty (40) applications were certified by the same Angel O. Jimenez or Bernard Santos, despite the fact that these documents were supposedly issued by different public and private entities. As held in the assailed *Decision*: “[i]t is not a stretch of imagination to say that a person, who is exercising mere prudence or ordinary diligence, would have easily noted or flagged the abovementioned instances as irregularities attending the certification of these photocopied documents. No special skill would have been needed to notice that despite having been issued by various entities, the certification in the photocopied documents were uniform. Additionally, no further investigation – other than looking at the faces of the documents – would have been needed to recognize that the names and signatures appearing in the certifications belonged to authorized representative/s of the applicant Scope, as shown in the CIS – the very first document prefacing all of the photocopied supporting documents.”²⁷ Had the accused-movants been more circumspect and careful, they would have flagged these documents as dubious, and further actions could have been taken to verify their authenticity. These glaring facts should have prompted them to act. Instead, the accused-movants chose to merely conduct their “checklisting” and allowed the applications to pass through, be evaluated, and subsequently approved.

To reiterate, **gross inexcusable negligence** is the kind of negligence that is characterized by the want of even slight care, **acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally with a conscious indifference to the consequences insofar as other persons may be affected.**²⁸ It is the omission of that care even

²⁶ Exhibits “C-4-b,” “C-4-e,” “C-4-g,” “C-4-h,” and “C-4-i”

²⁷ p. 137, *Decision*

²⁸ *Fuentes v. People*, 822 SCRA 509 (2017); Emphasis supplied

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inattentive and thoughtless men never fail to take on their own property.²⁹ The accused-movants' failure to act with diligence on the applications allowed Scope to acquire at least forty (40) TCCs worth **Php103,042,663.00** despite the submission of spurious documents and its lack of capacity to produce, much less export, quality knitted products, thereby negating its lawful entitlement to such TCCs. Simply accepting the supporting documents *as they were*, despite the glaring irregularities which should have put them on guard, is nothing short of gross inexcusable negligence in the eyes of the Court. As stated in the *Decision*, the Court would not allow the accused-movants to trivialize their role in the safeguarding of the system of availments of credits on taxes and duties from the occurrence of undue claims, particularly since they are the first line of defense of the system against such spurious claims.³⁰

On the matter of undue injury or unwarranted benefits, advantage, or preference under the third element of Section 3(e), as with the other arguments raised by the accused-movants, the Court is not persuaded by the contention of the accused-movants that there is no evidence as to the presence of this element. Foremost, this argument was already passed upon in the questioned *Decision*.³¹ To reiterate, the prosecution was able to prove that **at least forty TCCs totaling Php103,042,663.00 were issued to Scope**. It was also able to establish that the TCCs were issued to Scope because the accused-movants, while in the performance of their duties, evaluated the applications for tax credits submitted by Scope. They subsequently approved the same despite Scope's submission of spurious documents, which logically refuted Scope's lawful entitlement thereto. As discussed earlier, had the accused-movants conducted the evaluation, processing, and approval of the tax credit applications of Scope with more than a mere cursory glance at the documents submitted, they would have noted, or the very least, flagged the dubious supporting documents. This they utterly failed to do which enabled Scope to secure the TCCs. The prosecution was also able to establish that of these forty (40) TCCs, Scope was able to **utilize twenty-four (24) TCCs** for the payment of its own taxes and/or duties, or **transfer** to other entities.³²

Clearly, the prosecution was able to prove the presence of the third element of Section 3(e) as it is evident that the actions of the

²⁹ *Id.*

³⁰ p. 144, *Decision*

³¹ pp. 145-146, *Decision*

³² pp. 135-137, 139, 145-146, *Decision*

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accused-movants **gave unwarranted benefits to Scope** in the form of tax credits which it was able to use for the payment of duties and taxes. Their actions **likewise caused undue injury to the government** since the used TCCs represented taxes and duties which the government was entitled to but was not able to collect from Scope and its transferees.

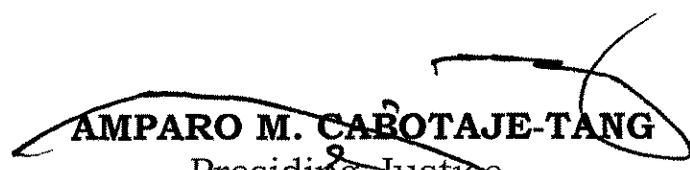
In their last-ditch effort to support their claim that the third element does not exist in the present cases, the accused-movants proffer that the government has an imprescriptible action against Scope and can still collect and recover the credits utilized by Scope. While this may be true, the right of the government to do so, however, is a separate and distinct cause of action from the criminal cases at bar. Moreover, such right does not negate the legal effects of the already consummated acts of the accused-movants which caused undue injury to the government.

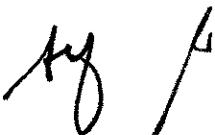
In sum, the Court maintains its finding that the prosecution has discharged its burden of proving every element of the offense of Violation of Section 3 (e) of R.A. No. 3019.

WHEREFORE, the [1] *Motion for Reconsideration (Re: Decision dated 11 August 2023)* dated August 29, 2023, filed by accused Raul C. De Vera, and [2] *Consolidated Motion for Reconsideration (On the Decision Promulgated on August 11, 2023 of the Honorable Court)* dated August 21, 2023, filed by accused Asuncion M. Magdaet, Mark A. Binsol, Cherry L. Gomez, and Purita S. Napeñas, are **DENIED** for lack of merit.

SO ORDERED.

Quezon City, Metro Manila

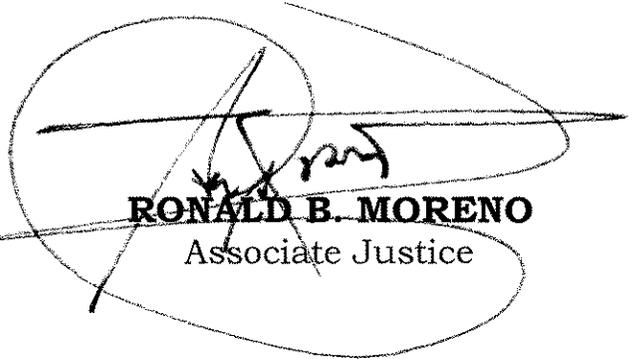

AMPARO M. CABOTAJE-TANG
Presiding Justice
Chairperson



WE CONCUR:



BERNELITO R. FERNANDEZ
Associate Justice



RONALD B. MORENO
Associate Justice

