

FIRST DIVISION

[G.R. Nos. 216745-46, November 10, 2020]

EDMUNDO JOSE T. BUENCAMINO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES AND SANDIGANBAYAN, RESPONDENTS.

DECISION

CAGUIOA, J:

The petition at bar presents the Court with the occasion to reiterate the fine-tuning of the elements required for a successful prosecution of crimes under Section 3(e)^[1] of Republic Act No. (R.A.) 3019, otherwise known as the "Anti-Graft and Corrupt Practices Act" and the crucial import of non-variance of the mode of commission embodied in the accusatory portion of the information *vis-à-vis* that which the court finds as basis for it to convict. In consonance with the persuasion that our penal laws on graft and corruption are meant to enhance, instead of stifle, public service,^[2] the Court here repeats, among others, that absent the decisive element of bad faith in charges of violation of Section 3(e), the prosecution cannot pass the test of moral certainty required to uphold a conviction, and the constitutionally afforded presumption of innocence of the petitioner must prevail.

At bench is a Petition^[3] for Review on *Certiorari* under Rule 45 seeking to reverse and set aside the Decision^[4] dated February 18, 2015 of the Sandiganbayan, Special Fifth Division (Sandiganbayan), in Criminal Case No. SB-06-CRM-0419-0420. Said Decision found Edmundo Jose T. Buencamino (petitioner) guilty beyond reasonable doubt^[5] of two counts of violation of Section 3(e) of R.A. 3019.

The Facts

In two separate Informations,^[6] petitioner was charged with violation of Section 3(e) of R.A. 3019, the accusatory portions of which read:

In SB-06-CRM-0419

That on or about July 23, 2004, or sometime prior or subsequent thereto, in the Municipality of San Miguel, Province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above named accused, EDMUNDO JOSE T. BUENCAMINO, a public officer, being the Municipal Mayor of San Miguel, Bulacan, while in the performance of his official duties and committing the crime in relation to his office, did then and there, willfully, unlawfully and criminally, through evident bad faith, cause undue injury to Rosemoor Mining and Development Corporation by collecting "pass way" fees, through a certain Robert Tabarnero. in the amount of One Thousand Pesos (P1,000.00) per truck, on all the delivery trucks of the Rosemoor Mining and Development Corporation (a corporation duly awarded by the Department of Environment and Natural Resources (DENR) through the Mines and Geosciences Bureau, a permit

to conduct mining operations) that pass within the territorial jurisdiction of San Miguel, Bulacan, said accused knowing fully well that the said collection was not legally sanctioned by any resolution or ordinance, the Kapasiyahan Blg. 89A-055/Kautusang Bayan 029 of San Miguel, Bulacan, having been declared by the Sangguniang Panlalawigan, Malolos, Bulacan, to be null and void, being an ultra vires act, to the damage and prejudice of the private complainant, Constantino A. Pascual, President and Chairman of the Board of Directors of the Rosemoor Mining and Development Corporation.

CONTRARY TO LAW.^[7]

In SB-06-CRM-0420

That on or about July 23, 2004, or sometime prior or subsequent thereto, in the Municipality of San Miguel, Province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, EDMUNDO JOSE T. BUENCAMINO, a public officer, being the Municipal Mayor of San Miguel, Bulacan, while in the performance of his official duties and committing the crime in relation to his office, did then and there, willfully, unlawfully, and criminally, through evident bad faith cause undue injury to Rosemoor Mining and Development Corporation by ordering the apprehension and impounding of the delivery trucks bearing plate numbers PSZ-706 and UEX-283 of the Rosemoor Mining and Development Corporation (a corporation duly awarded by the Department of Environment and Natural Resources (DENR) through the Mines and Geosciences Bureau, a permit to conduct mining operations) allegedly for failure to pay the "pass way fee" imposed by the accused on all the delivery trucks that pass within the territorial jurisdiction of San Miguel, Bulacan, said accused knowing fully well that the said collection was not legally sanctioned by any resolution or ordinance, the Kapasiyahan Blg. 89A-055/Kautusang Bayan 029 of San Miguel, Bulacan, having been declared by the Sangguniang Panlalawigan, Malolos, Bulacan, to be null and void, being an ultra vires act, to the damage and prejudice of the private complainant, Constantino A. Pascual, President and Chairman of the Board of Directors of the Rosemoor Mining and Development Corporation.

CONTRARY TO LAW.^[8]

Upon arraignment, petitioner pleaded not guilty.^[9] Thus, trial on the merits ensued.

Evidence of the Prosecution

During trial, the prosecution presented Engineer Constantino A. Pascual (Constantino), Zenaida P. Pascual (Zenaida), Marciano T. Cruz (Marciano), and Clarissa Pascual Fernando (Clarissa).

Constantino, the President of Rosemoor Mining & Development Corporation (RMDC), testified that sometime in 2004, he was called by petitioner to discuss the operation of the marble industry and the transport of its products.^[10] Constantino narrated that petitioner straightforwardly asked him to pay P1,000.00 as "pass way fee" per truckload.^[11] Constantino claimed that he tried to ask petitioner for any legal

document that could serve as basis for said collection, considering that RMDC was not operating a quarry in San Miguel, Bulacan, but in Doña Remedios Trinidad, Bulacan, and only passed through the territorial jurisdiction of San Miguel during hauling. Petitioner said that temporary receipts would be issued by one Robert Tabernero^[12] (Tabernero), who was later authorized by petitioner to receive said collections.^[13] Subsequently, Tabernero collected from RMDC a pass way fee of P1,000.00 per delivery truck at Barangay Sibol, which was the first barangay through which the said trucks would traverse when transporting marble out of its quarries in Dona Remedios Trinidad.^[14]

Constantino added that even prior to the issuance of the authorization in favor of Tabernero, petitioner had already ordered San Miguel Police Chief Prudencio Peña Legaspi to cause the apprehension and subsequent impounding^[15] of the RMDC delivery trucks bearing plate numbers PSZ-706 and UEX-283,^[16] through a Memorandum dated July 19, 2004. ^[17]

He added that when he later inquired with the Municipal Treasurer and from members of the *Sangguniang Bayan* if the collections of pass way fees were duly remitted to the municipal treasury, he was told that no existing ordinance covered such collections, and was advised to request from the *Sangguniang Panlalawigan* of Malolos, Bulacan a certification regarding a former resolution which previously covered the pass way fee collections which was later disapproved.^[18]

With the assistance of his counsel, Constantino managed to obtain copies of a document issued by the *Sangguniang Panlalawigan* dated November 8, 2004, denominated as *Ikalawang Paglilipat* issued by the *Tanggapan ng Panlalawigang Manananggol* dated August 10, 1989 and *Kapasiyahan Blg. 504* dated September 11, 1989, which evidenced the disapproval of the resolution which previously covered the imposition of the pass way fees.

Constantino then sought the assistance of the Department of Interior and Local Government (DILG) and requested an investigation on what appeared to be a case of illegal collection,^[19] for which a Preliminary Report was issued on September 13, 2004.^[20] He then proceeded to file an administrative case and a criminal case against petitioner before the Office of the Deputy Ombudsman for Luzon, for the illegal collection of the pass way fees, as well as the illegal impounding of RMDC's trucks.^[21]

For her part, Zenaida testified that as the In-House Operations Manager of RMDC, she was in charge of overseeing the quarrying operations, including supervising the deliveries of marble blocks from the quarry sites, and monitoring the financial collections coming from quarrying operators.^[22] She testified that the 30% royalty fee from quarrying operators formed part of RMDC's revenue,^[23] and that the same was greatly prejudiced when its operator, one Nora Tan (Nora), failed to remit the 30% royalty fee to RMDC due to the fact that Nora already gave petitioner 20% thereof, allegedly per petitioner's order.^[24] She likewise explained that the impounding of RMDC's delivery trucks disadvantaged RMDC because, as a result, it failed to meet its daily quota of seven blocks per day of delivery.^[25] She finally detailed that the hauling of marble from RMDC's quarrying sites inevitably had to

pass through the municipal roads of San Miguel, as the other routes were too difficult for its hauling trucks to ply.^[26]

The prosecution also presented Marciano, who testified that he has been the Municipal Treasurer of San Miguel, Bulacan since 1998.^[27] His testimony centered on the irregularity of the issuance of the official receipts which were issued to Constantino as proof of payments of the pass way fees, more specifically the dates indicated thereon, and the initials of the person who issued them.^[28] He described how the dates for the issuance of the receipts reflected dates earlier than the dates of issuance of said receipt books by the Treasurer's office.^[29] He identified the irregularity of issuance by further explaining that it was normally the Cash Clerk who issued official receipts to the collectors of the municipality, but in the case of the receipts for the pass way fees, the official receipts were issued by one Jannilyn Alfonso, San Miguel's Librarian Aide, as indicated by the initials on the stamps.^[30]

Marciano however clarified that the amounts reflected in the said receipts were, in fact, remitted to the municipality's collection, albeit belatedly, as evidenced by the Report of Collections and Deposits of the Municipality of San Miguel, Bulacan.^[31] He explained that when Constantino inquired regarding the remittances of said fees, he replied that the pass way fees were not remitted to the Municipal Treasury because at that time, no remittances were made, as the same were received late. He likewise clarified that his office did not collect pass way fees for the transport of quarried marble.^[32]

The prosecution presented Clarissa as its final witness, who testified that she is the Corporate Secretary of RMDC, as well as one of its mining operators.^[33] She testified that she herself paid pass way fees to Tabernero, as evidenced by an official receipt.^[34] She also clarified that although she was the registered owner of the impounded trucks, it was her father, Constantino, who bought them for RMDC.^[35]

Evidence of the Defense

In his defense, petitioner testified that sometime in July 2004, Constantino went to his office,^[36] with the purpose of asking permission for the passing through of RMDC's delivery trucks along San Miguel's municipal roads.^[37] Petitioner, however, refused to grant said request, for the reason that the heavy load of the mining delivery trucks would most likely destroy the water table of San Miguel.^[38] Petitioner said that Constantino countered by recounting that during previous administrations, the trucks of RMDC were allowed to pass through municipal roads in exchange for a certain amount of fees.^[39] In an effort to verify Constantino's claim, petitioner asked Marciano who, in turn, replied that a certain amount of pass way fee was being collected, and that its basis was *Sangguniang Bayan Kapasiyahan Blg. 89A-055/Kautusang Bayan Blg. 029*, entitled "*Kautusang Bayan na Nag[-]aat sa Lahat Nang Nagmimina ng Marble sa Nasasakupan ng San Miguel, Bulacan x x x Regulatory Fee*" (*Kapasiyahan 89A-055/Kautusang Bayan 029*).^[40] He added that to further verify if the imposition of the pass way fee had legal basis, he called upon the *Sangguniang Bayan* Secretary Renato Magtalas and asked him if there was such a *Kautusan*, and the latter replied that it was in force at that time.^[41]

Petitioner further denied any knowledge that *Kapasiyahan 89A-055/Kautusang Bayan 029* was subsequently declared void by the *Sangguniang Panlalawigan* of Bulacan.^[42] He presented a certification issued by the Municipal Secretary dated February 11, 2005, and a certification issued by the Secretary of the *Sangguniang Panlalawigan* dated February 11, 2005, both of which provided that they have no record on file to indicate that the disapproval of *Kapasiyahan 89A-055/Kautusang Bayan 029* was ever transmitted to their offices.^[43]

Petitioner added that all the proceeds from the pass way fees collected were remitted to the Treasurer's Office of the Municipality of San Miguel, as evidenced by official receipts.^[44] He also denied giving the instructions for the impounding of RMDC's hauling trucks, and refuted any imputed knowledge on the actual apprehension of said trucks.^[45]

Ruling of the Sandiganbayan

After trial on the merits, the Sandiganbayan found evident bad faith attributable to petitioner, and found such bad faith as the direct and proximate cause of RMDC and Constantino's undue injury.^[46] Accordingly, it convicted petitioner of two counts of the crime charge in its Decision dated February 18, 2015, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered convicting accused EDMUNDO JOSE T. BUENCAMINO of the crimes charged in both Criminal Cases Nos. SB-06-CRM-0419 and SB-06-CRM-0420, his guilt having been proven beyond reasonable doubt. Accordingly, in Criminal Case No. 0419, Edmundo Jose T. Buencamino is hereby sentenced to suffer an indeterminate penalty of SIX (6) YEARS and ONE (1) MONTH as minimum, to EIGHT (8) YEARS as maximum, and to suffer perpetual disqualification from public office. In Criminal Case No. 0420, Edmundo Jose T. Buencamino is hereby sentenced to suffer an indeterminate penalty of SIX (6) YEARS and ONE (1) MONTH, as minimum, to EIGHT (8) YEARS, as maximum, and to suffer perpetual disqualification from public office.

SO ORDERED.^[47]

In finding petitioner guilty, the Sandiganbayan found that all the elements of unlawful acts penalized under Section 3(e) were proven by the prosecution, and held that petitioner did cause undue injury to Constantino, RMDC, and the government, through acts that were attended by evident bad faith and gross inexcusable negligence.

For the first count pertaining to the illegal imposition of the pass way fees, the Sandiganbayan found petitioner guilty beyond reasonable doubt. With specific reference to the element of evident bad faith, it appreciated the same in petitioner's act of imposing and collecting the pass way fees knowing fully well that he was without authority to do so.^[48] Bad faith was also ruled as shown in petitioner's act of making it appear that he relied on the assurance of Marciano that the pass way fee collections were covered by *Kapasiyahan 89A-055/Kautusang Bayan 029*, when Marciano himself, in his own testimony, belied this by testifying that his office has never collected pass way fees before.^[49]