

FIRST DIVISION

[G.R. No. 198162, June 21, 2017]

**CORAZON M. LACAP, PETITIONER, VS. SANDIGANBAYAN
[FOURTH DIVISION] AND THE PEOPLE OF THE PHILIPPINES,
RESPONDENTS.**

DECISION

CAGUIOA, J:

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court assailing the Decision^[1] dated February 21, 2011 (Decision) of the Sandiganbayan^[2] in Crim. Case No. SB 08-CRM-0030, finding accused Corazon Mallari Lacap (Corazon) guilty beyond reasonable doubt of violation of Section 3(f) of Republic Act No. 3019 (RA 3019), otherwise known as the "Anti-Graft and Corrupt Practices Act," and imposing upon her the indeterminate penalty of six (6) years and one (1) month imprisonment as minimum to ten (10) years imprisonment as maximum, with perpetual disqualification from public office.

The Charge Against the Accused

Corazon was indicted for violation of Section 3(f) of RA 3019, for having allegedly neglected or refused, after due demand, and without sufficient justification, to act within a reasonable time, on the application of complainant Fermina Santos (Fermina) for a business permit in Masantol, Pampanga for the years 1999 and 2000 for the purpose of discriminating against Fermina.^[3] The Information reads:

That during the period from February 1999 to March 2000, or sometime prior or subsequent thereto, in the Municipality of Masantol, Pampanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, CORAZON M. LACAP, a high ranking public officer, being the Municipal Mayor of Masantol, Pampanga, while in the performance of her official functions, committing the offense in relation to duty and taking advantage thereof, motivated by one criminal impulse, did then and there willfully, unlawfully and criminally neglect or refuse to act, within a reasonable time, on private complainant Fermina Santos' application for Mayor's Permit, duly filed with the office of the accused within the above-stated periods (sic), and despite her repeated demands or requests and complete documentary requirements supporting the same, which unlawful act of the accused was done to spite and retaliate against said private complainant for having previously filed a criminal complaint against the accused's husband, thereby favoring the latter's own interest and discriminating against Fermina Santos, to her damage and prejudice.

CONTRARY TO LAW.^[4]

The pertinent sub-section of RA 3019 provides:

Sec. 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

(f) Neglecting or refusing, after due demand or request, without sufficient justification to act within a reasonable time on any matter pending before him for the purpose of obtaining directly or indirectly, from any person interested in the matter some pecuniary or material benefit or advantage, or for purpose of favoring his own interest or giving undue advantage in favor of or discriminating against any other interested party.

The Facts and Antecedent Proceedings

Corazon was arraigned on April 28, 2008 and, with the assistance of her counsel, she pleaded not guilty to the charge against her. The pre-trial conference was terminated on July 11, 2008. Trial on the merits then ensued.^[5]

Version of the Prosecution

The prosecution presented the following witnesses:

1. Fermina Santos, the private complainant;
2. Atty. Julita Santos Manalac Calderon (Atty. Calderon), the Graft Investigation and Prosecution Officer III of the Office of the Ombudsman assigned at the Public Assistance Bureau Central Office;
3. Marina Josieriza Fronda Paras, the municipal treasurer of Masantol, Pampanga;
4. Alejandro G. Santos, the husband of the complainant;
5. Tomas S. Manansala, the son-in-law of the complainant and an ambulant vendor of school supplies in Sto. Niño, Masantol, Pampanga; and
6. Andres T. Onofre, Jr., a businessman engaged in selling school supplies in Sto. Niño, Masantol, Pampanga.^[6]

Fermina's testimony is summarized in the assailed Decision, viz:

She owns the Fersan Variety: Store [located in Masantol, Pampanga and] engaged in the sale of school supplies, furniture and accessories since 1975. x x x

She usually applies for a Mayor's Permit between February and March of every year and has been submitting to the Office of the Mayor for the issuance of Mayor's Permit the [required] documents x x x. If everything is complete, she will present these documents to the Office of the

Treasurer in Masantol, Pampanga for assessment and evaluation and then it will be submitted to the Office of the Mayor for approval. From 1975 to 1998, the Mayor of Masantol has been issuing her a Mayor's Permit x x x.

For the year 1999, she filed an Application for Mayor's Permit (Exh. A) and submitted to the Mayor's Office the following documents in compliance with the requirements: Taxpayer's Information Sheet (Exh. B), Social Security Systems' Clearance x x x ([Exh.] D), Community Tax Certificate x x x (Exh. E), Health Certificate (Exh. F), Sanitary Permit x x x (Exh. G), Fire Permit x x x (Exh. H), Barangay Certificate (Exh. I), Certificate of Registration of Business Name (Exh. J). However, accused Mayor Corazon Lacap denied her application and she (accused) was angry at her x x x. She went back to accused Lacap twice to ask for reconsideration but she (Lacap) was even more angry, and told them (sic) to leave the place. Accused Lacap even said "I will not sign it, are you lucky?" x x x.

The misunderstanding started when she filed [a complaint] against Abelardo Dizon, the compadre of Mayor Corazon Lacap x x x. Epifanio Lacap[, the husband of the accused] called her up and asked her to withdraw the complaint against his compadre. She told Epifanio to be fair but Epifanio shouted invectives at her. Epifanio said "*kung hindi kayo susunod sa akin, makikita nyo, mga walanghiya kayo, magsilayas kayo diyan!*" x x x.

She went to the Office of Elpidian Asuncion, the Director of the Public Assistance Bureau of the Ombudsman and she was referred to Atty. Julita Calderon.

Atty. Calderon issued a notice to accused Lacap to visit her Office. Atty. Calderon also advised her (Santos) to go to accused Lacap, and after two days, she went to accused Lacap's office together with her husband and a radio reporter x x x. However, accused Lacap still denied her application and told her "[A]re you lucky? You filed a case against my husband, you filed a case against me, and now, I will issue you a permit? Get out!" x x x.

x x x [S]he filed four complaints against the Lacap Spouses. The first was filed against Corazon Lacap in the Sangguniang Panlalawigan of San Fernando, Pampanga when she had the Fersan Store closed on July 3, 1998 (Exh. R); the second was a complaint against her husband, Epifanio Lacap[,] before the Office of the Prosecutor of San Fernando, Pampanga for Serious Oral Defamation (Exh. B); third is a complaint filed before the DILG Region 3 x x x; and the fourth is before the Office of the Ombudsman (Exh. O). She did not violate anything but still former Mayor Epifanio Lacap ordered the closure of her store because of the cases.

x x x [S]he is not aware of a Task Force created in 1998 to eradicate the illegal businesses within Masantol, Pampanga.

In 1998, former Mayor Epifanio Lacap ordered the closure of her store

because she filed a complaint against him on March 17, 1998 x x x. It was Epifanio Lacap who asked hr to get a permit from the DTI which is one of the requirements for the approval of the application for Mayor's Permit. On April 1, 1998 she was issued a Mayor's Permit but she was told to get a DTI Certificate of Registration x x x. She claimed that her documents were complete when she applied for Mayor's Permit in 1998. At first her store was ordered closed by Epifanio Lacap and the second time it was ordered closed by Mayor Corazon Lacap on July 3, 1998 x x x.

She also own[ed] the Pining Variety Store which operated from 1980 to 1998 until it was ordered closed by accused Corazon Lacap x x x. She has only one x x x store in Masantol[,] Pampanga. She alleged that every five years, the name of the store should be changed as instructed by the DTI x x x. The name of the store before was Pining [V]ariety [S]tore and after five years x x x [i]n 1998, the name x x x changed to x x x Fersan Variety Store that was ordered closed by Mayor Corazon Lacap x x x.

When she presented her application (Exh. A) for approval, accused Lacap did not look at it and she was very angry x x x.

Witness said that she has a permit in 1998 and yet they closed her store. There were two x x x policemen and a bodyguard carrying firearms who went to her store and forcibly padlocked her store x x x. She was not able to get her merchandise until x x x 2001 so none were (sic) sold or could be sold because they were damaged, either eaten by molds or cockroaches x x x. It was RTC Judge Reynaldo Raura who ordered that her store be opened.^[7]

The assailed Decision likewise summarized the testimony of Atty. Calderon in this wise:

She met Fermina Santos in 1998 when the latter went to her office to seek assistance regarding the closing and padlocking of her business establishment x x x.

She wrote to x x x Mayor x x x Corazon Lacap, to ask her the reasons for the closure and padlocking of Santos' store. Accused responded but since it was already late in the year, Santos said that she is no longer interested in the closure and padlocking of her store x x x.

In 1999, Santos again went to her office to ask for assistance in the renewal of her business permit in x x x Masantol, Pampanga because the City Government of Pampanga refused to accept her application for renewal of business permit x x x.

Santos submitted to her documents including the original copy of the application which was refused. She (Atty. Calderon) wrote to the Municipal Treasurer of Masantol, Pampanga, Criselda Diaz vda. de Santillan to invite her for a conference and to ask why she refused to accept the documents x x x. When Santillan appeared, she handed a letter (Exh. M) stating that Santos withdrew her application. The letter also states that the Municipal Bookkeeper already processed the

application for business permit but when it was brought to the Office of the Mayor, she is no longer in the position to know the result because it was not returned to her anymore x x x.

They wrote Santos to bring the application for them to make a letter forwarding all the documents to the Municipal Mayor. In [a letter dated April 26,] 1999, she wrote again the Municipal Mayor forwarding to her all the documents which were brought by Santos to her Office. She attached to her letter (Exh. N) Exh. A, B, C, D, E, F, G, H, I, K, L. At the time she wrote the letter she had in mind that everything was complete and it is the duty of the Mayor to issue a permit x x x.

Mayor Lacap did not reply but her counsel requested for time to answer the letter dated April 26, 1999. In May, 1999, accused Lacap's counsel made a response (Exh. P) that it was Santos who withdrew her application and thus[,] there is nothing, no application in the Office of the Mayor which they could act on x x x.^[8]

In turn, the gist of Marina Josieriza Paras' testimony, as reflected in the assailed Decision, is as follows:

[As the Municipal Treasurer of Masantol, Pampanga], [h]er office is tasked to make the proper implementation of the collection of taxes and fees for the issuance of Mayor's Permit.

Prior to the issuance of a Mayor's Permit, the applicant must x x x proceed to the Office of the Treasurer to secure [an] application form. x x x.

When all the documents are presented, the applicant will proceed to the Assessment Office and will be required to pay the assessment fees. The Municipal Treasurer will in turn issue receipt. The applicant can now go to the Office of the Mayor for the approval and issuance of a Mayor's permit x x x.

The same procedure applies, except that in the year 1999 [during the incumbency of Lacap] before they can issue the Mayor's Permit, the application should be approved by the Mayor x x x.

x x x x

She knows Fermina Santos because Santos ran for Mayor in 1998. At the time when Santos filed the application for business permit for the year 1999 Santos was already a candidate for Mayor in Masantol, Pampanga x x x.^[9]

Alejandro Santos, husband of Fermina, testified that:

x x x [O]n two (2) occasions he was maligned by a certain Epifanio Lacap, the husband of accused Corazon Lacap.

Sometime on March 11, 1998, while he was fixing the roof in their warehouse in Arabia, Masantol, Pampanga, he was picked-up by (two) 2