

## EN BANC

[ G.R. No. 224720-23, February 02, 2021 ]

**RICHARD T. MARTEL, ALLAN C. PUTONG, ABEL A. GUIÑARES,  
VICTORIA G. MIER, AND EDGAR C. GAN, PETITIONERS, VS.  
PEOPLE OF THE PHILIPPINES, RESPONDENT.**

[G.R. Nos. 224765-68]

**BENJAMIN P. BAUTISTA, JR., PETITIONER, VS. PEOPLE OF THE  
PHILIPPINES, RESPONDENT.**

### DECISION

**CAGUIOA, J:**

While the Constitution exacts a higher standard of accountability with respect to public officers, as indeed public office is a public trust, the constitutional right of presumption of innocence in criminal prosecutions is likewise enjoyed by public officers who stand accused. Therefore, in order to justify conviction, their guilt must be proven beyond reasonable doubt, as with any other person who stands accused.

In criminal cases involving Section 3(e) of Republic Act No. (R.A.) 3019, or the Anti-Graft and Corrupt Practices Act, in relation to alleged irregularities in procurement committed by public officers, findings of violations of procurement laws, rules, and regulations, *on their own*, do not automatically lead to the conviction of the public officer under the said special penal law. *It must be established beyond reasonable doubt that the essential elements of Section 3(e) of R.A. 3019 are present.*

It is in this spirit that the Court proceeds to assess whether the conviction of petitioners under Section 3(e) of R.A. 3019 should be reversed and set aside.

### The Case

Before the Court are two consolidated petitions.

In **G.R. Nos. 224720-23**, petitioners Richard T. Martel (Martel), Allan C. Putong (Putong), Abel A. Guiñares (Guiñares), Victoria G. Mier (Mier), and Edgar C. Gan (Gan) filed a Petition for Review on *Certiorari*<sup>[1]</sup> (Martel Petition) under Rule 45 of the Rules of Court, assailing the Decision<sup>[2]</sup> dated February 24, 2016 (assailed Decision) and Resolution<sup>[3]</sup> dated May 13, 2016 (assailed Resolution) of the Sandiganbayan, Special First Division (Sandiganbayan) in Criminal Case Nos. SB-12-CRM-0241 to SB-12-CRM-0244, which found them guilty beyond reasonable doubt for violation of Section 3(e) of R.A. 3019.

In **G.R. Nos. 224765-68**, petitioner Benjamin P. Bautista, Jr. (Bautista) also filed a Petition for Review on *Certiorari*<sup>[4]</sup> (Bautista Petition), seeking the reversal of the

assailed Decision and Resolution, which likewise found him guilty beyond reasonable doubt for violation of Section 3(e) of R.A. 3019.

### **The Facts**

The instant case revolves around the procurement of five motor vehicles for the use of the Governor and Vice Governor of Davao del Sur (the Province).

Through Purchase Requests dated January 24, 2003,<sup>[5]</sup> February 18, 2003,<sup>[6]</sup> and July 15, 2003,<sup>[7]</sup> all signed by Bautista as then Governor of the Province, the Office of the Governor requested the acquisition of five specific vehicle brands and makes for the purpose of providing service vehicles for the use of the Governor and Vice Governor, *i.e.*, two units of Toyota Hilux 4x4 SR5 (Toyota Hilux), one unit of Mitsubishi L300 Exceed DX2500 Diesel (Mitsubishi L300 Exceed), and two units of Ford Ranger XLT 4x4 (Ford Ranger) (collectively, the subject vehicles).

The procurement of the subject vehicles was not subjected to competitive public bidding as it was effected through direct purchase. The recommendation was approved by the members of the Bids and Awards Committee (BAC) of the Province, which was comprised of the following individuals: (1) Bautista; (2) Martel, then Provincial Accountant; (3) Putong, then Provincial General Services Officer (GSO); (4) Guiñares, then Provincial Treasurer; (5) Mier, then Provincial Budget Officer; and (6) Gan, then member of the *Sangguniang Panlalawigan* (collectively, petitioners). Accordingly, the vehicles were purchased. The disbursement vouchers for the subject vehicles were signed by Martel and Guiñares in their capacity as Provincial Accountant and Provincial Treasurer, respectively.

The subject vehicles and their corresponding purchase price, date of purchase request, and vehicle suppliers, are as follows:

<b>Motor Vehicle Brand and Make</b>	<b>Purchase Price</b>	<b>Date of Purchase Request</b>	<b>Supplier</b>
Two units of Toyota Hilux	P2,500,000.00	January 24, 2003	Toyota Davao City, Inc. (Toyota Davao)
One unit of Mitsubishi L300 Exceed	P878,919.50	February 18, 2003	Kar Asia, Inc. (Kar Asia)
One unit of Ford Ranger	P1,000,000.00	July 15, 2003	Ford Davao
One unit of Ford Ranger	P1,218,000.00	July 15, 2003	Ford Davao

The specifics on these purchases were detailed by the Sandiganbayan, thus:

The procurement covered in these cases were transacted through and justified as Direct Purchase covered under Sec. 366(d) [of the Local Government Code (LGC)], based on the tenor or as described in the supporting documents involved, such as the Purchase Requests, Purchase Orders, and Awards, in particular.

The *Purchase Request* signed by Bautista for the two units of **Toyota SR5** (Exhibit I) dated January 24, 2003, shows at the column Item Description the typewritten words: NOTE: Direct Purchase, and handwritten on the Purchase Order (Exhibit G) dated January 29, 2003, across Mode of Procurement: DIRECT PURCHASE, as well as stamped DIRECT PURCHASE at the bottom of the column Description. The *Abstract of Canvass* (Exhibit J) is stamped with the words "DIRECT PURCHASE" on the front of the form below the column Name and Description of Article and typewritten under the portion for JUSTIFICATION OF AWARD: SOLE DISTRIBUTOR. The *Abstract* form was signed by the accused Bautista, Guíñares, Martel, Putong, Mier and Gan.

For the **Mitsubishi L300 EXCEED DX 2500 DIESEL**, the *Purchase Request* (Exhibit RR) dated February 18, 2003 signed by Bautista, is stamped on the front with "DIRECT PURCHASE" and the Purpose for the request specified as "For the use of the Governor". On the *Purchase Order* dated February 26, 2003 is typewritten the letters opposite the portion Mode of Procurement: "D.P." The *Abstract of Canvass* (Exhibit SS) is also stamped Direct Purchase and under the Justification of Award: EXCLUSIVE DISTRIBUTOR, and signed by all the accused.

For the two units of **Ford Ranger**, only one *Purchase Request* dated July 15, 2003 signed by Bautista was used, designated as PR No. 2752, but one is marked as Exhibits MMM and the other Exhibit CCCC. It indicates under the column Item Description: "Vehicle preferably Ford Ranger XLT 4x4 M/T" at an estimated cost of P2,000,000.00 for both, and below it the words: DIRECT PURCHASE. The Purpose section indicated: "For the use of Governor Benjamin P. Bautista, Jr. and Vice Governor Romualdo C. Garcia". The same exhibits show different stamped entries, aside from the basic typewritten entries and the signatures of officials involved in the processing thereof.

For the vehicle reserved for accused Bautista, Purchase Order No. 2231 (Exhibit KKK), dated July 29, 2003, for one unit Ford Ranger in the amount of P1,000,000.00 was used. It indicates "Mode of Procurement: Public Bidding," but stamped on the document are the words "DIRECT PURCHASE." The *DIRECT PURCHASE AWARD SHEET* (Exhibit LLL), naming FORD DAVAO as supplier, contains the following statement: The Local Bids & Awards Committee hereby award the above item/s to FORD DAVAO being the Manufacturer/Exclusive or Sole of the said item/s. The award sheet was signed by all the accused.

The vehicle reserved for Vice Governor Garcia makes reference to Purchase Order/PO No. 2230 (Exhibit DDDD), dated July 21, 2003, for the amount of P1,218,000.00. The Mode of Procurement section was left blank, but stamped thereon are the words "DIRECT PURCHASE." The *DIRECT PURCHASE AWARD SHEET* (Exhibit EEEE) contains the same statement that it awards the purchase of one (1) unit vehicle preferably Ford Ranger XLT "4x4 M/T" for use of Vice-Gov. Romualdo C. Garcia to Ford Davao, "being the Manufacturer/Exclusive or Sole Distributor" thereof. The award sheet was signed by all the accused.

These five (5) vehicles were delivered to the Davao del Sur Provincial Government, and after inspection and acceptance by the concerned officials, check payments were issued to Toyota Davao, Ford Davao and Kar Asia, based on the disbursement vouchers admitted by the parties.<sup>[8]</sup>

Subsequently, a letter dated September 2, 2003 was filed by the *Concerned Citizens for Good Governance* (CCGG) before the Office of the Ombudsman in Mindanao (Ombudsman).<sup>[9]</sup>

The CCGG alleged that petitioners procured five motor vehicles for the use of the Governor and Vice Governor of the Province in a manner violative of procurement laws. The complaint was docketed as Case No. OMB-M-C-05-0557-L entitled *Concerned Citizens for Good Governance v. Gov. Benjamin Bautista, Jr. Province of Davao del Sur*.<sup>[10]</sup>

On February 15, 2012, the Ombudsman issued a Resolution<sup>[11]</sup> finding probable cause against petitioners for violating Section 3(e) of R.A. 3019, positing the view that the purchase of the subject vehicles did not conform to existing procurement laws and regulations of the Commission on Audit (COA).

On October 30, 2012, the Ombudsman filed before the Sandiganbayan four Informations<sup>[12]</sup> charging petitioners with **violation of Section 3(e) of R.A. 3019**. The Informations against them read as follows:

**For Criminal Case No. SB-12-CRM-0241**

That on or about 24 January 2003, or sometime prior or subsequent thereto, in Matti, Digos City, Davao del Sur, and within the jurisdiction of this Honorable Court, the above-named accused, BENJAMIN P. BAUTISTA, JR., RICHARD T. MARTEL, ALLAN C. PUTONG, ABEL A. GUIÑARES, VICTORIA G. MIER, and EDGAR C. GAN, public officers being then the Governor, Accountant, General Services Officer, Treasurer, Budget Officer, Sangguniang Panlalawigan Member, respectively and all members of the Local Bids and Awards Committee of the Provincial Government of Davao del Sur, while in the discharge of their official functions, conspiring and confederating with one another, with evident bad faith, manifest partiality, or at the very least, gross inexcusable negligence, did then and there willfully, unlawfully, and criminally cause the procurement of two (2) units Toyota Hilux 4x4 through an unjustified direct purchase from TOYOTA Davao City, Inc. in the net amount of TWO MILLION FIVE HUNDRED THOUSAND PESOS (P2,5000,000.00), instead of the requisite public bidding, by specifying the brand name of the motor vehicle in the Purchase Request, in violation of the procurement laws, thereby denying the Provincial Government of Davao del Sur of the opportunity to find suitable substitutes of the same quality and obtain the most advantageous offer for the requisitioned item, and thus, giving unwarranted benefit, advantage, or preference to TOYOTA Davao City, Inc., to the damage and prejudice of the government.

CONTRARY TO LAW.<sup>[13]</sup>

**For Criminal Case No. SB-12-CRM-0242**

That on or about 18 February 2003, or sometime prior or subsequent thereto, in Mati, Digos City, Davao del Sur, and within the jurisdiction of this Honorable Court, the above-named accused, BENJAMIN P. BAUTISTA, JR., RICHARD T. MARTEL, ALLAN C. PUTONG, ABEL A. GUIÑARES, VICTORIA G. MIER, and EDGAR C. GAN, public officers being then the Governor, Accountant, General Services Officer, Treasurer, Budget Officer, Sangguniang Panlalawigan Member, respectively and all members of the Local Bids and Awards Committee of the Provincial Government of Davao del Sur, while in the discharge of their official functions, conspiring and confederating with one another, with evident bad faith, manifest partiality, or at the very least, gross inexcusable negligence, did then and there willfully, unlawfully, and criminally cause the procurement of one (1) unit of Mitsubishi L300 Exceed DX2500 Diesel through an unjustified direct purchase from Kar Asia, Inc. in the net amount of EIGHT HUNDRED SEVENTY EIGHT THOUSAND NINE HUNDRED NINETEEN PESOS AND FIFTY CENTAVOS (P878,919.50), instead of the requisite public bidding, by specifying the brand name of the motor vehicle in the Purchase Request, in violation of the procurement laws, thereby denying the Provincial Government of Davao del Sur of the opportunity to find suitable substitutes of the same quality and obtain the most advantageous offer for the requisitioned item, and thus, giving unwarranted benefit, advantage, or preference to Kar Asia, Inc., to the damage and prejudice of the government.

CONTRARY TO LAW.<sup>[14]</sup>

**For Criminal Case No. SB-12-CRM-0243**

That on or about 15 July 2003, or sometime prior or subsequent thereto, in Mati, Digos City, Davao del Sur, and within the jurisdiction of this Honorable Court, the above-named accused, BENJAMIN P. BAUTISTA, JR., RICHARD T. MARTEL, ALLAN C. PUTONG, ABEL A. GUIÑARES, VICTORIA G. MIER, and EDGAR C. GAN, public officers being then the Governor, Accountant, General Services Officer, Treasurer, Budget Officer, Sangguniang Panlalawigan Member, respectively and all members of the Local Bids and Awards Committee of the Provincial Government of Davao del Sur, while in the discharge of their official functions, conspiring and confederating with one another, with evident bad faith, manifest partiality, or at the very least, gross inexcusable negligence, did then and there willfully, unlawfully, and criminally cause the procurement of one (1) unit of Ford Ranger XLT 4x4 through an unjustified direct purchase from Ford Davao in the net amount of ONE MILLION PESOS (P1,000,000.00), instead of the requisite public bidding, by specifying the brand name of the motor vehicle in the Purchase Request, in violation of the procurement laws, thereby denying the Provincial Government of Davao del Sur of the opportunity to find suitable substitutes of the same quality and obtain the most advantageous offer for the requisitioned item, and thus, giving unwarranted benefit, advantage, or preference to Ford Davao to the damage and prejudice of the government.