

SECOND DIVISION

[G.R. NO. 139984, March 31, 2005]

**LEOPOLDO OANI, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

DECISION

CALLEJO, SR., J.:

During the school year 1988-1989, the Panabo High School in Panabo, Davao del Norte, headed by its Principal, Leopoldo Oani, implemented the free secondary school program of the government. During the period of November 1, 1988 to December 31, 1989, the high school received the amount of P648,532.00 from the Department of Education, Culture and Sports (DECS) for Maintenance and Other Operating Expenses (MOOE).^[1] Of the said amount, P551,439.13 was earmarked for the purchase of various supplies, materials and equipment.^[2]

On March 1, 1990, the DECS Secretary received a letter^[3] from the Parents Teachers Association of the Panabo High School regarding the investigation of Principal Oani and Bonifacio Roa, the Resident Auditor regarding, among other things, the alleged overpricing of 12 fire extinguishers for P15,000.00 each. The Regional Office of the COA then issued Assignment Order No. 90-137 dated March 2, 1990 to a team of auditors, composed of Jaime P. Naranjo, as Chairman, and Bienvenido Presilda and Carmencita Enriquez, as members. The team had the following tasks:

To determine whether the MOOE Funds of the Panabo High School, particularly for supplies, materials and equipment were utilized and/or expended in accordance with existing laws, rules and regulations.

Specific Objectives:

1. To be able to identify losses of funds resulting from fraudulent transactions.
2. To be able to determine the following:
 - a) Existence of fraud.
 - b) Extent of fraud committed.
 - c) Method or means by which fraud was committed.
 - d) Persons liable.^[4]

The team gathered information based on interviews of the persons involved, including Oani and Roa, and other school personnel. They also secured documents

from government agencies and private entities to verify the purchase and delivery of fire extinguishers, as well as office and school supplies to the high school which were charged against the MOOE. They, likewise, conducted ocular inspections of other business establishments in connection with the said purchases.

The team discovered that on June 23, 1989, Oani had approved a Requisition and Issue Voucher^[5] for the acquisition of 15 units of fire extinguishers for the use of the high school as mandated by Presidential Decree No. 1185, also known as the Fire Code of the Philippines. The supplies are described in the voucher as follows:

Quantity	Unit	Article
15	Units	10 lbs. capacity powerline fire extinguisher ABC Tri-Class dry chemical general purpose – BRAND NEW -
		In compliance with PD 1185 known as Fire Code of the Philippines.

The amount of P55,000.00 was certified as available for the purpose. Instead of conducting a public bidding, Oani decided to purchase the fire extinguishers from the Powerline Manufacturing Industry (Powerline, for brevity) for P54,747.00. Powerline was owned by Francisco Cunanan and had its business address at Km. 5, Carnation St., Buhangin, Davao City. The enterprise was authorized by the Department of Trade and Industry to manufacture and refill stored pressure type (Light Pink only) mono-ammonium phosphate for ABC fires.^[6]

On June 27, 1989, Oani approved Purchase Order No. 2^[7] for nine units of fire extinguishers and requested Powerline to deliver the supplies. Upon delivery thereof, Oani approved a disbursement voucher^[8] in favor of the supplier for the amount of P54,747.00. The supplier acknowledged receipt of the said amount through check.^[9]

The members of the Audit Team that conducted a re-canvass for fire extinguishers of the same brand and features as those supplied by Cunanan discovered that each unit could be purchased for only P2,970.00, inclusive of 10% allowance. The purchase of the nine units of fire extinguishers was, thus, overpriced by P23,040.00.^[10]

Oani had also approved a Requisition and Issue Voucher for a set of Stereo Amplifier and components described therein, thus:

Quantity	Article
1 set	Stereo Amplifier – Consisting of the [ff]:
	1 unit Sound Research SR 100A 200 Watts 1 unit Sound Research 6 Mic. Mixer 1 set 12”

		3-Way Speaker System 1 unit Radio Cassette – Portable 1 unit Phono – Magnetic x 2 units Microphone & Microphone Stand w/ Holder
3	pieces	Electrical Bell 8-10 inches diameter ^[11]

Separate invitations to bid were sent to ASM Enterprise, Edwin Marketing and RS Marketing,^[12] which submitted their bids to the Awards Committee composed of Oani, as Chairman, and Domingo Pintongan, Mercita Jayoma and Roa as members. The contract was awarded to ASM Marketing.^[13]

On December 28, 1989, Oani approved a Purchase Order^[14] for a complete set of amplifiers for the price of P35,650.00 and requested the ASM Marketing to deliver the merchandise. As per Oani's request, Arlene Lomugdang, the accounting clerk of the school, issued a Certification that the amount of P35,650.00 was available for the said expense.^[15]

Check No. 095751 was drawn against the MOOE for P35,650.00 in payment of the said supplies and was remitted to the ASM Marketing, after the disbursement voucher^[16] for the said amount was approved by Oani.

Canvass forms were distributed to business enterprises, including Red Lion Marketing for the purchase of office supplies. The contract was awarded to Red Lion Marketing for the price of P61,912.35. The office supplies were delivered to the school, after which Oani approved the disbursement voucher for the said amount which was drawn against the MOOE.^[17] The supplier thereafter received payment thereon.

In a separate transaction, Oani again approved the purchase of office supplies chargeable against the MOOE. The contract was awarded to the Red Lion Marketing for P111,912.35. The supplies were delivered by Red Lion Marketing to the high school per Sales Invoice Nos. 486, 487, 488 and 489 on March 10, 1989. Oani approved Disbursement Voucher No. 101-8903-017^[18] in favor of Red Lion Marketing for the said amount. Payment for the merchandise was, likewise, received by the supplier.

The Auditing Team conducted a review of the prices of the stereo set and school and office supplies, and discovered that they could be purchased for only P144,621.51 instead of the P227,857.45 paid by the school. The Auditing Team recommended the filing of administrative and criminal complaints for violations of Rep. Act No. 3019 against Oani and Roa.

On March 30, 1993, Informations were filed against Oani and Roa in the Sandiganbayan for violation of Section 3(e) of Rep. Act No. 3019. The accusatory portion of the Information docketed as Criminal Case No. 18885 reads:

That on or about the month of December 1989, and sometime prior or subsequent thereto, in the Municipality of Panabo, Province of Davao del Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, both public officers, LEOPOLDO OANI being then the Secondary School Principal and BONIFACIO ROA being then the Resident Auditor, both of the Panabo High School, Davao del Norte, while in the performance of their official functions, committing the offense in relation to their office and conspiring and confederating with each other, did then and there willfully, unlawfully, criminally and with evident bad faith cause undue injury to the Government in the following manner: in the purchase of nine (9) fire extinguishers for the Panabo High School, accused deliberately disregarded the requirements on public bidding by allowing the forms such as Request for Quotations and Canvass to be accomplished by the winning bidder notwithstanding the fact that no canvass was made at all, as [a] result of which the nine (9) fire extinguishers were purchased from Powerline Company at the total price of P54,747.00, although the real amount of such fire extinguishers and which was supposed to have been paid was only P2,560.00 per unit or P23,040.00 in all, thereby causing undue injury to the government in the amount of THIRTY-ONE THOUSAND SEVEN HUNDRED PESOS (P31,700.00), Philippine Currency.

CONTRARY TO LAW.^[19]

The other Information, docketed as Criminal Case No. 18886, reads:

That on or about the month of December 1989, in the Municipality of Panabo, Province of Davao del Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, both public officers, LEOPOLDO OANI being then the Secondary School Principal and BONIFACIO ROA being then the Resident Auditor, both of Panabo High School, Davao del Norte, while in the performance of their official functions, committing the offense in relation to their office, and conspiring and confederating with one another, did then and there willfully, unlawfully, criminally and through evident bad faith cause undue injury to the Government in the following manner: in the purchase of sound equipment, supplies and materials for the Panabo High School, accused deliberately disregarded the requirements on public bidding by allowing the forms such as Request for Quotations and Canvass to be accomplished by the winning bidders themselves notwithstanding the fact that no canvass was made at all, as a result of which the sound equipment, office forms and office supplies were purchased from ASM Marketing and Red Lion Marketing for a total price of P227,857.45, although the real amount supposed to have been paid was only P144,621.51, thus, causing undue injury to the Government in the amount of EIGHTY-THREE THOUSAND TWO HUNDRED THIRTY-FIVE & 94/100 pesos (P83,235.94), Philippine Currency.

CONTRARY TO LAW.^[20]

Oani admitted that no public bidding was conducted prior to the purchase and delivery of the fire extinguishers, but averred that he was authorized to purchase

the same by negotiation because Francisco R. Cunanan, the proprietor of Powerline, submitted a Certification dated "January 1988" pursuant to COA Circular No. 91-368 and Article 7, Section 442 of the Government Auditing Rules and Regulations (GARR), stating that the company is the only authorized and duly-licensed manufacturer and exclusive distributor of Powerline fire extinguishers brand, and that no other dealer, sub-dealer or distributor was appointed or authorized to sell his major line products.^[21] Oani averred that a canvass of prices was done for the purchase of the office and school supplies, and that the Bidding Committee awarded the contract to ASM Marketing based on the abstract of bids placed by the suppliers at the scheduled bidding. He then approved the purchase orders for the supplies to ASM Marketing which delivered the equipment. The same procedure was followed for the purchase of the office supplies. He asserted that the law and the COA procedures were followed in the bidding process and the purchase of school and office supplies.

Oani further averred that the trial court erred in relying solely on the Audit Report of the auditing team. He asserted that it was not his duty to check whether those participating in the bidding were *bona fide* dealers. As long as such bidder could purchase the supplies and materials indicated in the bidding request and the price is reasonable, there was sufficient basis to award the contracts. He admitted the possibility that he had made a wrong assessment of the bidding and canvass, but claimed that he acted in good faith.

After trial, the Sandiganbayan promulgated a decision acquitting Roa, but convicting Oani of the crimes charged. The *fallo* of the decision reads:

WHEREFORE, judgment is hereby rendered CONVICTING accused LEOPOLDO E. OANI of the crime[s] charged in both Criminal Cases Nos. 18885 and 18886, his guilt having been proven beyond reasonable doubt. Accordingly, in Criminal Case No. 18885, Leopoldo E. Oani is hereby sentenced to suffer an indeterminate penalty of SIX (6) YEARS and ONE (1) MONTH as minimum, to EIGHT (8) YEARS as maximum, and to suffer perpetual disqualification from public office. He is ordered to retribute to the treasurer of the Panabo National High School the amount of TWENTY-THREE THOUSAND FORTY PESOS (P23,040.00).

In Criminal Case No. 18886, Leopoldo E. Oani is hereby sentenced to suffer an indeterminate penalty of SIX (6) YEARS and ONE (1) MONTH, as minimum, to EIGHT (8) YEARS, as maximum, and to suffer perpetual disqualification from public office. Also, he is hereby ordered to retribute the amount of SEVENTY-THREE THOUSAND EIGHT HUNDRED SEVENTY-EIGHT PESOS AND SEVENTY-NINE CENTAVOS (P73,878.79) to the treasurer of the Panabo National High School.

The actual period of accused LEOPOLDO E. OANI's preventive imprisonment, if any, shall be credited to the service of his sentence.

As to accused BONIFACIO ROA y GALINDO, he is hereby ACQUITTED of the crime charged in both Criminal Cases No. 18885 and 18886.

Accordingly, the cash bond of the said BONIFACIO ROA posted in both cases in the amount of FIFTEEN THOUSAND PESOS (P15,000.00) each,