

SECOND DIVISION

[G.R. No. 206162, December 10, 2014]

**ALEX M. VALENCERINA, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

D E C I S I O N

MENDOZA, J.:

This appeal by *certiorari* under Rule 45 of the Rules of Court^[1] assails the October 11, 2012 Decision^[2] and the March 1, 2013 Resolution^[3] of the Sandiganbayan in Criminal Case No. 27474, finding petitioner Alex M. Valencerina (*Valencerina*), together with Amalio A. Mallari (*Mallari*), guilty beyond reasonable doubt of violating Section 3(e) of Republic Act (R.A.) No. 3019, which provides as follows:

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:

xxx xxx xxx

(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 partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

The Sandiganbayan found Valencerina, a high-ranking officer of the Government Service Insurance System (*GSIS*), guilty of giving unwarranted benefits to Ecobel Land Incorporated (*Ecobel*) on account of his participation in the unjustified issuance of *GSIS* Surety Bond GIF No. 029132 (*subject bond*) covering the amount of Ten Million US Dollars (US\$10,000,000.00).

The Facts

As culled from the findings of the Sandiganbayan, it appears that sometime in October 1997, Ecobel, represented by its Chairman and accused Josephine E. Boright (*Boright*), applied for the issuance of a bond with *GSIS* to guarantee the repayment of a loan in the amount of US\$10,000,000.00, supposedly obtained from the Philippine Veterans Bank (*PVB*) and allegedly for the construction of a 26-storey commercial/residential Ecobel Condominium Tower Building.

Boright approached accused Leticia G. Bernardo (*Bernardo*), the manager of the

Suretyship Department of GSIS for said purpose. Bernardo gave Boright the checklist of requirements. Thereafter, Ecobel submitted the listed documents, except the loan agreement.

In a meeting held on December 10, 1997, the GSIS Underwriting Committee, chaired by Bernardo, "*approved in principle*" the surety bond application, but subject to "*analysis and evaluation of the project and the offered collaterals.*" It was noted in the same meeting that the collaterals offered were the project sites in Malate, Manila, under Transfer Certificate of Title (TCT) No. 227727 and in Lipa City under TCT No. 66289.^[4]

On January 16, 1998, the Underwriting Committee refused TCT No. 227727 as collateral on the ground that it was already the subject of another mortgage. Under the GSIS policy, second mortgages were not allowed. Ecobel then presented TCT No. 66289 as its collateral.

On January 27, 1998, a memorandum was prepared by Valencerina upon the instructions of accused Mallari, who was then the Senior Vice-President of the GSIS General Insurance Group. It was addressed to the President and General Manager of GSIS (PGM) and contained an endorsement of Ecobel's bond for evaluation of the GSIS Investment Committee. It also included Mallari's strong recommendation through a marginal note with the words "*Strong reco. Based on info & collateral herein stated.*"^[5]

On March 10, 1998, the GSIS Investment Committee approved the subject bond. The following day, or on March 11, 1998, Surety Bond GIF No. 029132, a high-risk bond, was signed by Boright for Ecobel and by Mallari for the GSIS.

On March 30, 1998, Valencerina certified that the subject bond could be redeemed if Ecobel would default in paying the loan. The letter reads:

30 March 1998

To Whom It May Concern:

GSIS G(16)

Re: GIF Bond

No. 029132

Bond

Amount: US 10,000,000

Issuing

Date: 11 March 1998

Maturing

Date: 11 March 2000

Bond

Principal: Ecobel Land Incorporated

Project

Bonded: 26-Storey Commercial/Residential

Condominium Ecobel Tower Building

This is to advise that the above-captioned surety bond may be redeemed following a default by the Bond Principal under the procedures set out below (the "DRAWING CONDITIONS"):

1. presentation of original surety bond to GSIS at its office in either Manila or London; together with
2. presentation of demand for payment stating non-payment in full or in part by the Bond Principal; and
3. notification of assignment to GSIS of US Dollar loan obligations of the Bond Principal

Upon receipt of the above documentation via courier, GSIS will confirm the default by the Bond Principal and will make full payment under the surety bond within ten (10) New York and London Banking days.

(Sgd.)

ALEX M. VALENCERINA

Cc: SVP A. Mallari

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In another certification, dated January 14, 1999, it was made to appear that the bond was a genuine, valid and binding obligation of GSIS, to wit:

14 January 1999

To Whom It May Concern:

GSIS G(16)

Re: GIF Bond

No. 029132

Bond Amount: US 10,000,000

Issuing Date: 11 March 1998

Maturing Date: 11 March 2000

Bond Principal: Ecobel Land Incorporated

Project Bonded: 26-Storey Commercial/Residential

Condominium Ecobel Tower Building

This is to advise that the captioned surety bond is genuine, authentic, valid and binding obligation of GSIS, and may be transferred to Bear, Sterns (sic) International Ltd. and any of its assignees and Aon Financial Products, Inc. and any of its assignees within the period commencing at the date above. GSIS has no counterclaim, defense or right of set-off with respect to the surety bond provided that DRAWING CONDITIONS have been satisfied.

We confirm that any such transfer requires only written or facsimile notification to GSIS by the then current obligee and confirmation or approval from GSIS is not required.

(Sgd.)

ALEX M. VALENCERINA

Cc: SVP J. Navarette

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Eventually, accused Estela J. Edralin (*Edralin*), as a representative of Ecobel, signed on February 4, 1999 a Term Loan Agreement with Bear, Stearns International, Ltd. (*BSIL*). The following month, Ecobel made a drawdown from the loan in the amount of US\$9,307,000.00.

On February 9, 1999, Valencerina approved the Suretyship Department's request for a facultative reinsurance of the subject bond. On February 12, and 24, 1999, however, he wrote cancellation notices after he was informed by Atty. Norma M. Saldares (*Atty. Saldares*) that TCT No. 66289 was spurious. Meanwhile, Ecobel issued two post-dated checks both dated February 26, 1999, for P12,731,520.00 and US\$330,000.00. The peso check was signed by Boright and paid in the Philippines, while the dollar check was signed by Edralin and paid in London.

On May 6, 1999, GSIS received a letter from Atty. Fernando U. Campaña (*Atty. Campaña*) of the GSIS-London Representative Office regarding Escobel's premium payment in the amount of US\$200,625.00 remitted to the Philippine National Bank (*PNB*)-London. Finally, on June 20, 1999, the Bond Cancellation Advice was issued for the reversal of the said premium payment of Escobel.

In a letter, dated March 7, 2000, URSA Minor Limited, the assignee of BSIL, demanded payment from Ecobel. A notice of failure was sent by Banker's Trust, informing GSIS of Ecobel's failure to pay the obligation which became due on March 9, 2001.

On April 5, 2000, Aon Financial Products, Inc., also a subsequent assignee of BSIL, sent a Notice of Demand to the then Secretary of Finance, Pardo de Tavera, calling on the guarantee of the Republic of the Philippines under the subject bond.

Thus, for having participated in, or contributed to the release or issuance of the subject surety bond, an Information was filed before the Sandiganbayan, against Valencerina, along with Campaña, Mallari, Leticia G. Bernardo, Josephine Edralin Boright, and Estela J. Edralin for violation of Sec. 3(e) of R.A. No. 3019. As per the Amended Information,^[6] the allegations were as follows:

That on or about March 11, 1998, or sometime prior or subsequent thereto, in Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the abovenamed accused **ALEX M. VALENCERINA**, being then the Vice-President, Technical Services Group (TSG) Marketing and Support Services, General Insurance Group (GIG) of the Government Service Insurance System (GSIS), and therefore a high-ranking official, **FERNANDO U. CAMPAÑA**, Vice-President for International Operations (IO), London Representative Office (LRO), General Insurance Group, GSIS, and therefore also a high-ranking official, **AMALIO A. MALLARI**,

then Senior Vice President of the General Insurance Group (GIG), GSIS and Member of the GSIS-GIG Investment Committee, and likewise a high ranking official and **LETICIA G. BERNARDO**, then Department Manager III of the Suretyship Department of the GSIS, and Chairman of the GSIS Underwriting Committee, Bond Reinsurance Treaty, likewise a high-ranking official, while performing their respective official functions and taking advantage of the same and/or using such official offices and functions, conspiring and confederating with private parties **JOSEPHINE EDRALIN BORIGHT** and **ESTELA J. EDRALIN**, Incorporators of, and who acted as Chairperson at different periods, of Escobel Land Incorporated, did then and there wilfully, unlawfully and criminally, with evident bad faith and manifest partiality, participate, or contribute to, the release or issuance of Surety Bond GIF NO. 029132 in the amount of Ten Million US Dollars (US\$ 10,000,000.00), with Escobel Land, Incorporated then chaired and represented by **Josephine Edralin Boright**, as the Principal, and Philippine Veterans Bank (PVB) as the supposed Obligee, notwithstanding the legal infirmities and irregularities, as provided by GSIS laws, guidelines, and policies, that attended its release or issuance, which accused public officials are duty-bound to know and therefore comply, viz: (1) Absence of counter-bond prior to issuance as underwriting requirement to protect the interest of GSIS; 2) Absence of sufficient collateral as underwriting safety requirement, as in fact TCT NO. 227727 had an existing encumbrance; 3) Non-payment of the premium prior to issuance and approval of the Surety Bond as a mandatory legal and safety requirement; (4) Issuance of Surety Bond without the prior approval of the GSIS Board of Trustees required for high-risk bonds regardless of the amount; 5) Absence of a Loan Agreement between the bond principal Ecobel Land Incorporated and the supposed Obligee, Philippine Veterans Bank (PVB); 6) Issuance of the said Surety Bond without prior approval from the Central Bank being a foreign-denominated bond; 7) Non-verification of the collateral/s submitted to ensure non-exposure to risks; AND 8) Insufficient and highly irregular evaluation of the bond application and its supporting documents, or of the character, capacity and capital of the applicant, Ecobel Land Incorporated, and subsequently, or almost a year after the issuance of said Surety Bond, it was discovered that one of two titles submitted as supposed collateral, or TCT No. 66289, was spurious, which discovery came after an acknowledgment was made relative to the supposed premium payment of Ecobel Land Incorporated, which premium payment was made almost a year after the issuance of the Surety Bond, and despite being advised of the cancellation of said Surety Bond, Ecobel Land Incorporated, then already represented by **Estela J. Edralin**, with the assistance of herein accused public officials, was able to obtain an actual drawdown of Ten Million US Dollars (US \$10,000,000.00) from Bear and Stearns International Ltd., and subsequent thereto, despite knowledge of the cancellation of the Surety Bond and return or disregard of the premium payment earlier made, Fernando U. Campaña of the GSIS London Representative Office, received from Estela J. Edralin of Escobel Land Incorporated, the premium payment previously disregarded at the GSIS Manila Office, without the authority or official duty to do so, or even the consent of GSIS, and despite knowledge that Surety Bond No. 029132 was issued with PVB as Obligee and not Bears and Stearns