

## FIRST DIVISION

**[ G.R. No. 115221, March 17, 2000 ]**

**JULIUS G. FROILAN, PETITIONER, VS. THE HONORABLE  
SANDIGANBAYAN, RESPONDENT.**

### **DECISION**

**YNARES-SANTIAGO, J.:**

Once again, the issue of whether or not the constitutional right of an accused to be presumed innocent has been overcome so as to warrant a judgment of conviction confronts this Court.

On a petition for *certiorari*, petitioner, Julius Froilan, has challenged the judgment of conviction of respondent court finding him as well as three (3) other co-accused guilty of the crime of violation of Section 3(g) of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, for being contrary to law and jurisprudence.

The facts of the case as found by the Sandiganbayan and quoted both by petitioner and the Office of the Solicitor General in their respective pleadings filed before us are quoted verbatim, to wit:

Needing chemicals for its laboratory, the Bohol Agricultural College, a government educational institution in Bilar, Bohol, purchased on June 13, 1984, chemicals priced at P10,633.00 from the JDS Traders, a business firm in Tagbilaran City. As required in the procurement of government supplies, an RIV (Requisition and Issue Voucher) was prepared on May 30, 1984 by Benigno V. Mandin, Supply Officer, and approved by Mateo M. Limbago, Superintendent of the school (Exhibit A). It would appear that requests for price quotations were sent out to and filled out by three suppliers, namely: Farmacia Libertad, Tower View General Merchandise and JDS Traders, all of Tagbilaran City (Exhibits B, C and D). On the basis of the quotations submitted by these suppliers, an abstract of canvass (Exhibit E) was prepared by Supply Officer Benigno Mandin, and recommended for approval by a Committee on Award, composed of Sergio L. Salubre, Rutillo G. Real and Victorio S. Pabe. The award was in favor of JDS Traders which supposedly submitted the lowest quotation of P10,633.00, broken down as follows:

Qty.	Unit	Name of Article	Unit Price	Amount
1	gal.	Ether Solution AR	P1,455.00/gal.	P1,455.00
1	gal.	Carbon Tetra	1,550.00/gal.	1,550.00

1	kilo	Chloride AR Glucose Powder AR	1,420,00/kilo	1,420,00
1	lit.	Nitric Acid AR	1,320.00/lit.	1,320.00
1	lit.	Hydrochloric Acid AR	1,358.00/lit.	1,358.00
1	kilo	Sodium Hydroxide AR	1,380.00/kilo	1,380.00
1	lit.	Sodium Chloride AR	1,425.00/lit.	1,425.00
1	lit.	Acetone AR	725.00/lit.	725.00
Total				P10,633.00

On June 13, 1984, Purchase Order No. 84-61 was approved by accused Mateo M. Limbago. The purchase order, however, appears to have been received by accused Julius Froilan, the supplier, on June 11, 1984 or two days earlier. Froilan signed a certification stamped on the purchase order, stating that he will refund the difference if the prices are found to be overpriced.

It was Josef Enerio who operated JDS Traders; accused Froilan merely acted as an agent and used its receipts in the transaction. Thus, on June 14, 1984, accused Froilan issued JDS Traders Sales Invoice No. 057 in the total amount of P10,633.00. On the same date, Anastacio Macalolot, acting as authorized representative of the Bohol Agricultural College, accepted the articles described in Invoice No. 057 (Exhibit H). The corresponding Request for Obligation of Allotment (ROA) for the sum of P10,633.00 was then prepared by accountant Wenceslao Guimadan and approved by accused Mateo M. Limbago (Exhibit I). On June 22, 1984, the corresponding disbursement voucher (Exhibit J) was processed and approved. Finally, on June 26, 1984, accused Froilan received payment and issued an Official Receipt for P10,633.00 under the business name of JDS Traders (Exhibit K).

Almost three years later, on March 24, 1987, Lebe C. Siono, Auditor I of the Commission on Audit, acting on a complaint made by unspecified concerned parties, wrote a letter (Exhibit N) to the COA Price Monitoring Division (PMD), Central Office, Quezon City, requesting for confirmation of the prices of various chemicals delivered to the Bohol Agricultural College, covered by the said Purchase Oorder No. 84-61. Director Jose F. Mabanta of the COA Technical Services Office wrote a reply on May 15, 1987, stating that based on actual canvass made in the open market and verification from purchase documents of other government agencies with similar purchases, the prices in Metro Manila for the articles in question as compared to the quoted prices thereof, were as follows:

Item/Description	Quoted Price (as of 6-13-84)	Price Findings	
		Price	Date
1 gal. Ether	P1,455.00/gal.	P2,007.70/20 lit.	(12/86)

solution AR		or 401.5/gal.	
1 gal. Carbon Tetrachloride AR	1,550.00/gal.	110.00/lit. or 440.00/gal.	(1/86)
1 kilo Glucose Powder AR	1,420.00/kilo	22.00/kilo	(4/87)
1 lit. Nitric Acid AR	1,320.00/lit.	380.00/2.5 lit or 152.00/lit.	( /87)
1 lit. Hydrochloric Acid AR	1,358.00/lit.	313.60/lit. or 52.27/lit. Baker	(10/86)
1 kilo Sodium Hydroxide AR	1,380.00/kilo	190.00/kilo	(1/87)
1 lit. Sodium Chloride AR	1,425.00/lit.	190.00/kilo	(1/87)
1 lit. Acetone AR	725.00/lit.	380.00/4 lit. or 95.00/lit.	(5/86)

(Exhibit P)

Using the above-quoted prices, State Auditor Lebe C. Siono submitted to the Director of the COA Technical Services Office, a formula for computing the refund of the overproce by the dealer in the total amount of P5,233.17, which was arrived at as follows:

<u>Article Description</u>	<u>Qty. Unit</u>	<u>Quoted Unit Price</u>	<u>PMD Findings per Unit</u>	<u>Action taken by Auditor Unit Price allowed in Audit</u>
Ether Solution AR	1 gal.	P1,455/gal.	P401.54	(P1,003.85)
Carbon TetrachlorideAR	1 gal.	1,550/gal.	440.00	(1,100.00)
Glucose Powder AR	1 kilo	1,420/kilo	22.00	(55.00)
Nitric Acid AR	1 liter	1,320/ltr.	152.00	(380.00)
Hydrochloric AcidAR	1 liter	1,358/ltr.	52.27	(130.67)
Sodium Hydroxide AR	1 kilo	1,380/kilo	190.00	(475.00)
Sodium Chloride AR	1 liter	1,425/ltr.	190.00	(475.00)
Acetone AR	1 liter	725/ltr.	95.00	(237.50)
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		P10,633.00	P1,542.81	P3,857.02

Add:100% allowance for pricefluctuations from 1984-87	P 1,542.81
Provincial delivery 50%	<u>771.41</u>
Total allowable price in audit	<u>P 3,857.02</u>
Total original purchase price	P10,633.00
Less: Quoted PMD price findings	<u>1,542.81</u>
Total overprice	9,090.19
Less allowable price	<u>3,857.02</u>
Net overprice	<u>P 5,233.17</u>

(Exhibit Q-1)

On June 17, 1987, Auditor Siono wrote a letter addressed to JDS Traders, accused Limbago, Salubre, Real and Pabe informing them of the disallowance of P5,232.87 and demanding the settlement thereof (Exhibit 15). On February 17, 1988, accused Froilan refunded the full amount of P5,232.87, as evidenced by Official Receipt No. 1683654-L (Exhibit 16-Froilan), the certification dated February 19, 1988 issued by Disbursing Officer Ranulfo Opus (Exhibit 17-Froilan), and the certification dated September 22, 1988 issued by Auditor Lebe Siono (Exhibit 18-Froilan). This notwithstanding, an Information for the violation of Sec. 3 (g) of Republic Act No. 3019 was filed against all the herein accused.<sup>[1]</sup>

The Sandiganbayan found petitioner together with the three (3) other co-accused guilty of the crime as charged. The dispositive portion of the judgment of conviction is quoted hereunder:

WHEREFORE, judgment is hereby rendered, finding accused SERGIO SALUBRE, RUTILLO REAL, VICTORIO PABE AND JULIUS FROILAN, GUILTY beyond reasonable doubt in the Violation of Sec. 3 (g) of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, for which they are hereby sentenced to each suffer the indeterminate penalty of Six (6) Years and One (1) Month as the minimum, to Nine (9) Years as the maximum; to each suffer perpetual disqualification from public office, to jointly and severally indemnify the government in the additional amount of P1,542.81; and, to pay their proportionate share of the costs of the action.

Accused MATEO M. LIMBAGO and JOSEF ENERIO are hereby ACQUITTED for insufficient evidence; accordingly, the bail bond posted by Mateo M. Limbago and the property bond filed by Josef Enerio for their respective provisional liberty are hereby ordered cancelled.

SO ORDERED.<sup>[2]</sup>