

THIRD DIVISION

[G.R. No. 171671, June 18, 2012]

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. ARISTEO E. ATIENZA, RODRIGO D. MANONGSONG, CRISPIN M. EGARQUE, AND THE HON. SANDIGANBAYAN (THIRD DIVISION), RESPONDENTS.

DECISION

PERALTA, J.:

This is a petition for review on *certiorari* assailing the Resolution^[1] dated February 28, 2006 of the Sandiganbayan (Third Division) granting the Demurrer to Evidence filed by respondents Aristeo E. Atienza and Rodrigo D. Manongsong, which effectively dismissed Criminal Case No. 26678 for violation of Section 3 (e) of Republic Act No. 3019.

The factual and procedural antecedents are as follows:

In an Information^[2] filed on June 19, 2001, respondents Aristeo E. Atienza (Mayor Atienza), then Municipal Mayor of Puerto Galera, Oriental Mindoro, Engr. Rodrigo D. Manongsong (Engr. Manongsong), then Municipal Engineer of Puerto Galera and Crispin M. Egarque (Egarque), a police officer stationed in Puerto Galera, were charged before the Sandiganbayan violation of Section 3 (e) of Republic Act No. 3019 (RA 3019), or the *Anti-Graft and Corrupt Practices Act* in Criminal Case No. 26678. The Information alleged:

That on or about 04 July 2000, or sometime prior or subsequent thereto, in the Municipality of Puerto Galera, Province of Oriental Mindoro, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, ARISTEO E. ATIENZA, Municipal Mayor of Puerto Galera, Oriental Mindoro, conspiring and confederating with co-accused RODRIGO MANONGSONG, Municipal Engineer, and CRISPIN EGARQUE, PNP Officer, while in the performance of their official functions, committing the offense in relation to their offices, and taking advantage of their official positions, acting with manifest partiality, evident bad faith, did then and there wilfully, unlawfully and criminally destroy, demolish, and dismantle the riprap/fence of the new HONDURA BEACH RESORT owned by complainant EDMUNDO A. EVORA located at Hondura, Puerto Galera, Oriental Mindoro, causing undue injury to complainant in the amount of P8,000.00

CONTRARY TO LAW.^[3]

Duly arraigned, respondents entered their respective pleas of *not guilty* to the crime charged against them.^[4] After pre-trial,^[5] trial on the merits ensued.

To establish its case, the prosecution presented the testimonies of Mercedita Atienza (Mercedita), Alexander Singson (Alexander), Edmundo Evora (Edmundo), and Acting Barangay Chairman Concepcion Escanillas (Escanillas).

Mercedita testified that she was the caretaker of Honduras Beach Resort, a resort owned by Edmundo in Puerto Galera, Oriental Mindoro. She narrated that on July 3, 2000, Edmundo caused the construction of a fence made of coco lumber and G.I. sheets worth P5,000.00 on his resort. On July 4, 2000, she found out that the fence that was just recently built was destroyed. Upon the instruction of Edmundo, she reported the incident to the barangay authorities. On July 5, 2000, Edmundo again caused the construction of a second fence on the same property worth P3,000.00. However, on the day following, the fence was again destroyed. Mercedita stated that she was informed by some people who were there that a policeman and Engr. Manongsong were the ones who destroyed the fence.^[6]

Mercedita further testified that Edmundo instructed her to report the matter to the police. When she inquired at the police station, Egarque admitted that he destroyed the fence upon the order of Mayor Atienza. When she asked Mayor Atienza about the incident, the latter informed her that the fence was not good for Puerto Galera since the place was a tourist destination and that the land was intended for the fishermen association. Mercedita added that Engr. Manongsong admitted that he destroyed the fence upon the order of the mayor for lack of municipal permit and that the land was intended for the fishermen. Mercedita also stated that she reported to acting Barangay Chairman Escanillas that it was Engr. Manongsong and Egarque who destroyed the fence upon the order of the mayor.^[7]

Alexander testified that he and a certain Reynaldo Gumba constructed the fence twice on the subject property. On the morning of July 6, 2000, he saw the fence being destroyed by Engr. Manongsong and Egarque. He said that he informed Mercedita about the incident and he accompanied the latter to the police station and the offices of Mayor Atienza and Engr. Manongsong. They eventually reported the incident to acting Barangay Chairman Escanillas.^[8]

Private complainant Edmundo corroborated the testimony of Mercedita and further stated that due to the incident, he requested the barangay chairman for a meeting. On July 24, 2000, acting Barangay Chairman Escanillas, the barangay secretary, Engr. Manongsong, Mercedita, Alexander, and a certain Aguado attended the meeting at the barangay hall. Edmundo stated that when Engr. Manongsong was asked why Edmundo was not notified of the destruction of the fence, Engr. Manongsong replied, "*Sino ka para padalhan ng Abiso?*" Edmundo said that they eventually failed to settle the case amicably.^[9]

Acting Barangay Chairman Escanillas testified that Mercedita and Alexander went to her on July 4, 2000 and July 6, 2000 to report that the fence constructed on the property of Edmundo was destroyed by Engr. Manongsong and Egarque upon the order of Mayor Atienza. She added that upon the request of Mercedita, she wrote Engr. Manongsong for a meeting with Edmundo, but the parties failed to settle the

dispute on the scheduled meeting.

All the exhibits offered by the prosecution were marked in evidence and were admitted on September 21, 2005, which consisted of, among others, machine copies of transfer certificates of title, affidavits, and barangay blotters.^[10]

Meanwhile, on September 22, 2004, petitioner filed a Motion to Suspend Accused *Pendente Lite*,^[11] which was opposed by Mayor Atienza and Engr. Manongsong. On August 4, 2005, the Sandiganbayan granted the motion. Mayor Atienza then filed a Motion for Reconsideration,^[12] which petitioner opposed.

Thereafter, on October 11, 2005, Mayor Atienza and Engr. Manongsong filed a Motion for Leave of Court to File Motion to Acquit by Way of Demurrer to Evidence,^[13] which petitioner opposed. On December 6, 2005, the court *a quo* issued a Resolution^[14] which granted the motion. In the same resolution, the court *a quo* also held in abeyance the resolution of Mayor Atienza's motion for reconsideration of the resolution granting his suspension from office.

On January 9, 2006, Mayor Atienza and Engr. Manongsong filed a Demurrer to Evidence (Motion to Acquit),^[15] which was anchored on the credibility of the witnesses for the prosecution. Respondents maintain that the evidence presented were not sufficient to hold them guilty of the offense charged. On January 19, 2006, petitioner filed its Comment/Opposition.^[16]

On January 23, 2006, albeit belatedly, Egarque filed a Manifestation^[17] that he was adopting the Demurrer to Evidence filed by his co-accused.

On February 28, 2006, the Sandiganbayan (Third Division) issued the assailed Resolution which, among other things, granted the Demurrer to Evidence and dismissed the case. The decretal portion of which reads:

WHEREFORE, for lack of sufficient evidence to prove the guilt of all the accused beyond reasonable doubt, the Demurrer to Evidence is hereby GRANTED. This case is hereby ordered DISMISSED.

The bail bonds posted by all accused is hereby ordered CANCELLED and RETURNED to them, subject to the usual accounting rules and regulations.

The Hold Departure Order issued by this Court against all of the accused in this case are hereby LIFTED and SET ASIDE. Let the Commissioner of the Bureau of Immigration and Deportation be notified accordingly.

Consequently, the Motion for Reconsideration, dated August 31, 2005, filed by accused Atienza regarding his suspension from office *pendent lite*, is hereby rendered moot and academic.

SO ORDERED.^[18]

In granting the Demurrer to Evidence, the Sandiganbayan ratiocinated that not all the elements of the crime charged were established by the prosecution, particularly the element of manifest partiality on the part of respondents. The Sandiganbayan held that the evidence adduced did not show that the respondents favored other persons who were similarly situated with the private complainant.

Hence, the petition assigning the following errors:

I.

WHETHER OR NOT THE COURT A *QUO* GRAVELY ERRED IN DENYING THE PEOPLE DUE PROCESS WHEN IT RESOLVED ISSUES NOT RAISED BY RESPONDENTS IN THEIR DEMURRER TO EVIDENCE, WITHOUT AFFORDING THE PROSECUTION AN OPPORTUNITY TO BE HEARD THEREON.

II.

WHETHER OR NOT THE COURT A *QUO* GRAVELY ERRED IN DECIDING A QUESTION OF SUBSTANCE NOT IN ACCORD WITH LAW OR EXISTING JURISPRUDENCE WHEN IT CONSIDERED MATTERS OF DEFENSE.^[19]

Petitioner contends that the prosecution was not afforded due process when the Sandiganbayan granted the Demurrer to Evidence based on the ground that the prosecution failed to establish bad faith on the part of the respondents. Petitioner argues that the Sandiganbayan should have resolved the Demurrer to Evidence based on the argument of the respondent questioning the credibility of petitioner's witnesses and the admissibility of their testimonies in evidence, not upon an issue which petitioner was not given an opportunity to be heard, thus, effectively denying the prosecution due process of law.

Petitioner maintains that contrary to the conclusion of the court *a quo* there was evident bad faith on the part of the respondents. Petitioner insists that the act itself of demolishing a fence erected upon private property without giving notice of the intended demolition, and without giving the owner of the same the opportunity to be heard or to rectify matters, is evident bad faith.

Petitioner also contends that the element of manifest partiality was sufficiently established when the fence was destroyed on the rationale that they do not have a permit to erect the fence; the place was intended for the benefit of fishermen; and it was a tourist spot. Moreover, the demolition was allegedly done in the guise of official business when the fence was demolished on the basis of the above-stated purpose.

Finally, petitioner argues that the constitutional proscription on double jeopardy does not apply in the present case.

On their part, respondents argue that the Sandiganbayan was correct in granting the Demurrer to Evidence and dismissing the case. Respondents allege that the

prosecution was not denied due process of law. Respondents maintain that the prosecution was given every opportunity to be heard. In fact, the assailed resolution was issued after the prosecution has rested its case. Moreover, respondents insist their right against double jeopardy must be upheld.

The petition is bereft of merit.

Respondents are charged with violation of Section 3 (e) of RA 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 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.

This crime has the following essential elements:

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. 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.^[20]

In the case at bar, the Sandiganbayan granted the Demurrer to Evidence on the ground that the prosecution failed to establish the second element of violation of Section 3 (e) of RA 3019.

The second element provides the different modes by which the crime may be committed, that is, through “manifest partiality,” “evident bad faith,” or “gross inexcusable negligence.”^[21] In *Uriarte v. People*,^[22] this Court explained that Section 3 (e) of RA 3019 may be committed either by *dolo*, as when the accused acted with evident bad faith or manifest partiality, or by *culpa*, as when the accused committed gross inexcusable negligence. There is “manifest partiality” when there is a clear, notorious, or plain inclination or predilection to favor one side or person