

## SECOND DIVISION

[ G.R. No. 237738, June 10, 2019 ]

**FILOMENA L. VILLANUEVA, PETITIONER, V. PEOPLE OF THE  
PHILIPPINES, RESPONDENT.**

### DECISION

**PERLAS-BERNABE, J.:**

Before this Court is a petition for review on *certiorari*<sup>[1]</sup> seeking to annul the Decision<sup>[2]</sup> dated November 3, 2017 of the Sandiganbayan (SB) in SB-11-A/R/0002 which affirmed the Resolution<sup>[3]</sup> dated November 22, 2007 of the Regional Trial Court of Sanchez Mira, Cagayan, Branch 12 (RTC) in Criminal Case No. 3082-(S) upholding the conviction of petitioner Filomena L. Villanueva (petitioner) for violation of Section 7 (d) of Republic Act No. (RA) 6713,<sup>[4]</sup> otherwise known as the "Code of Conduct and Ethical Standards for Public Officials and Employees."

#### The Facts

This case stemmed from an Information for violation of Section 7 (d) of RA 6713 before the First Municipal Circuit Trial Court of Claveria-Sta. Praxedes, Claveria, Cagayan (MCTC).<sup>[5]</sup> According to the prosecution, petitioner was the Assistant Regional Director of the Cooperative Development Authority (CDA) for Region II. While in the performance of her official functions, as well as by taking advantage of her office, she willfully obtained a P1,000,000.00 loan from the Claveria Agri-Based Multi-Purpose Cooperative, Incorporated (CABMPCI), thereby violating the aforesaid provision of law which prohibits/disallows public officials/employees from directly/indirectly accepting/soliciting any loan or anything of monetary value from any person in the course of their official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of their office, to the prejudice of the government and public interest.<sup>[6]</sup>

In her defense, petitioner maintained that the loans<sup>[7]</sup> were obtained by virtue of her membership in CABMPCI, and that the same had already been paid. Notably, she claimed that notwithstanding her position in the CDA, she was nevertheless allowed under RA 6938,<sup>[8]</sup> otherwise known as the "Cooperative Code of the Philippines," to become a member of a cooperative. Hence, she asserted that she may enjoy her rights incidental to her membership in CABMPCI, and consequently, allowed to obtain loans.<sup>[9]</sup>

#### The MCTC Ruling

In a Decision<sup>[10]</sup> dated March 24, 2006, the MCTC found petitioner guilty beyond reasonable doubt of violating Section 7 (d) of RA 6713, and accordingly, sentenced her to suffer the penalty of five (5) years of imprisonment and disqualification to hold office, with costs of suit. It ruled that petitioner applied for the subject loans

while she was the Assistant Regional Director of the CDA in Region II, and that the said loans would not have been granted were it not for her position in the CDA. According to the MCTC, the loan was extended because of petitioner's moral ascendancy over CABMPCI.<sup>[11]</sup>

Aggrieved, petitioner appealed to the RTC.

### **The RTC Ruling**

In a Resolution<sup>[12]</sup> dated November 22, 2007, the RTC affirmed petitioner's conviction.<sup>[13]</sup> It upheld the MCTC's finding that petitioner "exploited her position x x x in directly, if not indirectly soliciting, if not, accepting a loan from CABMPCI" in the whopping amount of P1,000,000.00 in the course of her official duties, and in an operation being regulated by her.<sup>[14]</sup> Further, the RTC noted that even if petitioner did indeed pay the subject loans, the same did not change the fact that her act of accepting/soliciting the loan has been consummated.<sup>[15]</sup>

Undaunted, petitioner appealed to the SB.

### **The SB Ruling**

In a Decision<sup>[16]</sup> dated November 3, 2017, the SB affirmed the rulings of the courts *a quo*. It ruled that all the elements for violation of Section 7 (d) of RA 6713 were proven, adding too that based on existing jurisprudence, the prohibition to, among others, obtain loans from cooperatives falling under the CDA's authority remains applicable to her notwithstanding her membership.<sup>[17]</sup>

Dissatisfied, petitioner moved for reconsideration, which was denied in a Resolution<sup>[18]</sup> dated February 2, 2018; hence, this appeal.

### **The Issue Before the Court**

The issue before the Court is whether or not the SB erred in upholding the conviction of petitioner for violation of Section 7 (d) of RA 6713.

### **The Court's Ruling**

Section 7 (d) of RA 6713 provides that:

Section 7. *Prohibited Acts and Transactions.* - In addition to acts and omissions of public officials and employees now prescribed in the Constitution and existing laws, the following shall constitute prohibited acts and transactions of any public official and employee and are hereby declared to be unlawful:

X X X X

(d) *Solicitation or acceptance of gifts.* - **Public officials and employees shall not solicit or accept**, directly or indirectly, any gift, gratuity, favor, entertainment, **loan or anything of monetary value from any person in the course of their official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of their office.** (Emphases and underscoring supplied).

In order to sustain a conviction for violation of Section 7 (d) of RA 6713, the following elements must be proved with moral certainty: (a) that the accused is a public official or employee; (b) that the accused solicited or accepted any loan or anything of monetary value from any person; and (c) that the said act was done in the course of the accused's official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of his office.

In this case, the prosecution was able to establish all the foregoing elements, considering that: (a) at the time the subject loans were obtained, petitioner was a public official; (b) she solicited and accepted the subject loans from CABMPCI, which was a cooperative that was being regulated by her office; and (c) based on her own admission, the subject loans were obtained from CABMPCI, the transactions and operations of which are regulated by the functions of petitioner's office. This latter point was effectively admitted by petitioner during trial, to wit:

Q (Defense Counsel). Now, madam witness, where are you presently assigned?

A (Petitioner). I am presently assigned as Assistant Regional Director of CDA Regional Office, Sir.

x x x x Q. Will you please state your duties and responsibilities as Assistant Regional Director of the CDA?

A. Among my duties are, **I assist the Regional Director in the implementation of the programs of the CDA and I assist the Regional Director in the general supervision of the general services and the technical staff and including the field operations, sir.**

Q. Madam witness, from the duties and responsibilities which you mentioned, I would like to ask whether or not it is within the coverage of your authority as Assistant Regional Director of the CDA, whether you regulate or oversee the functions of the Cooperatives in your area?

A. **We are only regulating the cooperatives in some aspects like their audited financial statements and some other... They are private in nature.**<sup>[19]</sup> (Emphases and underscoring supplied)

That RA 6938, otherwise known as the "Cooperative Code of the Philippines," makes membership in cooperatives "[a]vailable to all individuals regardless of their social, political, racial or religious background or beliefs,"<sup>[20]</sup> does not accord petitioner, by virtue of the functions of her office, complete freedom in any of her personal transactions with any cooperative despite her membership therein. As observed by the Court in *Martinez v. Villanueva*,<sup>[21]</sup> the limitation of CDA officials and employees to obtain loans from cooperatives is but a necessary consequence of the privilege of holding their public office, viz.:

**True, R.A. No. 6938 allows CDA officials and employees to become members of cooperatives and enjoy the privileges and benefits attendant to membership. However, R.A. No. 6938 should not be taken as creating in favor of CDA officials and employees an exemption from the coverage of Section 7 (d), R.A. No. 6713 considering that the benefits and privileges attendant to**