

FIRST DIVISION

[G.R. NO. 169251, December 20, 2006]

**DEMIE L. URIARTE, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

D E C I S I O N

CALLEJO, SR., J.:

This is a Petition for Review on *Certiorari* of the Decision^[1] of the Sandiganbayan in A.R. No. 058 and its Resolution^[2] denying the motion for partial reconsideration thereof. The assailed decision affirmed with modification the Decision^[3] of the Regional Trial Court (RTC) of Cantilan, Surigao del Sur, Branch 41, convicting petitioner Demie L. Uriarte for violation of Section 3(e), Republic Act (R.A.) No. 3019.

Petitioner was the Municipal Assessor of the Municipality of Carrascal, Surigao del Sur. In 1948, Joventino Correos declared for taxation purposes a .9434-hectare parcel of land under Tax Declaration (TD) No. 3352.^[4] The pertinent entries read:

Location: Batong, Carrascal, Surigao

Area: .9434 hectares

Boundaries:

North: Carrascal River;

South: Maximo Leva and Botong Rill;

East: Botong Creek;

West: Carrascal River

In 1974, TD No. 3352 was cancelled by TD No. 5249.^[5] In 1980, the previous tax declaration was "revised" by TD No. 116,^[6] where the entry pertaining to the location of the property was changed from "Batong, Carrascal, Surigao del Sur" to "(S) Botong, (B) Doyos, Carrascal, Surigao del Sur." In 1985, TD No. 116 was cancelled by TD No. 121,^[7] where the boundaries of the property were also changed, as follows:

Boundaries:

North: Carrascal River

South: Botong Rill

East: Botong Creek

West: Antioco Uriarte

TD No. 121 thus contained significant "revisions." The subsequent tax declarations, however, no longer contained alterations: TD No. 132^[8] which canceled T.D. No. 121; ARP No. 93-08-00344^[9] in 1994; and ARP No. 96-08-00349^[10] in 1997.

However, in ARP No. 96-08-00328^[11] filed in 2000, the entries in the original tax declaration–TD No. 3352–were restored.

Meantime, in 1954, Antioco Uriarte, petitioner's father, declared a two-hectare lot for taxation purposes under TD No. 4642.^[12] The pertinent entries are the following:

Area: 2 hectares

Location: Doot, Poblacion, Carrascal, Surigao

Boundaries:

North: Carrascal River;

South: Maximo Leva;

East: Botong Rill;

West: Maximo Leva and Carrascal River

In 1974, TD No. 4642 was canceled by TD No. 1534,^[13] and the entries regarding the boundaries of the property were also altered.^[14] In 1980, TD No. 1534 was cancelled by TD No. 243,^[15] where "Embarcadero" was inserted on the entry pertaining to the location of the property. In 1985 TD No. 243 was canceled by TD No. 247.^[16] This time, the area of the property was changed from two (2) to three (3) hectares, and the boundary in the east became "Joventino Correos." The subsequent tax declarations, TD No. 270^[17] which canceled TD No. 247 and ARP No. 96-09-00290^[18] effective 1997, did not contain any further alterations. Thus, the "boundaries" of the lot became

North: Carrascal River;

South: Pantaleon Cervantes;

East: Joventino Correos;

West: Maximo Leva

The above alterations were allegedly committed by petitioner when she was the Municipal Assessor and Deputy Provincial Assessor of Carrascal, Surigao del Sur. On May 21, 1999, Evelyn Arpilleda, through counsel, sent a letter^[19] informing petitioner of the alterations that had been made on the tax declarations of her predecessor, Joventino Correos. She requested that the "erroneous and prejudicial entries" be rectified.

Petitioner complied with the request. Thus, in ARP No. 96-08-00328, the original entries were restored.

On July 5, 1999, Arpilleda, through counsel, sent a letter^[20] to the Office of the Ombudsman (Mindanao) stating the alleged unlawful acts of petitioner in altering the tax declarations of Joventino Correos and Antioco Uriarte. It was alleged that the alterations prejudiced her since they became the basis of petitioner's "forceful and unlawful possession" of the subject property.

The Office of the Ombudsman requested Arpilleda to formalize the charges.^[21] She later complied by filing a Sworn Complaint^[22] dated August 19, 1999. Petitioner filed his Counter-Affidavit,^[23] to which Arpilleda filed her Reply-Affidavit^[24] on

October 28, 1999.

The Office of the Ombudsman-Mindanao later filed an Information^[25] dated November 24, 1999 before the RTC^[26] of Tandag, Surigao del Sur against petitioner for violation of Section 3(e), R.A. 3019.

On December 15, 1999, the Administrative Officer of the Office of the Provincial Prosecutor of Tandag, Surigao del Sur forwarded^[27] the entire case record to the RTC of Cantilan, Surigao del Sur, Branch 41.

On March 13, 2000, private complainant, through counsel, filed a Motion to Suspend *Pendente Lite*,^[28] alleging that the immediate suspension of petitioner is proper in view of the provisions of R.A. 3019 and existing jurisprudence.^[29]

Petitioner was arraigned on March 14, 2000, and pleaded not guilty. On even date, the trial court ordered^[30] his preventive suspension.

The case was then set for pre-trial and the parties submitted their respective pre-trial briefs. On June 15, 2000, petitioner filed a Motion to Lift Order of Preventive Suspension,^[31] pointing out that he had already served three months' suspension. The trial court granted the motion on June 16, 2000.^[32]

On October 2, 2000, petitioner filed a Motion to Quash the Information.^[33] He claimed that the trial court did not acquire jurisdiction over the case because in the first place, the special prosecution officer of the Office of the Ombudsman-Mindanao had no authority to file the information. To support his claim, petitioner cited *Uy v. Sandiganbayan*,^[34] where it was held that the authority to file the corresponding information before the RTC rests in the prosecutor, not the Ombudsman, and that the latter exercises prosecutorial powers only in cases cognizable by the Sandiganbayan. The trial court provisionally dismissed^[35] the case and ordered the cancellation of petitioner's bail bond.

On July 12, 2001, the private prosecutor moved to reinstate the case,^[36] claiming that the Supreme Court likewise declared in a Resolution in *Uy v. Sandiganbayan*^[37] that the Ombudsman is clothed with authority to conduct preliminary investigation, and to prosecute all criminal cases involving public employees—not only those involving public officers within the jurisdiction of the Sandiganbayan but also those within the jurisdiction of the regular courts.

On November 6, 2001, the trial court ordered the case reinstated. Since the bail bond of petitioner had been cancelled, the trial court further ordered the issuance of a warrant of arrest. Petitioner posted bail.

Private complainant filed a Reservation to File Civil Action^[38] which the trial court granted in an Order^[39] dated March 15, 2002. She likewise filed a Manifestation and/or Motion for Inhibition,^[40] which was however denied in an Order^[41] dated July 3, 2002.

Trial on the merits ensued, and the prosecution presented the following witnesses:

private complainant Arpilleda, who testified that petitioner, as Municipal Assessor, took advantage of his position and caused changes in the location and boundaries of various tax declarations of Joventino Correos and Antioco Uriarte, and that these changes were designed to promote petitioner's own interest, thus causing damage and prejudice to her and her co-heirs;^[42] Tremy Correos who corroborated private complainant's testimony, specifically on the damage they sustained when petitioner evicted them from the land they had been occupying;^[43] Richard Paniamogan who, as barangay captain of Embarcadero, issued a certification that Botong is located in that barangay and testified thereon;^[44] Charmelinda A. Yañez, then the provincial assessor who testified on the limitations of the powers of the municipal assessor;^[45] SPO2 Saturnino Cubero, whose testimony was, however, dispensed with in view of the parties' admission of the copy of the police blotter on the alleged eviction of private complainant and her co-heirs from the lot;^[46] and Carlito A. Ladroma who likewise testified that Botong is part of barangay Embarcadero.^[47]

On the other hand, the defense presented four (4) witnesses, namely: Leovino Constantino, an employee of the Department of Environment and Natural Resources who testified that the land covered by the subject tax declarations had not been surveyed and no title had been issued by the City Environment and Natural Resources Office;^[48] Florida Coma who was once the barangay captain of *Barangay* Embarcadero and testified that Sitio or Purok Doot, Pelong belongs to *Barangay* Embarcadero, while Botong belongs to *Barangay* Doyos;^[49] and Gaudiosa Tolentino who testified on the creation of barangays Embarcadero and Doyos as well as the existing sitios.^[50]

Petitioner, for his part, admitted that he had made changes on the tax declarations. He however justified the changes, stating that they were the result of the general revision made in 1978. He also claimed that as municipal assessor, he has absolute authority to determine the *barangay* to which a particular property belongs. He further asserted that the prosecution failed to cite any law that prohibits a municipal assessor from making revisions on (a) the location of the property according to *barangay*; (b) the names of the adjoining owner; or (c) the boundaries of the property. Petitioner likewise insisted that the case is civil and not criminal in nature.^[51]

Petitioner filed a Motion for Leave to file Demurrer to Evidence^[52] dated June 25, 2003. However, the trial court denied the motion in its Order^[53] dated August 1, 2003.

After the parties rested their respective cases, the RTC, on April 29, 2004, rendered a decision^[54] convicting petitioner of violating Section 3(e) of R.A. 3019. The *fallo* reads:

WHEREFORE, premises considered, this Court finds DEMIE URIARTE Y LIMGUANGCO, Municipal Assessor of Carrascal, Surigao del Sur, GUILTY BEYOND REASONABLE DOUBT as principal for violation of Section 3, paragraph (e) of Republic Act 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act and applying the Indeterminate Sentence Law, this Court imposes upon the accused the penalty of imprisonment ranging from SIX (6) YEARS and ONE (1) MONTH to TEN

(10) YEARS and ONE (1) DAY; perpetual disqualification from holding public office and forfeiture of all retirement benefits or gratuity benefits under any law and in the event that such convicted officer, who may have already been separated from the service, has already received such benefits shall be liable to reconstitute the same to the government.

The bail bond put up by the accused for his temporary liberty is ordered cancelled. Accused shall serve his sentence at the Davao Prison and Penal Farm, Panabo City, Davao del Norte pursuant to Circular No. 63-97 of the Supreme Court dated October 6, 1997.

To pay the cost.

SO ORDERED.^[55]

On April 29, 2004, petitioner filed a Notice of Appeal^[56] to the Court of Appeals (CA), which was later withdrawn.^[57] On May 6, 2004, petitioner filed a Notice of Appeal^[58] before the Sandiganbayan on the following grounds:

I.

THE TRIAL COURT ERRED IN CONVICTING DEMIE L. URIARTE FOR VIOLATION OF SEC. 3(E) OF R.A. 3019 UNDER THE INFORMATION THAT DOES NOT CHARGE (SIC) SUCH AN OFFENSE.

II.

EVEN ASSUMING FOR THE SAKE OF ARGUMENT (THAT) THE INFORMATION CHARGES THE OFFENSE OF VIOLATION OF SEC. 3 (E) OF R.A. 3019, STILL, THE TRIAL COURT COMMITTED GRAVE AND REVERSIBLE ERROR IN CONVICTING THE ACCUSED BASED ON FACTS NOT ALLEGED IN THE INFORMATION AND NOT SUPPORTED BY EVIDENCE.

III.

ASSUMING FURTHER THAT THE INFORMATION CHARGED VIOLATION OF SEC. 3 (E) OF R.A. 3019, AGAIN, THE TRIAL COURT SERIOUSLY ERRED AND ACTED WITH GRAVE ABUSE OF DISCRETION TANTAMOUNT TO LACK OR IN EXCESS OF JURISDICTION IN CONVICTING THE ACCUSED NOTWITHSTANDING THE FAILURE OF THE PROSECUTION TO SPECIFY, QUANTIFY AND PROVE THE ELEMENT OF "UNDUE INJURY" PURSUANT TO THE RULING OF THE SUPREME COURT IN *LLORENTE V. SANDIGANAYAN* (SIC) [G.R. NO. 122166. MARCH 11, 1998].

IV.

THE TRIAL COURT ERRED IN NOT ACQUITTING THE ACCUSED FOR FAILURE OF THE PROSECUTION TO PRESENT CLEAR AND CONVINCING EVIDENCE TO OVERCOME THE LEGAL PRESUMPTION OF REGULARITY IN