

THIRD DIVISION

[G.R. No. 183529, February 24, 2016]

**OFELIA C. CAUNAN, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES AND THE SANDIGANBAYAN, RESPONDENTS.**

DECISION

REYES, J.:

For review is the Decision^[1] dated April 29, 2008 of the Sandiganbayan in Criminal Case No. 28068, finding Ofelia Caunan (Caunan) guilty of violation of Section 3(e) of Republic Act (R.A.) No. 3019, otherwise known as the "Anti-Graft and Corrupt Practices Act." The case involves the government's purchase and payment of equipment not delivered; a transaction dubbed as "ghost delivery."

Facts of the Case

On August 15, 2000, Dra. Magnolia Punzalan (Punzalan), as the then Chairman of Barangay Marcelo Green, requested for the purchase of Compost Garbage and Recycling Equipment (compost equipment) from the City Government of Parañaque (City Government), intended to be used in their barangay. However, her request was not acted upon even after she finished her term in 2002. On July 20, 2002, Dante Pacheco (Pacheco) succeeded Punzalan and assumed his post as the Chairman of Barangay Marcelo Green. Like his predecessor Punzalan, Pacheco requested for the purchase of compost equipment for their barangay.^[2]

In September 2002, the Office of the City Auditor of Parañaque (Office of the City Auditor) conducted an investigation on the City Government's reported purchase of 14 sets of compost equipment worth P6,287,500.00 in the year 2000. As part of the investigation, state auditors sent letters of inquiry^[3] to barangay captains to confirm the delivery of compost equipment to their respective barangays in the year 2000.^[4]

Punzalan was alerted of the ongoing investigation when Pacheco furnished her with a copy of his reply^[5] to the state auditor. In the letter, Pacheco stated that Punzalan did not turn over to him any compost equipment she received during her tenure. Punzalan also received a similar letter of inquiry from the Office of the City Auditor.^[6] In a letter^[7] dated October 21, 2002, Punzalan repudiated that she received the delivery of compost equipment in Barangay Marcelo Green; she likewise disclaimed the signature purporting to be hers on the documents attached to the letter of inquiry.

The foregoing events led Punzalan to visit the Office of the City Auditor where she discovered the existence of documents relative to the purchase and delivery of compost equipment to Barangay Marcelo Green during her term of office.^[8] The

following documents were uncovered: (1) Purchase Order (P.O.) No. 0005031 was issued naming Julia Enterprises and General Merchandise (Julia Enterprises) as the supplier/dealer; (2) Disbursement Voucher No. 101-00-12-8580, for a total amount of P900,000.00 for the delivery of compost equipment, with Julia Enterprises indicated as the claimant; (3) Check No. 123787 dated December 12, 2000, with Julia Enterprises as the payee, for the amount of P861,600.00; and (4) Memorandum Receipt, allegedly signed by Punzalan and Caunan on December 13, 2000.^[9]

Incidentally, Pacheco's purchase request was granted. In 2003, one set of compost equipment was delivered by another supplier, Lacto South Metro Enterprises (Lacto South) to Barangay Marcelo Green under P.O. No. 001100,^[10] which was received by Pacheco.^[11]

Meanwhile, the Office of the City Auditor continued with the investigation. In a Memorandum^[12] dated November 5, 2002, State Auditor Arturo F. Garcia disclosed that 10 sets of compost equipment worth P4,493,750.00 were purchased and paid in full by the City Government in 2000 and 2001 for different barangays, but were not delivered by the suppliers. One of the barangays that did not receive such compost equipment is Barangay Marcelo Green.^[13]

To clear her name,^[14] Punzalan lodged a complaint before the Ombudsman. After preliminary investigation, an Information^[15] was filed before the Sandiganbayan against the following: Silvestre De Leon (De Leon), City Treasurer; Antonio Abad III (Abad), City Administrator; Caunan, the Officer-in Charge of the General Services Offices; and Ricardo Adriano (Adriano), the proprietor of Julia Enterprises for violation of Section 3(e) of R.A. No. 3019. The Information reads:

That on or before 12 December 2000 or sometime prior or subsequent thereto, in the City of Parañaque, and within the jurisdiction of this Honorable Court, accused [De Leon], a public official being then the City Treasurer of Parañaque City, [Abad], likewise a public officer, being then the City Administrator, and [Caunan], a public official, being the OIC, General Services Offices, all from the [City Government], while in the performance of their duties and taking advantage of their official positions, conspiring and confederating with a private individual [Adriano], Proprietor of [Julia Enterprises], with evident bad faith or manifest partiality, did then and there willfully, unlawfully and criminally cause damage or undue injury to the government in the amount of Nine Hundred Thousand Pesos (P900,000.00) by causing it to appear that a [compost equipment] was delivered by [Julia Enterprises] to a certain [Punzalan], then Barangay Chairman, Barangay Marcelo Green, Parañaque City, when in truth and in fact no such delivery was made, and thereafter, did then and there cause the payment thereof in the amount of Nine Hundred Thousand Pesos (P900,000.00) to the damage and prejudice of the government.

CONTRARY TO LAW.^[16]

On April 29, 2008, the Sandiganbayan rendered a Decision finding Caunan guilty of violating Section 3(e) of R.A. No. 3019 while her co-accused Abad was exonerated

of the charge against him, viz:

ACCORDINGLY, accused [Caunan] is found guilty beyond reasonable doubt of having violated [R.A. No.] 3019, Section 3 (e) and is sentenced to suffer in prison the penalty of 6 years [and] 1 month to 10 years. She also has to suffer perpetual disqualification from holding any public office. Accused [Caunan] is directed to reimburse the City of Parañaque the amount of eight hundred sixty[-]one thousand six hundred [pesos] (P861,600.00) representing the cost of the undelivered compost equipment.

For failure of the prosecution to prove the guilt of accused [Abad], beyond reasonable doubt, he is ACQUITTED.

Costs against accused [Caunan].

SO ORDERED.^[17]

Accused De Leon was freed from criminal liability in view of his death during the pendency of the case, whereas Adriano was at large.^[18]

During trial, the defense primarily argued that an ocular inspection would prove that the compost equipment was actually delivered to Barangay Marcelo Green. Yet, the Sandiganbayan found that the existing compost equipment in Barangay Marcelo Green was not delivered by Julia Enterprises, but by Lacto South under another fully paid transaction.^[19] The Sandiganbayan took note of the uncontested fact that the City Government entered into two separate transactions for the purchase of compost equipment for Barangay Marcelo Green. The first transaction was initiated by Punzalan's request on August 15, 2000 while the second transaction was a result of Pacheco's request on September 5, 2002. It is the non-delivery under the *first transaction* which is the subject of the case.^[20]

Caunan moved to reconsider the decision but it was denied by the Sandiganbayan in its Resolution^[21] dated July 11, 2008.

Thus, Caunan filed a petition for *certiorari*^[22] assailing the decision and resolution of the Sandiganbayan.

The issue primarily raised in the petition is whether Caunan's conviction for the crime of violation of Section 3(e) of R.A. No. 3019 was proper.

Ruling of the Court

The petition has no merit.

At the outset, it is emphasized that a petition for review on *certiorari* under Rule 45 shall raise only questions of law. "It is a well-entrenched rule that factual findings of the Sandiganbayan are conclusive upon the Supreme Court except where: (1) the conclusion is a finding grounded entirely on speculation, surmise and conjectures; (2) the inference made is manifestly mistaken; (3) there is grave abuse of discretion; [and] (4) the judgment is based on misapprehension of facts and the

findings of fact of the Sandiganbayan are premised on the absence of evidence and are contradicted by evidence on record. None of the above exceptions obtains in this case."^[23]

The charge against Caunan is violation of Section 3(e) of R.A. No. 3019, which 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

(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 impartiality, evident bad faith or gross inexcusable negligence.

x x x.

x x x x

To be found guilty under the said provision, the following elements must concur:

- 1) The accused must be a public officer discharging administrative, judicial or official functions;
- 2) He must have acted with manifest partiality, evident bad faith or gross inexcusable negligence; and
- 3) That his action caused undue injury to any party, including the government, or giving any private party unwarranted benefits, advantage or preference in the discharge of his functions.^[24]

First, it is undisputed that Caunan is a public officer, as she is the Officer in Charge of the Department of General Services of the City Government.^[25] Under the Local Government Code of 1991, the general services officer performs all functions pertaining to supply and property management in the local government unit concerned.^[26] The duties and functions of a general services officer were further expounded by the Sandiganbayan:

The functions of accused Caunan as the General Services Officer of the City of Parañaque are:

- 1) As the General Services Officer of the City of Parañaque, she is mandated under the Local Government Code to "(t)ake custody of and be accountable for all properties, real or personal, owned by the local government unit".
- 2) As the General Services Officer, her purchasing function is specified under the Rules and Regulations On Supply and Property Management, Section 29 [of] which provides that: