

SECOND DIVISION

[G.R. Nos. 166794-96, March 20, 2009]

**CESAR P. GUY, PETITIONER, VS. THE PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

[G.R. NOS. 166880-82]

**FELIX T. RIPALDA, CONCEPCION C. ESPERAS, EDUARDO
VILLAMOR, AND ERVIN C. MARTINEZ, PETITIONERS, VS. PEOPLE
OF THE PHILIPPINES, RESPONDENT.**

[G.R. NOS. 167088-90]

**NARCISA A. GREFIEL, PETITIONER, VS. THE HON.
SANDIGANBAYAN AND THE PEOPLE OF THE PHILIPPINES,
RESPONDENTS.**

D E C I S I O N

TINGA, J.:

These are consolidated petitions for review assailing the decision of the Sandiganbayan dated 2 September 2004 in Criminal Cases No. 26508-10^[1] which found petitioners guilty of violating Sec. 3(e) of Republic Act No. 3019 (R.A. No. 3019).

The facts, as culled from the records, follow.

Petitioners Felix T. Ripalda, Concepcion C. Esperas, Eduardo R. Villamor, and Ervin C. Martinez (Ripalda, et al.) are officers and employees of the City Engineer's Office of the City of Tacloban.^[2] Meanwhile, petitioners Cesar P. Guy (Guy)^[3] and Narcisa A. Grefiel (Grefiel)^[4] are the Barangay Chairman and Barangay Treasurer, respectively, of Barangay 36, Sabang District, Tacloban City (Barangay 36). Said petitioners, together with Edgar Amago, a private individual, owner and proprietor of Amago Construction were charged in three (3) separate Informations with violation of Section 3 (e) of R. A. No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, in connection with the construction of three (3) infrastructure projects in Barangay 36, namely: an elevated path walk, a basketball court and a day care center.

It appears that an audit investigation was conducted by the Commission on Audit (COA) in response to a letter-complaint of one Alfredo Alberca regarding the three projects.^[5] The audit team found that the Sangguniang Barangay of Barangay 36, acting as the Pre-Qualification, Bids and Awards Committee (PBAC) accepted bid proposals from Amago Construction and General Services (Amago Construction) without issuing the proper plans and specifications for the basketball court and day

care projects and that the work programs for the day care center and the elevated path walk were prepared long after the construction had been completed. Likewise, Guy and Grefiel reported the construction of the projects to the City Engineer's Office only after they had already been completed; thus, petitioner employees inspected the projects only after they had already been accomplished. Petitioner employees approved the accomplishment of the projects despite the absence of material documents, according to the audit team's report. Finally, the audit team found material defects in the projects and discovered that the contract cost for the basketball court and elevated path walk was overpriced.^[6]

The Ombudsman Prosecutor (Ombudsman-Visayas) filed the corresponding information for the offenses, essentially charging petitioners with violation of Section 3(e) of R.A. No. 3019.

Petitioner employees claimed that the participation of the City Engineer's Office of Tacloban City in the barangay infrastructure projects was only to provide technical assistance to implementing barangays and that it was the barangay officials who supervised the construction of the projects. They aver that the City Engineer's Office was not a member of the PBAC which conducted the bidding process for the subject projects, and that they did not personally know their co-accused Guy and Grefiel, much more did they have any association with them prior to the approval of the three projects. It was Guy and Grefiel who requested the City Engineer's Office to inspect the projects, and that when the City Engineer's Office conducted the inspection, it found the projects already completed. Lastly, they found the three projects to be in accordance with the plans and specifications set for them and there were no anomalies or irregularities in their construction. They add that the residents of Barangay 36 have benefited from the three projects.^[7]

On the other hand, Guy maintained that the three projects were authorized by resolutions duly-enacted by the Sangguniang Barangay. He claimed that a public bidding was conducted before the construction of the projects and that Amago Construction was the winning bidder. He added that Amago Construction constructed the projects and was accordingly paid for the work done and the materials supplied by it.^[8]

Meanwhile, Grefiel argued that her only participation in the projects was her signing of the blank disbursement vouchers and blank checks covering the projects, and that it was Guy who instructed her to affix her signature on the said documents. She added that she did not participate in the supervision of the construction of the projects nor in the disbursement of the payment of any amount for the projects to Amago Construction.^[9]

On 2 September 2004, the Sandiganbayan decided the case against petitioners.

The Sandiganbayan found that Guy and Grefiel awarded the contracts to Amago Construction even if there were no plans and specifications for the day care center and basketball court projects prior to their construction; and that while there was a plan and specification for the elevated path walk, they tolerated Amago Construction's failure to abide by the said plan.^[10] Furthermore, Guy and Grefiel are also responsible for giving Amago Construction the check payments even before requests for obligation of appropriations and disbursement vouchers were made.

[11] The graft court also found that the construction of the projects were reported to petitioner employees after the projects had already been completed, and that these anomalies notwithstanding, petitioner employees certified that the projects were made in accordance with the plans and that the same were 100% completed. Further, the Sandiganbayan found that the quality of the day care center project was substandard, the program of work was not followed, and worse, the contract amounts for the basketball court and the elevated path walk exceeded the allowable project costs.[12] Finally, the Sandiganbayan ruled that the acts of the petitioners, taken collectively, satisfactorily prove the existence of conspiracy.[13]

Disposing of the graft cases, the Sandiganbayan ruled as follows:

Considering that all the elements of R.A. No. 3019, Sec. 3(e) were without doubt established in these cases and the allegation of conspiracy shown, a moral certainty is achieved to find the accused liable for the acts they committed.

WHEREFORE, accused FELIX RIPALDA, EDUARDO VILLAMOR, CONCEPCION ESPERAS, ERVIN MARTINEZ, CESAR GUY and NARCISA GREFIEL are found guilty beyond reasonable doubt of having violated R.A. No. 3019, Sec. 3(e) and are sentenced to suffer the indeterminate penalty of six (6) years and one (1) month as minimum and nine (9) years as maximum for each of the three offenses, perpetual disqualification from public office and to indemnify jointly and severally the Government of the Republic of the Philippines in the amount of eleven thousand eight hundred ninety (P11, 895.00).

Since the Court did not acquire jurisdiction over the person of accused EDGAR AMAGO, let the cases against him be, in the meantime, archived, the same to be revived upon his arrest. Let an alias warrant of arrest be then issued against accused EDGAR AMAGO.

SO ORDERED.[14]

Petitioners filed their separate motions for reconsideration of the decision. However, on 25 January 2005, the Sandiganbayan denied all their motions.[15]

Before this Court, petitioners separately raise the following issues, thus:

In 166794-96 (Cesar P. Guy v. People of the Philippines):

1. The SANDIGANBAYAN (Fourth Division) has decided the above numbered three (3) criminal cases in gross disregard and contrary to the applicable decision of this Honorable Court in the case of LACSON v. EXECUTIVE SECRETARY, et al., and thus, committed grave abuse of discretion amounting to lack or in excess of jurisdiction when it rendered the questioned DECISION and RESOLUTION despite the fact that it had no jurisdiction over the instant three (3) cases due to the failure to aver "the specific factual allegations in the INFORMATIONS that would indicate the close intimacy between the discharge of the accused's official duties

and the commission of the offense charged, in order to qualify the crime as having been committed in relation to public office."

2. GRANTING ARGUENDO that the SANDIGANBAYAN (Fourth Division) had jurisdiction over these three (3) criminal cases--it further committed serious errors of law and disregarded applicable jurisprudence of this Honorable Court and thus, acted with grave abuse of discretion amounting to lack of, or in excess of jurisdiction when it rendered the assailed DECISION convicting herein petitioner and his co-accused and issued the questioned RESOLUTION denying their MOTIONS FOR RECONSIDERATION despite the fact that the prosecution evidently failed to prove the guilt of petitioner and his co-accused beyond reasonable doubt and further miserably failed to prove the allegation of conspiracy beyond reasonable doubt.^[16]

In G.R. No. 167088-90 (Narcisa M. Grefiel v. The Hon. Sandiganbayan and the People of the Philippines):

THE RESPONDENT SANDIGANBAYAN PALPABLY DISREGARDED THE FUNDAMENTAL RIGHT OF THE PETITIONER TO BE PRESUMED INNOCENT AND, INSTEAD, REVERSED THE PRESUMPTION AND CONVICTED THE PETITIONER OF VIOLATION OF THE ANTI-GRAFT LAW INSPITE OF THE CONCEDED FACT THAT PETITIONER HAS NOT DIRECTLY OR INDIRECTLY PARTICIPATED IN THE PRE-BIDDING, BIDDING, AWARD, PROSECUTION AND SUPERVISION OF THE PROJECTS OF THE BARANGAY, THE CONVICTION RESTING NOT ON THE BASIS OF CONCRETE INCULPATORY EVIDENCE BUT ON THE SWEEPING DECLARATION THAT SHE WAS ONE OF THE SIGNATORIES OF THE DISBURSEMENT VOUCHERS AND THE CHECKS RESULTED IN A DUBIOUS FINDING THAT THE PETITIONER CONSPIRED AND CONFEDERATED WITH HER CO-ACCUED FOR THE SUBSTANDARD CONSTRUCTION OF THE BARANGAY PROJECTS.^[17]

In G.R. No. 166880-82 (Felix T. Ripalda, Concepcion C. Esperas, Eduardo Villamor, and Ervin C. Martinez v. People of the Philippines):

GROUND FOR THE PETITION

I

THE COURT A *QUO* DID NOT ACQUIRE JURISDICTION OVER THE CASE

II

THE ASSAILED DECISION OF THE COURT A *QUO* IS NOT IN ACCORD WITH LAW AND APPLICABLE DECISIONS OF THE SUPREME COURT;

III

THE CONCLUSION OF THE COURT A *QUO* FRINDING THE PETITIONERS GUILTY OF THE CRIME CHARGED IS GROUNDED ENTIRELY ON ESTIMATES, SPECULATIONS, SURMISES AND/OR CONJECTURES^[18]

In essence, petitioners maintain that the Sandiganbayan had not acquired jurisdiction over them because the three informations failed to state the specific actual allegations that would indicate the connection between the discharge of their official duties and the commission of the offenses charged; or alternatively, assuming that the Sandiganbayan had actually acquired jurisdiction, the prosecution failed to prove the guilt of the accused beyond reasonable doubt, as well as the existence of conspiracy.

The People of the Philippines, represented by the Office of the Ombudsman (OMB), argues that the averments in the Informations are "complete and wanting of the slightest vagueness as to denote another interpretation or mislead anyone."^[19] Section 6, Rule 110 of the Revised Rules of Court merely require the information to describe the offense with sufficient particularity as to apprise the accused of what they are being charged with and to enable the court to pronounce judgment, such that evidentiary matters need not be alleged in the information. The OMB adds that if it were true that the allegations are vague or indefinite, petitioners should have filed a motion for a bill of particulars as provided under Section 9, Rule 116 of the Rules of Court to question the alleged insufficiency of the informations, or a motion to quash on the ground that the facts averred do not constitute an offense.

The OMB asserts that the prosecution had satisfactorily proven the existence of the elements of the offense under Section 3(e) of R.A. No. 3019, as well as the existence of conspiracy among the accused.^[20]

In addition, the OMB alleges that Grefiel's claim that she was merely constrained to sign the disbursement vouchers and checks relative to the subject projects is pure sophistry, since as barangay treasurer she is mandated to disburse funds in accordance with the Local Government Code. Even Grefiel's claim of miniscule educational attainment should not excuse her from liability.^[21] The OMB posits that petitioners' allegation of error is "actually designed to lure the Court into re-opening the case on the basis of the testimony of the prosecution witnesses which, however, on close scrutiny appear to be credible and substantiated."^[22]

The petitions have to be denied.

Petitioners were charged with violation of Section 3(e) of R.A. No. 3019, which states:

"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

(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