

FIRST DIVISION

[G.R. No. 188909, September 17, 2014]

REPUBLIC OF THE PHILIPPINES, REPRESENTED BY THE OFFICE OF THE PRESIDENT, DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS AND PRESIDENTIAL ANTI-GRAFT COMMISSION, PETITIONERS, VS. FLORENDO B. ARIAS, ASSISTANT DIRECTOR, BUREAU OF EQUIPMENT, DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS, RESPONDENT.

DECISION

PEREZ, J.:

Respondent Florendo B. Arias was the Assistant Bureau Director of the Bureau of Equipment (BOE), Department of Public Works and Highways (DPWH). Respondent, along with other DPWH officials Burt B. Favorito, Director of Administrative Manpower and Management Service; Emily M. Tanquintic, Director of Comptrollership and Financial Management Service; Oscar D. Abundo, Director of Legal Service; Abraham S. Divina, Jr., Director of BOE, and several unnamed presidential and non-presidential appointees of DPWH, were charged with violation of Section 3(e), (i) of Republic Act No. 3019, as amended,^[1] Sections 4(a), (c)^[2] and 7(a)^[3] of Republic Act No. 6713, and the Memorandum from the President dated 19 November 1999 on the doctrine of command responsibility for corruption in government office.

On 28 November 2002, the Presidential Anti-Graft Commission (PAGC) issued a Formal Charge in PAGC-ADM-0095-02 in connection with the following acts and omissions committed by DPWH officials:

1. Herein respondents, together with other employees of the DPWH who are non-presidential appointees and under their control and supervision, unlawfully and knowingly perpetrated acts in violation of Section 20 of the General Appropriations Act (GAA) of FY 2000 (Republic Act No. 8760) by facilitating the alleged anomalous emergency repairs of several DPWH motor vehicles for CY 2000-2001 from the wrong fund source, an offense constituting Illegal Expenditure under Section 53, Chapter 9, Book V and Section 43, Chapter 5, Book VI, both of the Administrative Code of 1987, in relation to Section 9, Special Provision (Department of Public Works & Highways) of the same General Appropriations Act, and Section 3(e), (i) of Republic Act No. 3019, as amended and Sections 4(a), (c) and 7 (a) of Republic Act No. 6713.

2. In an Audit Report dated June 23, 2002, submitted pursuant to DPWH Department Order No. 15, series of 2002, the Internal Audit Service reported that the result of their review of almost 7,000 vouchers for the

Fiscal Year 2001, 578 vehicles and equipment have undergone emergency repairs.

3. The same Audit Report narrated that as of June 7, 2002, from a review of almost 7,000 vouchers, a total of 578 vehicles and equipment were subjected to emergency repairs, with a total cost of P139,633,134.26 was paid out of the capital outlay and MOOE funds. A clear violation of Section 20 of the General Appropriations Act for FY 2000, reenacted for FY 2001, which constitute an offense under Section 43, Chapter 5, Book VI of the Administrative Code of 1987, in relation to Section 9, Special Provision (Department of Public Works and Highways) of the same General Appropriations Act and Section 3(e), (i) of Republic Act No. 3019, as amended and Section 4(a), (c) and 7(a) of Republic [A]ct No. 6713.

4. Mr. Florendo B. Arias, Assistant Bureau Director, Bureau of Equipment, then OIC of the same Bureau recommended the approval of the twenty four (24) Requisitions for Supplies and/or Equipment (RSE), not requested/certified and signed by the end-users of the vehicles. Twenty (20) of these RSEs are for a Mercedes Benz, with Plate No. NRV-687/HI-2297 and assigned to the Chief, Planning and Design Division and four (4) RSEs are for a Nissan Pick-up with Plate No. TAG-211/HI-4161 and assigned to Irene D. Ofilada, then Director of Internal Audit Service. These acts are violative of and contrary to Item No. 4, 4.1, DPWH Department Order No. 33, series of 1988 and DPWH Memorandum dated 31 July 1997, Item D, 1.2, 1.4, and 1.6 on Additional Guidelines Re: Purchase of Spare Parts and Repairs of DPWH Central Office Service Vehicles, in relation to Section 3(e), (i) of R.A. 3019, as amended and Sections 4(a), (c) and 7(a) of RA 6713.

5. Despite personal knowledge that the end-users of these vehicles (Mercedes Benz-NRV-687 and Nissan Pick-up-TAG-211) did not request/sign and/or certify the Requisition for Supplies and Equipment (RSEs), Assistant Director Florendo B. Arias, signed the Request of Obligation and Allotment (ROA) for the said vehicles and approved the Report of Waste Material purportedly for the said vehicles when there were no such waste materials because these vehicles were not subjected to actual repairs. These are in violation of Item No. 4, 4.1 of DPWH Department Order No. 33, series of 1988 and DPWH Memorandum dated 31 July 1997, Item D, 1.2, 1.4 and 1.6, on Additional Guidelines Re: Purchase of Spare Parts and Repairs of DPWH Central Office Service Vehicles, in relation to Section 3(e), (i) of R.A. 3019, as amended and Sections 4(a), (c) and 7(a) of RA 6713.

6. Assistant Director Florendo B. Arias having no authority to sign Box C, affixed his signature in box C of the twenty-four (24) Disbursement Vouchers for the said vehicles and despite personal knowledge that there were no repairs done nor replacement of defective parts for the said vehicles were made, approving the payment/reimbursement for emergency repairs/purchase of spare parts/supplies for the use of the said vehicles. This is in violation of Item No. 4, 4.1 of DPWH Department Order No. 33, series of 1988 and DPWH Memorandum dated 31 July

1997, Item D, 1.2, 1.4, 1.6, on Additional Guidelines Re: Purchase of Spare Parts and Repairs of DPWH Central Office Service Vehicles, in relation to Section 3(e), (i) of R.A. 3019, as amended and Sections 4(a), (c) and 7(a) of RA 6713.

7. Notwithstanding personal knowledge that the end-users of the above-mentioned vehicles did not request/sign and/or certify the Requisition for Supplies and Equipment (RSEs), Director Burt B. Favorito approved twenty-four (24) RSEs in violation of Item 4, 4.1 of DPWH Department Order No. 33, series of 1988 and Item D, 1.2, 1.4, 1.6, of DPWH Memorandum dated 31 July 1997 on Additional Guidelines Re: Purchase of Spare Parts and Repairs of DPWH Central Office Service Vehicles, in relation to Section 3(e), (i) of R.A. 3019, as amended and Sections 4(a), (c) and 7(a) of RA 6713.

8. Director Burt B. Favorito, despite personal knowledge of the absence of the request signed and/or certified by the end-user of Mitsubishi Pajero bearing Plate No. PLM-494/HI-3558, assigned to Assistant Regional Director, Region IV-B, DPWH, approved the ten (10) Requisition for Supplies and/or Equipment (RSE), in violation of Item No. 4, 4.1 of DPWH Department Order No. 33, series of 1988 and DPWH Memorandum Order dated 31 July 1997, Item D, 1.2, 1.4, 1.6, on Additional Guidelines Re: Purchase of Spare Parts and Repairs of DPWH Central Office Service Vehicles, in relation to Section 3(e), (i) of R.A. 3019, as amended and Sections 4(a), (c) and 7(a) of RA 6713.

9. Assistant Director Florendo B. Arias, then OIC, Bureau of Equipment, despite personal knowledge that there were no repairs done and/or replacement of spare parts made on the Mitsubishi Pajero, with Plate No. PLM-494, approved the ten (10) Reports of Waste Material in violation of Item No. 4, 4.1 of DPWH Department Order No. 33, series of 1988 and DPWH Memorandum dated 31 July 1997, Item D, 1.2, 1.4, 1.6 on Additional Guidelines Re: Purchase of Spare Parts and Repairs of DPWH Central Office Service Vehicles, in relation to Section 3(e), (i) of R.A. 3019, as amended and Sections 4(a), (c) and 7(a) of RA 6713.

10. Director Burt B. Favorito affixed his signature in box C of the ten (10) Disbursement Vouchers for the Mitsubishi Pajero with Plate No. PLM-494 and despite personal knowledge that there were no repairs done nor replacement of defective parts for the said vehicles were made, approving the payment/reimbursement for emergency repairs/purchase of spare parts/supplies for the use of the said vehicles.

11. Director Burt B. Favorito by his acts of approving the RSEs for the said three (3) motor vehicles and approving the disbursement vouchers/reimbursement for emergency repairs and/or replacement of spare parts, has directed, authorized or cooperated in the wrongdoings, instead of preventing the series of anomalous transactions. A violation of Memorandum from the President, dated November 19, 1999, Invoking the Doctrine of Command Responsibility for Corruption in Government Offices, in relation to Section 3(e), (i) of Republic Act No. 3019 as amended and Sections 4(a), (c) and 7(a) of Republic Act No. 6713.

12. Director Emily M. Tanquintic, Comptrollership and Financial Management Service (CFMS), for countersigning checks in payment for the purported repairs and/or replacement of spare parts, despite the fact that the attached supporting documents are dubiously anomalous. As Director of the CFMS, she failed to exercise prudence in the management and control of government's financial resources, by failing to institute necessary control measures to prevent wastage and losses on the part of the government. As a supervising authority, she failed to perform the duties of her office diligently and to oversee the proper and efficient use of funds for which they were intended. She negligently carries on the business of her office, as to furnish the opportunity for default. A violation of Memorandum from the President, dated November 19, 1999, Invoking the Doctrine of Command Responsibility for Corruption in Government Offices, in relation to Section 3(e), (i) of Republic Act No. 3019 as amended and Sections 4(a), (c) and 7(a) of Republic Act No. 6713.

13. Director Oscar D. Abundo, Legal Service, being the co-signatory in the checks in payment for the purported emergency repairs or replacement of spare parts, despite the fact that the attached supporting documents are dubiously anomalous. He carelessly conducts or carries on the business of his office as to furnish the opportunity for default. Such failure resulted to irregularity or illegal acts within his area of jurisdiction. A violation of Memorandum from the President, dated November 19, 1999, Invoking the Doctrine of Command Responsibility for Corruption in Government Offices, in relation to Section 3(e), (i) of Republic Act No. 3019, as amended, and Sections 4(a), (c) and 7(a) of Republic Act No. 6713.

14. Director Abraham S. Divina, Jr., Bureau of Equipment, as responsible supervising authority, failed to institute necessary management monitoring and control systems in the preparation and maintenance of equipment ledgers for each vehicle. Such ledgers could have contained individual equipment profiles which record repairs, as well as purchases of spare parts and movement of the vehicles. Such failure resulted to irregularity or illegal acts within his area of jurisdiction. A violation of Memorandum from the President, dated November 19, 1999, Invoking the Doctrine of Command Responsibility for Corruption in Government Offices, in relation to Section 3(e), (i) of Republic Act No. 3019 as amended and Sections 4(a), (c) and 7(a) of Republic Act No. 6713 and Section 46(a), (1), (3), (4) and (9) of Book V, Administrative Code of 1987.

15. DPWH authorized payment and has actually paid the total amount of P832,140.00 for the purported repairs and/or replacement of spare parts for the three (3) motor vehicles, covering thirty four (34) transactions/disbursement vouchers, as follows:

a. NISSAN PICK-UP-TAG-211/HI-4161 = P98,560.00 – 4 transactions

b. MITSUBISHI PAJERO-PLM-494/HI-3558 = P249,020.00 – 10

transactions

c. MERCEDES BENZ-NRV-687/HI-2297 = P484,560.00 – 20 transactions

Total = P832,140.00

16. All respondent-presidential appointees are within the jurisdiction of the Presidential Anti-Graft Commission pursuant to Section 4 of Executive Order No. 12, dated April 16, 2001.

17. Herein respondents have openly committed serious misconduct prejudicial to the best interest of the service.^[4]

Anent the charges against respondent, he was indicted for the following acts: 1) recommending the approval of twenty-four (24) Requisitions for Supplies and/or Equipment (RSEs) made on a Mercedes Benz and a Nissan Pick-up which were not requested/certified and signed by the end-users of the vehicles; 2) signing the Request of Obligation and Allotment (ROA) and approving the Report of Waste Material for said vehicles when there were no such waste materials because the vehicles were not subjected to actual repairs; 3) affixing his signature in Box C of the twenty-four (24) Disbursement Vouchers; and 4) approving 10 Reports of Waste Material despite personal knowledge that there were no repairs done and/or replacement of spare parts made on a Mitsubishi Pajero with Plate No. PLM-494.

In an Order dated 29 November 2002, PAGC ordered respondent and other DPWH officials charged to submit their Counter-Affidavits.

Respondent denied the charges that capital outlay funds were wrongfully used for emergency repairs of DPWH-owned vehicles because according to the Department of Budget and Management, emergency repairs of service/motor vehicles may be charged against the 3.5% Engineering and Overhead of the projects of DPWH. With respect to the approval of repair of the subject vehicles, respondent argued that he merely relied on the representations of his subordinates that said vehicles were in need of emergency repairs. Respondent further explained that all RSEs were prepared by the Chief of the Motor Pool Section, Central Equipments and Spare Parts Division (CESPD) under the BOE and submitted by the Chief of CESPD; that all RSEs were supported by Motor Vehicle Pre-Repair Inspection Reports and Job Orders, all of which were assigned to CESPD; that when a service/motor vehicle of the DPWH Central Office is turned over to the CESPD due for repair and for issuance to various field offices, custody thereover is transferred to and/or assumed by the Equipment Custody and Control Section or by the Motor Pool Section. In this situation, the end-user appears to be the head of either department.

Respondent defended his approval of the waste material reports in that he was exercising his ministerial duty. Moreover, his signing of the RSEs and the pertinent ROAs relative to the twenty-four (24) repair transactions was based on Department Order No. 42, Series of 1998 which vested him with authority to recommend for approval of requisitions, purchase orders and contract for the acquisition of supplies and materials, office equipment, spare parts and services in amount not exceeding P25,000.00 per RSE, including signing of corresponding ROAs.