

## SECOND DIVISION

[ G.R. No. 191219, July 31, 2013 ]

**SPO1 RAMON LIHAYLIHAY<sup>[1]</sup> AND C/INSP. VIRGILIO V. VINLUAN, PETITIONERS, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

### R E S O L U T I O N

**PERLAS-BERNABE, J.:**

Assailed in this petition for review on *certiorari*<sup>[2]</sup> are the Decision<sup>[3]</sup> dated August 8, 2008 and Resolution<sup>[4]</sup> dated February 12, 2010 of the Sandiganbayan in Criminal Case No. 22098 which found petitioners Virgilio V. Vinluan (Vinluan) and Ramon Lihaylihay (Lihaylihay) guilty beyond reasonable doubt of the crime of violation of Section 3(e) of Republic Act No. (RA) 3019, otherwise known as the "Anti-Graft and Corrupt Practices Act."

#### The Facts

Acting on the special audit report<sup>[5]</sup> submitted by the Commission on Audit, the Philippine National Police (PNP) conducted an internal investigation<sup>[6]</sup> on the purported "ghost" purchases of combat, clothing, and individual equipment (CCIE) worth P133,000,000.00 which were allegedly purchased from the PNP Service Store System (SSS) and delivered to the PNP General Services Command (GSC). As a result of the internal investigation, an Information<sup>[7]</sup> was filed before the Sandiganbayan, charging 10 PNP officers, including, among others, Vinluan and Lihaylihay, for the crime of violation of Section 3(e) of RA 3019, the accusatory portion of which reads:

That on January 3, 6, 8, 9 and 10, 1992, and for sometime subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused public officers namely: Gen. Cesar P. Nazareno, being then the Director General of the Philippine National Police (PNP); Gen. Guillermo T. Domondon, Director for Comptrollership, PNP; Sr. Supt. Bernardo Alejandro, Administrator, PNP Service Store System; Sr. Supt. Arnulfo Obillos, Director, PNP, General Services Command (GSC); C/Insp. Virgilio Vinluan, Chairman, Inspection and Acceptance Committee, PNP, GSC; C/Insp. Pablito Magnaye, Member, Inspection and Acceptance Committee, PNP, GSC; Sr. Insp. Amado Guiriba, Jr., Member, Inspection and Acceptance Committee, PNP, GSC; SPO1 Ramon Lihay-Lihay, Inspector, Office of the Directorate for Comptrollership, PNP; Chief Supt. Jose M. Aquino, Director, Finance Service, PNP; and Sr. Supt. Marcelo Castillo III, Chief, Gen. Materials Office/Technical Inspector, PNP, while in the performance of their

respective official and administrative functions as such, taking advantage of their positions, committing the offense in relation to their office and conspiring, confederating with one another, did then and there willfully, unlawfully and criminally, through evident bad faith, cause undue injury to the government in the following manner:

Accused Gen. Nazareno in his capacity as Chief, PNP and concurrently Board Chairman of the PNP Service Store System, surreptitiously channeled PNP funds to the PNP SSS through "Funded RIVs" valued at P8 [M]illion and Director Domondon released ASA No. 000-200-004-92 (SN-1353) without proper authority from the National Police Commission (NAPOLCOM) and Department of Budget and Management (DBM), and caused it to appear that there were purchases and deliveries of combat clothing and individual equipment (CCIE) to the General Service Command (GSC), PNP, by deliberately and maliciously using funds for personal services and divided the invoices of not more than P500,000.00 each, pursuant to which the following invoices were made and payments were effected therefor through the corresponding checks, to wit:

<u>Invoice No.</u>	<u>Check No.</u>		<u>Amount</u>
30368	880932	P	500,000.00
30359	880934		500,000.00
30324	880935		500,000.00
30325	8080936		500,000.00
30322	8080937		500,000.00
30356	8080938		500,000.00
30364	8080939		500,000.00
30360	8080940		500,000.00
30365	8080941		500,000.00
30323	880943		500,000.00
30358	880942		500,000.00
30362	880943		500,000.00
30366	880943		500,000.00
30357	880946		500,000.00
30361	880947		500,000.00
30363	880948		500,000.00
			P 8,000,000.00
			=====

thereafter, accused members of the Inspection and Acceptance Committee together with respondents Marcelo Castillo III and Ramon Lihay-Lihay certified or caused to be certified that the CCIE items covered by the aforementioned invoices were delivered, properly inspected and accepted, and subsequently distributed to the end-users, when in truth and in fact, as accused well knew, no such purchases of CCIE items were made and no items were delivered, inspected, accepted and distributed to the respective end-users; that despite the fact that no deliveries were made, respondent Alejandro claimed payment therefor, and respondent Obillos

approved the disbursement vouchers therefor as well as the checks authorizing payment which was countersigned by respondent Aquino; and as a result, the government, having been caused to pay for the inexistent purchases and deliveries, suffered undue injury in the amount of EIGHT MILLION PESOS (P8,000,000.00), more or less.

CONTRARY TO LAW.<sup>[8]</sup>

Four of the above-named accused died during the pendency of the case, while Chief Supt. Jose M. Aquino was dropped from the Information for lack of probable cause.

<sup>[9]</sup> As such, only Director Guillermo Domondon, Sr. (Domondon), Supt. Arnulfo Obillos (Obillos), C/Inspector Vinluan, Sr. Inspector Amado Guiriba, Jr. (Guiriba), and SPO1 Lihaylihay remained as accused in the subject case. During their arraignment, Domondon, Obillos, Vinluan, and Lihaylihay all pleaded not guilty to the crime charged,<sup>[10]</sup> while Guiriba remained at large.<sup>[11]</sup>

### **The Sandiganbayan Ruling**

On August 8, 2008, the Sandiganbayan rendered the assailed Decision,<sup>[12]</sup> exonerating Domondon but finding Obillos, Vinluan, and Lihaylihay guilty beyond reasonable doubt of the crime charged.<sup>[13]</sup> It found that all the essential elements of the crime of violation of Section 3(e) of RA 3019 were present in the case, in particular that: (a) Obillos, Vinluan, and Lihaylihay are public officers discharging administrative functions; (b) they have acted with evident bad faith in the discharge of their respective functions considering that: (1) seven of the sixteen Requisition and Invoice Vouchers (RIVs) bore erasures and/or superimposition to make it appear that the transactions were entered into in 1992 instead of 1991;<sup>[14]</sup> (2) the details of the supplies purportedly received and inspected were not reflected in the Reports of Public Property Purchased, thus, indicating that no actual inspection of the items were made;<sup>[15]</sup> and (3) there was a “splitting” of the subject transactions into P500,000.00 each to avoid the review of a higher authority as well as to make it fall within the signing authority of Obillos;<sup>[16]</sup> and (c) they failed to refute the prosecution’s claim that the subject CCIE items were never received by Supply Accountable Officer of the GSC (GSC SAO), Dante Mateo (Mateo), nor delivered to its end-users,<sup>[17]</sup> hence, leading to the conclusion that the subject transactions were indeed “ghost” purchases which resulted to an P8,000,000.00 loss to the government. In view of their conviction, Obillos, Vinluan, and Lihaylihay were sentenced to suffer imprisonment for a term of six years and one month, as minimum, to nine years and one day, as maximum, including the penalty of perpetual disqualification from public office. They were likewise ordered to jointly and severally indemnify the government the amount of P8,000,000.00.<sup>[18]</sup> Aggrieved, Obillos, Vinluan, and Lihaylihay filed their separate motions for reconsideration which were all denied in a Resolution<sup>[19]</sup> dated February 12, 2010. Hence, the instant petition.

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

The essential issue in this case is whether or not petitioners’ conviction for the crime

of violation of Section 3(e) of RA 3019 was proper.

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

The petition lacks merit.

At the outset, it bears pointing out that in appeals from the Sandiganbayan, as in this case, only questions of law and not questions of fact may be raised. Issues brought to the Court on whether the prosecution was able to prove the guilt of the accused beyond reasonable doubt, whether the presumption of innocence was sufficiently debunked, whether or not conspiracy was satisfactorily established, or whether or not good faith was properly appreciated, are all, invariably, questions of fact.<sup>[20]</sup> Hence, absent any of the recognized exceptions to the above-mentioned rule,<sup>[21]</sup> the Sandiganbayan's findings on the foregoing matters should be deemed as conclusive.

Petitioners were charged with the crime of violation of Section 3(e) <sup>[22]</sup> of RA 3019 which has the following essential elements: (a) the accused must be a public officer discharging administrative, judicial or official functions; (b) he must have acted with manifest partiality, evident bad faith or gross inexcusable negligence; and (c) his action caused any undue injury to any party, including the government, or gave any private party unwarranted benefits, advantage or preference in the discharge of his functions.<sup>[23]</sup> As observed by the Sandiganbayan, all these elements are extant in this case:

As to the **first** element, it is undisputed that both petitioners were public officers discharging administrative functions at the time material to this case.

As to the **second** element, records show that Vinluan, in his capacity as Chairman of the Inspection and Acceptance Committee, signed the 16 certificates of acceptance, inventory, and delivery of articles from the PNP SSS despite its incompleteness or lack of material dates, while Lihaylihay certified to the correctness of the Inspection Report Forms even if no such deliveries were made.<sup>[24]</sup> Petitioners' claim that the subject CCIE items were received by GSC SAO Mateo<sup>[25]</sup> is belied by the absence of any proof as to when the said deliveries were made. Moreover, the supposed deliveries to the Narcotics Command<sup>[26]</sup> were properly rejected by the Sandiganbayan considering that the said transactions pertained to a different set of end-users other than the PNP GSC. Hence, having affixed their signatures on the disputed documents despite the glaring defects found therein, petitioners were properly found to have acted with evident bad faith in approving the "ghost" purchases in the amount of P8,000,000.00.<sup>[27]</sup> To note, their concerted actions, when taken together, demonstrate a common design<sup>[28]</sup> which altogether justifies the finding of conspiracy.

Lastly, as to the **third** element, petitioners' participation in facilitating the payment of non-existent CCIE items resulted to an P8,000,000.00 loss on the part of the government.

Thus, considering the presence of all its elements, the Court sustains the conviction of petitioners for the crime of violation of Section 3(e) of RA 3019.