

FIRST DIVISION

[G.R. No. 235418, March 03, 2021]

ANTONIO M. SUBA, PETITIONER, VS. SANDIGANBAYAN FIRST DIVISION AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

DECISION

PERALTA, C.J.:

Antonio M. Suba (*Suba*) is before the Court via a petition for review on *certiorari* asking for the reversal of the Decision^[1] dated September 22, 2017 and the Resolution^[2] dated November 2, 2017 of the Sandiganbayan, which found him guilty beyond reasonable doubt of violating Section 3(e) of Republic Act (R.A.) No. 3019, or the *Anti-Grant and Corrupt Practices Act*, and which sentenced him to imprisonment of six (6) years and one (1) month as minimum to ten (10) years as maximum, for attending a conference abroad using government funds without travel authority.

The Antecedents

Petitioner Suba was the Acting Vice President for Maintenance, Repair, Overhaul Service (MROS) while Roberto R. Navida (*Navida*) was the President and Chief Executive Officer, from May 2006 to December 2007, of the Philippine Aerospace Development Corporation (PADC), an attached agency of the Department of Transportation and Communications (DOTC).

In a letter dated September 15, 2006, Navida requested then DOTC Secretary Leandro Mendoza for authority to travel, in connection with Navida and Suba's participation in the 4th Biennial International Aircraft Conversion and Maintenance Conference in Beijing, China, from October 10 to 14, 2006.^[3]

In a letter dated September 19, 2006, DOTC Assistant Secretary,^[4] Atty. Emmanuel Noel A. Cruz (*Asst. Sec. Cruz*), denied Navida's request citing Administrative Order No. 103, which holds that all foreign travels are suspended. He also noted that the letter-request lacked supporting papers.^[5]

On October 6 and 9, 2006, Suba requested cash advances in the amounts of P217,000.00, P1,500.00 and US\$458.40, for their travel and incidental expenses, which Navida approved. Disbursement Vouchers (DVs) and checks were consequently prepared and issued in Suba's name.^[6]

On October 10, 2006, Suba and Navida flew from Manila to Beijing and attended the conference. They returned on October 14, 2006.^[7]

On June 29, 2007, Arsenio Rayos, Jr. (*Rayos*), State Auditor of the Commission on Audit (COA) issued a Notice of Suspension stating that there were deficiencies in

Suba's cash advances.^[8] Suba replied that while the cash advances were in his name, the decisions made were the direct responsibility of Navida.^[9]

On March 17, 2008, Rayos issued a Notice of Disallowance (*ND*)^[10] holding Navida, Suba and three (3) others^[11] liable for the amount of P241,478.68. Suba moved for reconsideration, but this was denied by COA Cluster Director Divinia M. Alagon.^[12]

On February 2, 2010, Rayos issued a Notice of Finality of Decision, which he referred to the PADC President for appropriate action.^[13]

On September 12, 2014, Suba paid PADC the P241,478.68 subject of the ND dated March 17, 2008.^[14]

Meanwhile, a complaint was anonymously filed with the Office of the Ombudsman (*OMB*) on May 30, 2008 against Suba for his unliquidated cash advances.^[15]

After investigation, the Field Investigation Office of the OMB filed a complaint on April 23, 2012 against Suba, Navida, Richard K. Lazaro, Rolando B. Broas and Corazon T. Aguinaldo for violation of Section 3(a) and (e) of R.A. No. 3019. The case was docketed as OMB-C-C-12-0171-D.^[16]

The Preliminary Investigation Administrative Bureau-A of the OMB issued a Resolution finding probable cause against Navida and Suba. This was approved by Ombudsman Conchita Carpio Morales on July 15, 2013 who also denied the subsequent motions for reconsideration of the two.^[17]

On September 4, 2013, an Information was filed charging Navida and Suba of violating Section 3(e) of R.A. No. 3019, as follows:

On 10 October 2006 or thereabouts, in Pasay City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused ROBERTO R. NAVIDA as Philippine Aerospace Development Corporation (PADC) President, and ANTONIO M. SUBA as Department Manager B of PADC, both public officials, committing the crime in relation to and in abuse of their office, conspiring and confederating with each other, acting with evident bad faith, manifest partiality and/or gross inexcusable negligence, did then and there willfully, unlawfully, and criminally request for, facilitate the processing of, and receive cash advances in the total amount of Two Hundred Forty-One Thousand, Four Hundred Seventy Eight Pesos and Sixty Eight Centavos (P241,478.68) for their trip to Beijing, China, and thereafter proceed with the said trip despite fully knowing the existence of a letter/order from the Department of Transportation and Communication denying their application for a travel authority to Beijing, China, thereby causing undue injury to the government in the aforesaid amount.

CONTRARY TO LAW.^[18]

Suba pleaded "not guilty" while Navida refused to enter any plea thus the court entered a plea of "not guilty" in his behalf.^[19]

Trial proceeded and the prosecution presented the testimonies of State Auditor Rayos and the OMB Graft Investigation and Prosecution Officer, Ronald Allan Ramos (*Atty. Ramos*).^[20]

For the defense, Suba testified that he relied on Navida's assurance that they already have an authority to travel issued by the DOTC Secretary. He learned of the denial of their request only after the travel was completed. He also alleged that he was not the one who prepared the vouchers and other papers but Navida's staff. The PADC Board of Directors approved of their travel as well as the budget for foreign travels of PADC officials. Suba further argues that there was no injury to the government as the money was actually used for their attendance in the conference where they gained knowledge that is useful for PADC. He also already reimbursed PADC the full amount of the checks that were issued to him.^[21]

On September 22, 2017 the Sandiganbayan ruled:

ACCORDINGLY and in view of the foregoing, this Court finds accused ANTONIO M. SUBA **guilty** beyond reasonable doubt for violation of Section 3(e), R.A. No. 3019 charged in SB-14-CRM-0330. He is sentenced to suffer an indeterminate sentence of Six Years and One Month as minimum to Ten Years as maximum and to suffer the accessory penalty of perpetual disqualification from holding public office.

SO ORDERED.^[22] (Emphasis in the original)

The Sandiganbayan held that Suba's justifications could not cure the defect that he and Navida travelled to Beijing without the required travel authority. It also did not believe that Suba was unaware of the lack of travel authority as there were several instances when he was presented with the opportunity to verify if a travel authority had been issued. The Sandiganbayan further held that Suba was granted unwarranted benefits when he travelled to Beijing and gained knowledge from the conference he attended, even though he was not authorized to do so.^[23]

The case against Navida was dismissed through Resolution dated January 17, 2017 by reason of his death.^[24]

Suba filed a motion for reconsideration which was denied by the Sandiganbayan on November 2, 2017.^[25]

The Present Petition

Suba is now before the Court arguing that: the elements of Section 3 (e) of R.A. No. 3019 were not sufficiently proven; the Information did not properly specify the charges against him; and his Constitutional rights as an accused were not protected.^[26]

Petitioner's arguments

Suba argues that there was no evidence that he knew of the lack of travel authority at the time he joined Navida in the Beijing conference.^[27] There was also no bad faith, ill motive or fraud on his part because when he processed the cash advances, he was merely following the directive of his superior.^[28] He and Navida actually attended the conference in Beijing on aircraft maintenance which was relevant to

their posts in PADC.^[29] The cash would not have been released by the Comptroller's Office if the transaction was irregular or unfunded. There was also prior approval by the PADC Board of all foreign travels of its officials.^[30]

Suba further advances that he already settled the amount of P241,478.68, which negates the element of damage or injury to the government.^[31] The Sandiganbayan also wrongfully convicted him for "giving any private party unwarranted benefits" when such element was not specified in the Information.^[32] This, according to Suba, violated his right to be informed of the nature and cause of his accusation.^[33]

Respondent's Arguments

The Office of the Special Prosecutor of the OMB on the other hand maintains that all the elements of the crime were established beyond reasonable doubt. Suba's act of requesting, facilitating, and receiving cash advances for the trip, without the required travel authority, was committed through manifest partiality, evident bad faith or gross inexcusable negligence. As the travel was undertaken without the required travel authority, it ceased being official rendering the use of government funds to support the same as illegal. As Suba has not received or seen any actual written grant of travel authority but still pushed through with the travel and utilization of public funds, he was evidently in bad faith, or at the very least grossly and inexcusably negligent in the utilization of public funds. Suba himself narrated that he wrote on the immigration card for departing passengers that his occupation was "businessman" when he knew that he was a public officer on a supposed official travel. He was not deprived of his right to due process as the designation of the offense charged, the nature of the accusation and the acts and omissions constituting the offense were properly alleged in the Information. Also, the settlement or restitution does not extinguish criminal liability.^[34]

The Issue

Whether the Sandiganbayan correctly found petitioner guilty of violating Section 3(e) of R.A. No. 3019

The Court's Ruling

The petition is impressed with merit.

Contrary to the ruling of the Sandiganbayan, we find no sufficient evidence to hold Suba criminally liable under Section 3(e) of R.A. No. 3019.

It is settled that the burden is on the prosecution to prove an accused's guilt beyond reasonable doubt. This is demanded by the due process clause of the Constitution, which protects an accused from conviction except upon proof beyond reasonable doubt of every fact necessary to constitute the crime with which he is charged. Unless the prosecution is able to discharge its burden, the accused need not even offer evidence in his/her behalf, and he/she would be entitled to an acquittal.^[35]

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

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 are hereby declared to be unlawful:

x x x x

(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 under this provision, the prosecution must sufficiently establish that:

1. The offender is a public officer;
2. The act was done in the discharge of the public officer's official, administrative, or judicial functions;
3. The act was done through manifest partiality, evidence bad faith, or gross inexcusable negligence; and
4. The public officer caused any undue injury to any party, including the Government, or gave any unwarranted benefits, advantage or preference.^[36]

A review of the Information filed against Suba and Navida would readily show that they were charged for violating Section 3(e) of R.A. No. 3019 for "acting with evident bad faith, manifest partiality, and/or gross inexcusable negligence" for requesting, facilitating and receiving cash advances worth P241,478.68 for their trip to Beijing and proceed thereto "despite fully knowing the existence of a letter/order from the [DOTC] denying their application for a travel authority" thereby causing undue injury to the government in the said amount.^[37]

In finding Suba guilty, the Sandiganbayan held that:

..."[the] acts manifest **bad faith** on the part of accused Suba when he received money from PADC and travelled to Beijing, China using the monies advanced without the required travel authority."^[38] (Emphasis supplied)

Bad faith under the Anti-Graft Law

Jurisprudence instructs that bad faith referred to under Section 3(e) of RA. No. 3019 does not simply connote bad judgment or negligence but of having a palpably and patently fraudulent and dishonest purpose to do some moral obliquity or conscious wrongdoing for some perverse motive, or ill will. It connotes a state of mind affirmatively operating with furtive design or with some motive or self-interest or ill will or for ulterior purposes.^[39] It is a breach of sworn duty through some motive or intent or ill will and partakes of the nature of fraud.^[40]

In *People v. Bacaltos*,^[41] we explained that bad faith *per se* is not enough for one to be held criminally liable for violation of Section 3 (e) of R.A. No. 3019. Bad faith must be evident and must partake the nature of fraud. That is, it is a manifest deliberate intent on the part of the accused to do wrong or to cause damage.^[42]