

## FIRST DIVISION

[ G.R. NOS. 144950-71, March 22, 2007 ]

**BLAS BALDEBRIN AND PERPETUO LACEA, PETITIONERS, VS.  
SANDIGANBAYAN (THIRD DIVISION) AND PEOPLE OF THE  
PHILIPPINES, RESPONDENTS.**

### D E C I S I O N

**SANDOVAL-GUTIERREZ, J.:**

Assailed in the instant Petition for Review on Certiorari are the Joint Decision dated December 15, 1998 and Resolution dated August 24, 2000 of the Sandiganbayan in Criminal Case Nos. 3346 to 3400 and Nos. 1445 to 1499 convicting, among others, Blas Baldebrin and Perpetuo Lacea for violations of Section 3(e) of Republic Act (R.A.) No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, as amended.

On August 8, 1981, the Tanodbayan (now Ombudsman) filed with the Sandiganbayan one hundred ten (110) Informations for violations of Section 3(e) of R.A. No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, as amended. In Criminal Case Nos. 3346 to 3400, ten (10) officials of the Ministry of Public Highways (MPH), now Department of Public Works and Highways, were charged. In Criminal Case Nos. 1445 to 1499, thirty-eight (38) officials and eight (8) private contractors were indicted. Among these officials were petitioners Baldebrin and Lacea. Baldebrin was the administrative officer of the Negros Oriental Highway Engineering District (NOHED), while Lacea, a civil engineer, was the field supervisor.

The Informations in the second batch of fifty-five (55) cases (including those against petitioners) were identically worded, except for the dates of the commission of the crime, the names of the public officials and private individuals charged, the amounts involved and other data. Baldebrin was charged with thirteen (13) counts, while Lacea was charged with fourteen (14) counts. For brevity, we reproduce the Information in Criminal Case No. 1449 as sample, thus:

That on or about November 10, 1977 up to and including November 25, 1977, in the Cities of Cebu, Dumaguete and the **Province of Negros Oriental** and within the jurisdiction of the Honorable Sandiganbayan, the accused NORBERTO BERNAD, District Engineer, Negros Oriental Highway Engineering District (NOHED), Dumaguete City; MANUEL DE VEYRA, Director, MPH, Region VII, Cebu City; ADVENTOR FERNANDEZ, Highway Regional Director, MPH Region VII, Cebu City; RUFINA GREFALDE, District Accountant, NOHED, Dumaguete City; NAPOLEON CLAVANO, Supervising Civil Engineer I, NOHED, Dumaguete City; ROLANDO MANGUBAT, Regional Accountant, MPH Region VII, Cebu City; DELIA PREAGIDO, Assistant Regional Accountant; ANGELINA ESCAÑO, Finance Officer, MPH, Region VII, Cebu City; LINDY TVS ENRIQUEZ, Property Officer/Custodian, NOHED, Dumaguete City; EFREN COYOCA, District Auditor, NOHED,

Dumaguete City; HERACLEO FAELNAR, then Acting Assistant Regional Director, MPH Region VII, Cebu City; **BLAS BALDEBRIN, Administrative Officer I, NOHED, Dumaguete City**; JAIME OBSEQUIO, Assistant District Engineer III, NOHED, Dumaguete City; JESUS PEDROZA, JR., Laborer, NOHED, Dumaguete City; ANTIPAS PONTENILLA, Auditing Examiner, District Auditor's Office, NOHED, Dumaguete City; **PERPETUO LACEA, Civil Engineer, NOHED, Dumaguete City**; and others whose identities are not yet known in conspiracy with each other, all taking advantage of their official positions, with the indispensable cooperation and/or direct participation of CLODUALDO C. GOMILLA, Proprietor of C.G. Gomilla Sand and Gravel, Private Contractor, with evident bad faith, manifest partiality and/or gross inexcusable negligence did there and then willfully, knowingly and unlawfully caused undue injury to the Republic of the Philippines in the amount of THIRTY SEVEN THOUSAND EIGHT HUNDRED PESOS (P37,800.00), Philippine Currency, by falsifying Negros Oriental Highway Engineering District General Voucher No. 1413 dated November 25, 1977 and Treasury Check No. 4215382 dated November 25, 1977 in the amount of P37,800.00 and its supporting documents, such as the Request for Obligation of Allotment (ROA), Request for Supplies and Equipment (RSE), Purchase Order (PO), Report of Inspection (ROI), Daily Tally Sheets (DTS) and Delivery Receipts (DR), simulating them to appear regular as payment for 1050 cubic meters of Item 200 and charging this General Voucher 1413 to Letter of Advice of Allotment No. 107-703-039-77, when in truth and in fact as all the accused knew there were no actual deliveries and receipts of the said Item 200, the foregoing documents were simulated, falsified and incorrect and that the LAA No. 107-703-039-77 is without budgetary basis and not covered by any Sub-Advice of Allotment from the Ministry of Public Highways, Manila, and further by manipulating the books of accounts of the MPH, Region VII, all for the purpose of covering their criminal act, and finally, upon receipt of the said amount of THIRTY SEVEN THOUSAND EIGHT HUNDRED PESOS (P37,800.00), Philippine Currency, the accused misappropriated, converted and misapplied the same for their personal gain and profit.

#### CONTRARY TO LAW.

Evidence for the prosecution, oral and documentary, shows that upon investigation conducted by the Commission on Audit (COA) Regional Office No. VII in 1978, it was found that the personnel in the fifteen (15) Highway Engineering Districts of the MPH (now Department of Public Works and Highways) in that Region were involved in the irregular disbursements of "ghost" deliveries of materials used in various highway projects. The illegal disbursements were made possible through the falsification of public and commercial documents.

Due to the seriousness of the irregularities then being committed by the personnel in those fifteen (15) Highway Engineering Districts, then President Ferdinand E. Marcos created a Special Cabinet Committee in the MPH Region VII "Ghost Project Anomalies" which, in turn, organized a Special Task Force (hereinafter referred to as the team) to conduct a wider and more extensive investigation in the said Highway Engineering Districts, including the NOHED. The team was composed of representatives from the Finance Ministry (now the Department of Finance)

Intelligence Bureau, National Bureau of Investigation, the Bureau of Treasury, and the COA.

During the investigation conducted by the team in the NOHED, it found twenty six (26) vouchers funded on the bases of **fake supporting documents**,<sup>[1]</sup> twelve (12) of which were charged against Accounts Payable (8-81-400) or Prior Years' Obligation; and fourteen (14) were charged against Current Obligations (101-83). The team reported that the payments of obligations for the transactions entered into during the period from March to September, 1978 were attended by irregularities. These were transactions which should have been charged against the Current Account. The team also noted that there was splitting of requisitions, in violation of COA Circular No. 76-41 dated July 30, 1976.<sup>[2]</sup> The splitting of requisitions is prohibited to prevent the circumvention of control measures promulgated by the government.<sup>[3]</sup> In these cases, each requisition indicated the same date, the same items, the same purpose, site or area, and only one person as claimant. The amount in each requisition was always less than P50,000.00 so that it would no longer be approved by the Regional Director.<sup>[4]</sup> Some of the Requisition Issue Vouchers were not numbered for purposes of identification in order that they could be used again to support other claims. The team also found that some of the reports of inspection attached to the vouchers were undated.

After collating its findings, the team reported these total disbursements based on fake allotments: P745,957.00 for 1977 and P1,321,664.44 for 1978.<sup>[5]</sup>

Delia Preagido,<sup>[6]</sup> one of those involved in the perpetuation of fraud and who later became a state witness,<sup>[7]</sup> narrated the events that led to the investigation,<sup>[8]</sup> thus:

Sometime in February 1977, she, together with accused Rolando Mangubat (Chief Accountant), Jose Sayson (Budget Examiner), and Edgardo Cruz (Clerk II), all of the MPH Region VII, met at the Town and Country Restaurant in Cebu City and hatched an ingenious plan to siphon off large sums of money from government coffers. Mangubat found a way to withdraw government money through the use of fake LAAs, vouchers and other documents, and to conceal traces thereof, with the connivance of other government officials and employees. In fine, the fraudulent scheme involved the splitting of LAAs and RSEs so that the amount covered by each general voucher is less than P50,000.00 to do away with the approval of the Regional Director, the charging of disbursements to unliquidated obligations due the previous year to provide the supposed source of funds, and the manipulation of the books of account by negation or adjustment, i.e., the cancellation of checks through journal vouchers to conceal disbursements in excess of the CDC, so that such disbursements are not reflected in the trial balances submitted by the Regional Office to the MPH Central Office in Manila.

Mangubat enticed Preagido, Cruz and Sayson to join him. All three agreed to help him carry out his plan. They typed the fake LAAs during Saturdays. Cruz and Sayson also took charge of negotiating or selling the fake LAAs to contractors at 26% of the gross amount. On her part, Preagido manipulated the General Ledger, Journal Vouchers and General Journal through negative entries to conceal the illegal disbursements.

The four formed the nucleus of the conspiracy. Other government employees tempted by the prospect of earning big money, allowed their names to be used and signed spurious documents.

The defense presented nineteen (19) witnesses, including petitioners Baldebrin and Lacea, to prove that road construction materials were actually delivered; that the road projects were properly undertaken and fully accomplished; that accused public officers only performed their duties without any knowledge of the irregularities that had been going on; and that they did not receive any money derived from the anomalies.

Specifically, Baldebrin testified that all the bidding reports signed by him involved in fourteen (14) cases were conducted in accordance with the rules. As a member of the Bidding and Award Committee (BAC), he saw to it that the bidders had prequalified; that fifteen (15) minutes before the opening of bids, prospective bidders were called to attend and observe; and that the award was given to the lowest bidder. He stressed that he was not duty-bound to see to it that the items purchased were actually delivered; that he had no reason to suspect that there were irregularities because the materials being purchased were within the normal volume ordered by the district.<sup>[9]</sup>

For his part, petitioner Lacea testified that as field supervisor of the NOHED, it was his duty to check and inspect the materials delivered in his area and to sign reports of inspection, delivery receipts, and tally sheets of all materials purchased and delivered.<sup>[10]</sup> Concerning the fourteen (14) documents he signed for which he was indicted, the materials specified therein were actually delivered. He inspected them and found that the volume delivered corresponded to that stated in the inspection reports he signed.<sup>[11]</sup> He denied having taken part in the conspiracy.

On December 15, 1998, the Sandiganbayan rendered its Decision finding that all the accused "connived and cooperated with each other to defraud the government, each performing his or her assigned task to attain their common objective." Both petitioners and their co-accused were found guilty beyond reasonable doubt of the crime charged. They were sentenced in each case to a penalty ranging from four (4) years and one (1) day of *prision correccional*, as minimum, to seven (7) years of *prision mayor*, as maximum; to suffer perpetual disqualification from public service; to indemnify jointly and severally the Republic of the Philippines of the amounts involved in each case; and to pay their proportionate shares of the costs.

In convicting petitioner Baldebrin, the Sandiganbayan held:

The Abstracts of Bids signed by him, aside from being so many (14 in all), were opened in groups and each group had the same date. From the contents of the Abstracts of Bids, it could readily be noticed that they involved the same material (Item 200), the same suppliers or contractors, and in quantities valued at less than P50,000.00 each. The splitting of transactions or accounts was clearly evident and Baldebrin could not have failed to notice it because he signed the Abstracts of Bids in groups. "Why are there so many separate bids for the same material, from the same suppliers/contractors, for the same project on the same day?" Surely this question must have cropped up in his mind, assuming