REPUBLIC OF THE PHILIPPINES
Sandiganbayan
QUEZON CITY
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SEVENTH DIVISION

Minutes of the proceedings held on March 19, 2024.

Present:

Justice Ma. Theresa Dolores C. Gomez-Estoesta ---------- Chairperson
Justice Zaldy V. Trespeses ---------- Member
Justice Georgina D. Hidalgo ---------- Member

The following resolution was adopted:

SB-12-CRM-0164 to 0167:

People v. P/Dir. Gen. Jesus Ame Verzosa, et al.

This resolves the following:

1. Accused Padojinog's **"MOTION FOR RECONSIDERATION"** dated March 07, 2024;[1]

2. Prosecution's **"COMMENT/OPPOSITION"** dated March 12, 2024.[2]

GOMEZ-ESTOESTA, J.

Before the court is accused SPO4 Ma. Linda A. Padojinog's *Motion for Reconsideration* praying that the court reconsider its Resolution dated February 21, 2024, the dispositive portion of which, reads:

> **WHEREFORE**, the *Manifestation and Motion* dated January 26, 2024 filed by accused Ma. Linda Padojinog which seeks the dismissal of SB-12-CRM-0164 in view of the prior dismissal of her administrative charge, is **DENIED.**
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> **SO ORDERED.**

THE MOTION FOR RECONSIDERATION

The *Motion* of accused Padojinog is grounded on the following:

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[1] Received via MS365/Gmail on March 08. 2024 at 1:44 PM.
[2] Received via MS365 on March 12, 2024 at 4:19 PM.

1. The evidence presented in both administrative and criminal cases are similar and no additional evidence was presented by the prosecution in the criminal case.

Citing *Lukban v. Sandiganbayan*,[3] accused Padojinog submits that the pieces of evidence appreciated in *Padojinog v. FIO-Ombudsman*[4] are the same pieces of evidence submitted before this court, which are subsequently also the same evidence appreciated in the case of Lukban.

Accused Padojinog maintains that the findings of the court go against the jurisprudential standard set forth in *Nicolas v. Sandiganbayan*[5] which provides that, as a requirement for the application of the exception, the criminal case is based on the same facts and evidence passed upon in the administrative case, and no additional evidence was presented by the prosecution. In this case, accused reiterates that there was no additional evidence presented by the prosecution. Accused Padojinog persists that the court need only consider whether new evidence was presented, not perceive it from a different appreciation when it has already been considered in the administrative case.

2. There is no conspiracy because there is no criminal intent.

Accused Padojinog relies on the ruling in *Padojinog v. FIO-Ombudsman* which found that she did not conspire with the other accused to defraud the government, and neither was there any conscious design on her part to commit an offense. She also cites *Lukban v. Carpio-Morales* where the Supreme Court ruled that when the petitioner acted in good faith and his acts cannot be considered unlawful or wrong under the circumstances, this would negate the crime of Violation of Sec. 3(e) of RA 3019 and Falsification of Public Documents since these are crimes *mala in se* which requires criminal intent. The same is allegedly applicable to this case. Accused Padojinog emphasizes that in *Padojinog v. FIO-Ombudsman*, the Supreme Court ruled that she acted in good faith, and that there was no dishonesty or conduct prejudicial to the service attributable to her.

3. The elements of the offense charged are absent.

Accused Padojinog echoes that a reading of the elements requires that the accused acted with manifest partiality, evident bad faith, or inexcusable negligence. She reiterates that this matter was already resolved by the Supreme Court in the administrative case when it found that she cannot be attributed with dishonesty or conduct prejudicial to the service.

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[3] G.R. Nos. 254312-15.
[4] G.R. No. 233892, Oct. 13, 2021.
[5] 568 Phil. 297 (2008).

4. The cases of *Nicolas v. Sandiganbayan,*[6] *Pahkiat v. Office of the Ombudsman – Mindanao and COA,*[7] and *Constantino v. Sandiganbayan*[8] discoursed the propriety of dismissing criminal actions that were filed based on the same facts and evidence as that of a dismissed administrative case. Since the facts and evidence used in the criminal case are anchored on the same facts and evidence in the administrative case, the dismissal of the criminal case should only follow.

COMMENT OF THE PROSECUTION

Against the accused's arguments, the prosecution countered:

1. No new matters were raised by accused Padojinog in her *Motion.* The grounds presently relied upon were a mere rehash of the arguments previously raised in her earlier *Manifestation and Motion* which were already passed and ruled upon by the court in its *Resolution* dated February 21, 2024. The applicability of the general rule that administrative and criminal liability is distinct and separate from each another, and that the dismissal of a criminal case does not *ipso facto* result in the dismissal of the related administrative case, and vice versa, prevails over the exception cited by the accused.

2. There was additional evidence presented by the prosecution. The court unequivocally and specifically pointed out that the special audit report was the added evidence of the prosecution which was not presented in the administrative case. Further, several testimonial evidence were likewise presented to substantiate its case against accused Padojinog. Such testimonial evidence were never presented in the administrative case.

3. The ruling of the Supreme Court in *Padojinog v. Office of the Ombudsman*[9] on the conspiracy issue finds no application in the instant case. As long as the general rule applies, any issue determined or resolved in the administrative case will not supersede the matters yet to be determined in the criminal case.

4. The doctrine of *res judicata* and law of the case finds no application in this case since the elements of identity of parties and identity of cause of action are wanting in this case. Between the administrative and criminal case, there is no identity of parties and there is no identity of cause of action.

As to the identity of parties, in the administrative case, the parties are *Padojinog v. FIO-Office of the Ombudsman,* while in the criminal case, the parties are *People of the Philippines v. Jesus Verzosa, et al.* As to identity of

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[6] G.R. Nos. 175930-31, February 11, 2008
[7] G.R. No. 223972, November 03, 2020.
[8] G.R. Nos. 140656 & 154482, September 13, 2007.
[9] G.R. No. 233892, Oct. 13, 2021

cause of action, in the administrative case, a case of *Dishonesty and Conduct Prejudicial to the Best Interest of the Service* is involved, while in the criminal case, it is for the *Violation of Section 3(e) of Republic Act No. 3019*. Hence, the doctrine of Res Judicata is inapplicable.

RULING OF THE COURT

The grounds raised by accused Padojinog have already been considered by the court in its Resolution dated February 21, 2024, to wit:

Ground raised by the accused	Ruling of the court in its questioned Resolution
1. The evidence of both cases is similar, and no additional evidence was presented by the prosecution.	It cannot be said, therefore, that it is the **same evidence** that was presented in both administrative and criminal cases. Certainly, there were factual aberrations presented in the criminal case that would need a more concise and in-depth analysis in the determination of the charge.
2. There is no conspiracy because there is no criminal intent.	This is not to discount the fact that SPO4 Padojinog is charged under a conspiracy theory which no longer focuses on her criminal liability alone. Conspiracy, as a rule, is a question involving appreciation of facts, an undertaking that is generally within the realm of the trial court.[10] Necessarily, the appreciation of facts cannot be overtaken by the administrative case where trial, following the rules on evidence, is not conducted.
3. The elements of the offense charged are absent.	Clearly, an appreciation of the existence of these elements, while yet to be made, cannot at this time be overshadowed by the prior dismissal of the administrative charge.
4. The Supreme Court's disquisition on dismissal of criminal cases due to the dismissal of the administrative charge.	As detailed above, the evidence presented in the criminal case stretched a more comprehensive picture of the factual narratives which are to be weighed against the elements of the crime. While the evidence has to be sifted through the crucible of "proof beyond reasonable doubt," it is not the dismissal of an administrative case that will weigh heavily against the elements; rather, it is the entirety of the evidence presented in the criminal case.

[10] *Bagasao v. Sandiganbayan*, G.R. Nos. L-53813 to 53818, October 28, 1987.

Yet, despite this, accused Padojinog insists on the applicability of *Nicolas v. Sandiganbayan, Pahkiat v. Office of the Ombudsman – Mindanao and COA*, and *Constantino v. Sandiganbayan* to obtain the dismissal of the criminal case.

The reliance, however, is misplaced. A meticulous assessment of each case would show the trigger point why the dismissal of the criminal case followed from the dismissal of the administrative case – the ***same facts and evidence*** obtaining in the administrative case are the ***same facts and evidence*** proven in the criminal case, but which ***same facts and evidence*** are not enough to hold accused either administratively or criminally liable. The material points in the cited cases show, *viz*:

Nicolas v. Sandiganbayan	**Pahkiat v. Ombudsman**	**Constantino v. Sandiganbayan**
From the testimonial and documentary evidence of the prosecution admitted by public respondent, the Court gathers that apart from establishing that petitioners were government officials, the prosecution was only able to establish that: (1) the van was turned over to the LOGCOM on April 19, 1999; (2) the same van was withdrawn from the LOGCOM compound on May 6, 1999; (3) the signature appearing above the name of prosecution witness, then LOGCOM commander Uy, in the Authority for the withdrawal of the van was not his; (4) Import Entry Nos. 5000-99 to 5002-99 were not filed with the IED-MICP; and (5) Bureau of Customs O.R. Nos. 75071606, 7501609, and 75071603 are spurious.	On February 28, 2011, the Office of the Ombudsman-Mindanao came out with two separate rulings on the administrative and criminal cases arising out of the same alleged acts and omissions against petitioners. These rulings were prepared and reviewed by, and signed for approval by the same set of officers.[35] In October 2013, this same set of officers reconsidered the Decision in the administrative case and exonerated petitioners **on a categorical finding that they "had no direct participation in the anomalies**." Precisely because this same set of officers had already found petitioners not to have had any direct participation in the anomalies, petitioners accordingly moved for reconsideration of the Resolution in the criminal case against them. Incredibly, this same set of officers from the Office of the Ombudsman--Mindanao who exonerated petitioners of any administrative wrongdoing - to repeat, on a finding by them that petitioners had no direct participation in the anomalies - nevertheless sustained the Resolution in the criminal case finding probable cause against petitioners on sheer technicality, that is, the reglementary period in filing a motion for reconsideration had already lapsed.	The explicit terms of Resolution No. 21, Series of 1996, clearly authorized Mayor Constantino to "*lease/purchase one (1) fleet of heavy equipment*" composed of seven (7) generally described units, through a "*negotiated contract.*" That resolution, as observed at the outset, *contained no parameters as of rate of rental, period of lease, purchase price.* Pursuant thereto, Mayor Constantino, representing the Municipality of Malungon, and Norberto Lindong, representing the Norlovanian Corporation, executed two written instruments of the same date and occasion, viz.: One — an agreement (on a standard printed form) dated Febr[ua]ry 28, 1996 for the *lease* by the corporation to the municipality of heavy equipment of the number and description required by Resolution no. 21, and Two — an undertaking for the *subsequent conveyance* and transfer of ownership of the equipment to the municipality at the end of the term of the lease. That the Members of the Sangguniang Bayan knew of this "*lease/purchase*" is evident from Resolution No. 38, Series of 1996 unanimously enacted by them shortly after delivery of the equipment. In that resolution they (1) declared that "*the Municipal Government ** has just acquired its fleet of heavy equipment*

		leased/purchased from the Norlovanian Corporation," and (2) requested Mayor Constantino "*to operate the newly acquired heavy equipment ** leased/purchase from the Norlovanian Corporation.*" The Resolution is consistent with the allegations of Mayor Constantino — which in any event are not denied by the Councilors or Vice-Mayor Espinosa — x x x
There is no competent or sufficient evidence of particular overt acts that would tend to show that petitioners colluded with each other or with another person or others to defraud the customs revenue or to otherwise violate the law, or that they willfully made it possible for John Doe to defraud the customs revenue.	It is certainly astonishing how the same set of officers who determined that petitioners had no participation in the anomalies - a determination, in so many words, that petitioners were completely innocent of any wrongdoing essentially allowed, in the same breath, the continuance of the criminal prosecution against them based on the same factual circumstances and subject matter. This denial of the motion for reconsideration on a pure technicality in the face of their own unqualified exoneration of petitioners in the administrative case is nothing but grave abuse of discretion - for certainly, if petitioners were already found not to have had any participation in the anomalies, then this finding merits their exoneration as well from the criminal case. It falls well within the exception to the general rule that administrative and criminal cases based on the same operative facts may proceed independently.	In light of the foregoing facts, which appear to the Court to be quite apparent on the record, **it is difficult to perceive how the Office of the Ombudsman could have arrived at a conclusion of any wrongdoing by the Mayor in relation to the transaction in question.** It is difficult to see how the transaction between the Mayor and Norlovanian Corporation — entered into pursuant to Resolution No. 21 — and tacitly accepted and approved by the town Council through its Resolution No. 38 — could be deemed an infringement of the same Resolution No. 21. In truth, an examination of the pertinent writings (the resolution, the two (2) instruments constituting the negotiated contract, and the certificate of delivery) unavoidably confirms their integrity and congruity. It is in fine, difficult to see how those pertinent written instruments could establish a *prima facie* case to warrant the preventive suspension of Mayor Constantino. A person with the most elementary grasp of the English language would, from merely scanning those material documents, at once realize that the Mayor had done nothing but carry out the expressed wishes of the Sangguniang Bayan.
Not one of the prosecution witnesses identified, mentioned, or even alluded to either of petitioners as having personally interceded or been present during the release of the cargo from the LOGCOM compound, or testified as to any act or omission that may be construed to be in furtherance of the alleged		

conspiracy to defraud the customs revenue.		
The Notice of Withdrawal (Exhibit "D"), the only document bearing the name and signature of petitioner Nicolas, was not even admitted by respondent court.		

Hence, in *Nicolas v. Sandiganbayan,* the finding that the Notice of Withdrawal, the only document bearing the name and signature of petitioner Nicolas, was not even admitted by respondent court, was material in dismissing the criminal case. In the same vein, in *Pahkiat v. Office of the Ombudsman – Mindanao and COA*, there was a categorical finding that the accused "had no direct participation in the anomalies"; hence, it was only logical that they cannot be criminally charged. More so in *Constantino v. Sandiganbayan,* the finding that the Municipal Mayor only complied, and did not violate, Resolution No. 21 of the Sangguniang Bayan, likewise relieved him from the charge.

The same does not obtain in the present charge. While it is conceded that accused Padojinog was a member of DRD's inspection team, and may have been cleared of any administrative liability, the court cannot simply leap into a conclusion that accused Padojinog should be cleared of the criminal charge, as in the administrative case, gauged from the facts and evidence presented. To do this, as accused Padojinog haplessly rallies in her *Motion,* is to throw all other evidence presented against her.

Palpably, the probative weight, if any, that may be given to the special audit report, among others, to the criminal case has not at all been debunked by accused Padojinog, as she remained mum about its impact on the charge. While it is premature for the court to even venture on the significance this may bring, suffice it to state that testimonial and documentary evidence exists in the criminal case that were not found in the administrative case. Verily, accused Padojinog cannot venture on a false narrative stating that the "*same facts and evidence*" has been presented when the questioned Resolution meticulously outlined the facts and evidence that were different from each case.

The facts and evidence presented in the criminal case are not the same as those presented in the administrative case.

The standard by which the exception to the general rule that administrative liability is separate and distinct from criminal liability, is dependent on the elements established in *Nicolas v. Sandiganbayan*:[11]

> (1) The existence of a criminal case and an administrative case against a public officer based on the same facts;
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> (2) The administrative case has been dismissed with finality;
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> (3) The administrative case was dismissed on the grounds that the acts complained of did not exist, or that there is nothing unlawful or irregular in the acts or omissions of the public officer;
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> (4) The criminal case is **based on the same facts and evidence passed upon in the administrative case**, and **no additional evidence was presented by the prosecution.**

Simply, the cases cited by accused Padojinog operated on the premise that both the administrative case and criminal case are based on the ***same facts and evidence***. To reiterate, the court's examination of the facts and evidence presented in the criminal case, as delineated in the questioned Resolution, showed that they are not the same in the administrative case. Thus, accused Padojinog's disparate plea for a dismissal of the criminal case, when no basis is found, should only be denied.

The pronouncements in the administrative case cannot predetermine the possible findings of the court in the instant case.

Accused Padojinog submitted that the Supreme Court, in *Padojinog v. FIO-Ombudsman,*[12] had already ruled that the accused did not conspire with the other accused to defraud the government and that there was no conscious design on the part of the accused to commit an offense. Further, the Court ruled that she acted in good faith and that there was no dishonesty or conduct prejudicial to the service attributable to her. Accused holds that as there is no criminal intent, the theory of conspiracy must necessarily fail. Accused's contentions are deductive matters to which this court alone can pass in the criminal case.

As previously discussed, since the elements of *Nicolas* were not met, the general rule that administrative liability is separate and distinct from criminal liability stands. Any issue determined or resolved in the administrative case should not supersede the matters yet to be determined in the criminal case.

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[11] 568 Phil. 297 (2008).
[12] G.R. No. 233892, October 13, 2021.

To reiterate:[13]

> This is not to discount the fact that SPO4 Padojinog is charged under a conspiracy theory which no longer focuses on her criminal liability alone. Conspiracy, as a rule, is a question involving appreciation of facts, an undertaking that is generally within the realm of the trial court.[14] Necessarily, the appreciation of facts cannot be overtaken by the administrative case where trial, following the rules on evidence, is not conducted.
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> The administrative liability of SPO4 Padojinog in no way determines her culpability as a conspirator in her criminal case. Again, this spells a difference in the nature of the criminal case filed against her, proving that one case cannot be dependent on the resolution of the other."

Accused Padojinog also contends that there can be no crime since the elements of the offense charged is absent in the instant case. A reading of the elements of the offense requires that the accused acted with manifest partiality, evident bad faith, or inexcusable negligence. Here, the matter was already resolved by the Supreme Court in the administrative case when it found that accused Padojinog could not be attributed with dishonesty or conduct prejudicial to the service. Since the violation of Section 3(e) of R.A. No. 3019 is *mala in se,* criminal intent is required, which is wanting in this case.

Again, the court finds no merit in this contention.

The appreciation of the existence of the elements of the crime charged very much vary according to the standard by which it is judged. As elucidated in its previous *Resolution,*[15]

> The evidence presented in the administrative case, while rooted from the same factual milieu, can only be passed upon by this court in a different light as it would in a criminal case.
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> As detailed above, the evidence presented in the criminal case stretched a more comprehensive picture of the factual narratives which are to be weighed against the elements of the crime. While the evidence has to be sifted through the crucible of "proof beyond reasonable doubt," it is not the dismissal of an administrative case that will weigh heavily against the elements; rather, it is the entirety of the evidence presented in the criminal case."

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[13] *Resolution* dated February 21, 2024.
[14] *Bagasao v. Sandiganbayan,* G.R. Nos. L-53813 to 53818, October 28, 1987.
[15] *Resolution* dated February 21, 2024.

At the end of the day, what is truly determinative of the effects of a dismissed administrative case to an on-going criminal case are the elements set forth by the *Nicolas* case, which was not met in this case. Thus, considering that the instant case does not qualify as an exception, the ruling made in the administrative case cannot predetermine the findings of the court in the instant case.

Despite attempts of the accused to sway the court towards reconsideration of its previous ruling, the former failed to present any argument of enough weight to achieve the same.

ACCORDINGLY, the *Motion for Reconsideration* filed by accused SPO4 Ma. Linda A. Padojinog is **DENIED.**

SO ORDERED.

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

WE CONCUR:

ZALDY V. TRESPESES
Associate Justice

GEORGINA D. HIDALGO
Associate Justice