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Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

FLORENCIA GARCIA-DIAZ
Petitioner,

G.R. No. 193236

-versus-

SANDIGANBAYAN,
Respondent.

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JOSE G. SOLIS,
Petitioner,

G.R. Nos. 193248-49

Present:

PERALTA, J., Chairperson,
LEONEN,
REYES, A., JR.,
GESMUNDO, and
REYES, J., JR., JJ.

-versus-

SANDIGANBAYAN and the
PEOPLE OF THE PHILIPPINES,
Respondents.

Promulgated:
September 17, 2018

Wilfredo V. Lapidan

X-----X

DECISION

LEONEN, J.:

Co-conspirators are liable collectively and equally for the common design of their criminal acts. When a contract that is grossly and manifestly disadvantageous to the government is entered into, the persons involved—whether public officers or private persons—may be charged for violating the Anti-Graft and Corrupt Practices Act and suffer the same penalty if found guilty beyond reasonable doubt.

This resolves two (2) Petitions for Review on Certiorari filed separately by Florencia L. Garcia-Diaz¹ (Garcia-Diaz) and Jose G. Solis² (Solis) assailing the Sandiganbayan March 3, 2010 Decision³ and July 29, 2010 Resolution⁴ that declared them guilty beyond reasonable doubt of violation of Section 3(g)⁵ of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act. Additionally, Solis was found guilty of falsification of public documents punished under Article 171, paragraph 4⁶ of the Revised Penal Code. The criminal cases were filed in connection with the execution of a Compromise Agreement involving 4,689 hectares of land located within Fort Magsaysay Military Reservation (Fort Magsaysay), a land of the public domain, but was almost registered under the name of Garcia-Diaz, a private person.

In 1976, Garcia-Diaz's predecessor-in-interest, Flora L. Garcia (Garcia), filed an application for registration of a 16,589.84-hectare property located in Laur and Palayan City, Nueva Ecija before the Court of First Instance of Nueva Ecija. Garcia based her application on the supposed title

¹ *Rollo* (G.R. No. 193236), pp. 9–33.

² *Rollo* (G.R. Nos. 193248–49), pp. 8–28.

³ *Id.* at 29–95 and *rollo* (G.R. No. 193236), pp. 33-A–99. The Decision, docketed as Crim. Cases Nos. 27974-75, was penned by Associate Justice Efren N. De La Cruz and concurred in by Associate Justices Francisco H. Villaruz, Jr. and Alex L. Quiroz of the Third Division, Sandiganbayan, Quezon City.

⁴ *Rollo* (G.R. Nos. 193248–49), pp. 115–132 and *rollo* (G.R. No. 193236), pp. 175–192. The Resolution was penned by Associate Justice Efren N. De La Cruz and concurred by Associate Justices Francisco H. Villaruz, Jr. and Alex L. Quiroz of the Special Third Division, Sandiganbayan, Quezon City.

⁵ Rep. Act No. 3019, sec. 3(g) provides:

Section 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:

....

(g) Entering, on behalf of the Government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby.

⁶ REV. PEN. CODE, art. 171(4) provides:

Article 171. *Falsification by Public Officer, Employee or Notary or Ecclesiastic Minister.* — The penalty of *prision mayor* and a fine not to exceed 5,000 pesos shall be imposed upon any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts:

....

4. Making untruthful statements in a narration of facts[.]

of her predecessor, Melecio Padilla (Padilla), as evidenced by Possessory Information Title No. 216 issued during the Spanish regime. The property was surveyed and its technical description provided in Bureau of Lands (BL) Plan II-6752.⁷ Garcia further alleged that she had been in possession of the property for 26 years, as of the filing of her application, in addition to the possession and enjoyment of her predecessors, which had lasted for more than 80 years.⁸

The case was docketed as Land Registration Case No. 853, LRC-Record No. N-51127.⁹

The Republic of the Philippines (the Republic) opposed Garcia's application mainly on the ground that the property sought to be registered formed part of Fort Magsaysay per Presidential Proclamation No. 237 dated December 19, 1955.¹⁰ The property, the Republic claimed, formed part of the public domain and was inalienable.¹¹

Despite the Republic's opposition, the Court of First Instance of Nueva Ecija granted Garcia's application for registration.¹² This led to the Republic's filing of an appeal before the Court of Appeals, which was docketed as CA-G.R. CV No. 22217.¹³

During the pendency of the appeal, Garcia died. She was substituted by her heirs, among them being Garcia-Diaz.¹⁴

Meanwhile, in its February 26, 1992 Decision, the Court of Appeals reversed the decision of the Court of First Instance and dismissed Garcia's application for registration.¹⁵ It cited as basis the 1975 case of *Director of Lands v. Reyes*,¹⁶ which likewise involved an application for registration of the property covered by BL Plan II-6752, the same property Garcia was seeking to register. In *Director of Lands*, this Court found that no "Melecio Padilla" appeared in the list of holders of *información posesoria* titles in then Santos, now Laur, Nueva Ecija.¹⁷ The name "Melecio Padilla" appeared in the list for Peñaranda, Nueva Ecija but it only involved a land of

⁷ See *Director of Lands v. Reyes*, 160-A Phil. 832, 840 (1975) [Per J. Antonio, En Banc].

⁸ *Rollo* (G.R. No. 193236), p. 36 and *rollo* (G.R. Nos. 193248-49), p. 32.

⁹ *Id.*

¹⁰ Entitled "Reserving for Military Purposes a Portion of the Public Domain Situated in the Municipalities of Papaya, Sta. Rosa, and Laur, Province of Nueva Ecija and Portion of Quezon Province, Philippines."

¹¹ *Rollo* (G.R. No. 193236), p. 36 and *rollo* (G.R. Nos. 193248-49), p. 32.

¹² *Rollo* (G.R. No. 193236), pp. 36-37 and *rollo* (G.R. Nos. 193248-49), pp. 32-33.

¹³ *Rollo* (G.R. No. 193236), p. 37 and *rollo* (G.R. Nos. 193248-49), p. 33.

¹⁴ *Rollo* (G.R. No. 193236), p. 38 and *rollo* (G.R. Nos. 193248-49), p. 34.

¹⁵ *Id.*

¹⁶ 160-A Phil. 832 (1975) [Per J. Antonio, En Banc].

¹⁷ *Id.* at 848.

smaller area.¹⁸ This Court in *Director of Lands* concluded that the possessory information title under the name of Padilla was unreliable; hence, it ordered the application for registration dismissed.¹⁹

Garcia-Diaz's co-heirs then filed a motion for reconsideration, which was likewise denied by the Court of Appeals. They went on to file a Petition for Review on Certiorari before this Court, entitled *Flora L. Garcia v. Court of Appeals, et al.* and docketed as G.R. No. 104561, but it was likewise denied in this Court's April 8, 1992 Resolution for lack of reversible error in the challenged decision. The Motion for Reconsideration of the April 8, 1992 Resolution was denied with finality on June 15, 1992.²⁰

As for Garcia-Diaz, she did not join her co-heirs in appealing before this Court. Instead, during the pendency of her own motion for reconsideration before the Court of Appeals, she chose to amicably settle with the Republic. Through her counsel, then Atty. Fernando A. Santiago (Atty. Santiago), who later retired as a Court of Appeals Justice, Garcia-Diaz submitted a draft Compromise Agreement dated May 16, 1997 to then Solicitor General Silvestre H. Bello III (Solicitor General Bello).²¹

In relation to the compromise being negotiated, representatives from the Department of Environment and Natural Resources, and Armed Forces of the Philippines on the one hand; and Garcia-Diaz and then Atty. Santiago as her counsel on the other, entered into an Agreement dated October 22, 1997.²² Under the Compromise Agreement, the National Mapping and Resource Information Authority (NAMRIA)²³ was authorized to conduct the final preliminary evaluation survey and to clarify the technical description of the reservation in Proclamation No. 237, specifically, to determine which portion of the property described in BL Plan II-6752 coincided with the actual ground location of Fort Magsaysay.²⁴ Salvador V. Bonnevie (Bonnevie), Executive Assistant to then NAMRIA Administrator Solis, chaired the meeting with Virgilio I. Fabian, Jr. (Fabian), Assistant Director of NAMRIA's Remote Sensing and Resource Data Analysis Department, serving as co-chair.²⁵

Solis then issued a Travel Order dated January 29, 2018, directing Senior Remote Sensing Technologists Ireneo T. Valencia (Valencia) and Arthur J. Viernes (Viernes) to proceed to Laur, Nueva Ecija and "relocate

¹⁸ Id.

¹⁹ Id. at 854.

²⁰ *Rollo* (G.R. No. 193236), p. 38 and *rollo* (G.R. Nos. 193248-49), p. 34.

²¹ Id.

²² *Rollo* (G.R. No. 193236), p. 72 and *rollo* (G.R. Nos. 193248-49), p. 68.

²³ DENR Adm. O. No. 1 (1988), par. 4.2.6.3 states that NAMRIA, an attached agency of the Department of Environment and Natural Resources, is responsible for conducting geophysical surveys and management of resource information needed by both the public and private sectors.

²⁴ *Rollo* (G.R. No. 193236), p. 72 and *rollo* (G.R. Nos. 193248-49), p. 68.

²⁵ *Rollo* (G.R. No. 193236), pp. 62-63 and *rollo* (G.R. Nos. 193248-49), pp. 58-59.

the tie points and corners 6 and 7 of Fort Magsaysay Military Reservation.”²⁶ Valencia and Viernes were to survey the area from January 30 to February 3, 1998 and were given transportation allowance and per diems. They were likewise allowed to hire emergency laborers for the survey.²⁷

As directed by Solis and with the assistance of some personnel from the City Environment and Natural Resources Office of Cabanatuan City, Nueva Ecija, Valencia and Viernes proceeded to Laur and conducted the survey. In their Summary Report, they confirmed that they were able to relocate the actual ground positions of corners 6 and 7 of Fort Magsaysay. They found that the Bureau of Lands Location Monuments remained in the position as earlier computed and plotted in the topographic map referred to in Presidential Proclamation No. 237. Attached to the Summary Report were the sketch map of Fort Magsaysay, and Valencia and Viernes’ Field Notes or Traverse Computations.²⁸

Solis then wrote Solicitor General Ricardo P. Galvez (Solicitor General Galvez), who by then had replaced Solicitor General Bello. In his February 12, 1998 Letter, Solis essentially stated that the actual ground location of Fort Magsaysay did not match with the technical description as provided in Presidential Proclamation No. 237. Specifically, the team that surveyed the military reservation, headed by Valencia and Viernes, supposedly found corner points 6 and 7 in the technical description “misleading” and that “the [tie point] cannot be located, hence comparison with BL Plan II-6752 cannot be effected.” Solis then recommended that Presidential Proclamation No. 237 be amended accordingly. The February 12, 1998 Letter more comprehensively stated:

This refers to CA-G.R. No. 22217 (LRC Case No. 853, LRC Rec. 511-27) regarding evaluation of the technical description of Proclamation No. 237 establishing Fort Magsaysay Military Reservation containing an approximate area of 73,000 hectares more or less.

In an agreement signed among the parties concerned (AFP, LMB, Applicant and NAMRIA), this office was tasked and authorized to replot and check the technical description of Proclamation No. 237 in reference to BL Plan II-6752, (Possessory Title Reg. No. 216).

Finding[s] disclose that the military reservation is not located in the topographic map sheets referred to in the technical description in Proclamation No. 237, that the description of corner points 6 and 7 are misleading and that the [tie point] cannot be located, hence comparison with BL Plan II-6752 cannot be effected.

²⁶ *Rollo* (G.R. No. 193236), p. 72 and *rollo* (G.R. Nos. 193248-49), p. 68.

²⁷ *Id.*

²⁸ *Rollo* (G.R. No. 193236), pp. 72-73 and *rollo* (G.R. Nos. 193248-49), pp. 68-69.

The existence of the tie point of BL Plan II-6752 was verified by a team dispatched to relocate BLLM No. 1 and 2 and BBM 41 and 42 of Laur and Barangay San Isidro. It confirmed that the plottings made by this Office is geographically and accurately located in the ground.

The technical description of the portion of BL Plan II-6752 located outside the Fort Magsaysay Military Reservation is hereto attached as Annex "A". Points 6 and 7 of the Military Reservation were plotted in relation to BL Plan II-6752 in the survey plan attached hereto as Annex "B".

It is the recommendation of this authority to amend Proclamation No. 237 and to complete and finalize the plotting of the Military Reservation with corner points 6 and 7, which were located in relation to land monuments in Laur and Barangay San Isidro, N.E. in the attached plan, as the bases for the amendments.²⁹

However, it appears that three (3) drafts of the February 12, 1998 Letter were prepared. Two (2) of the drafts, both signed by Solis, explicitly provided that "the military reservation is not located in the topographic map sheets referred to in the technical description in Proclamation No. 237." Attached to the drafts was a survey plan, which plotted corner points 6 and 7 bounding Fort Magsaysay and showed the technical description of a portion of the property covered by BL Plan II-6752 that was located outside the military reservation. Thus, Solis recommended in those two (2) drafts that Presidential Proclamation No. 237 be amended and that the plotting of the military reservation with corner points 6 and 7 be completed and finalized. The third draft was not signed by Solis but was initialed by Fabian. It did not state that the existence of the tie point was verified by a survey team. This draft had no attachments.³⁰

The draft that reached Solicitor General Galvez was one of the two drafts declaring that the actual ground location of Fort Magsaysay did not conform with the technical description in Presidential Proclamation No. 237. This draft was signed by Solis but did not reflect Fabian's initials.³¹

Based on the findings stated in the February 12, 1998 Letter, the Republic, through Solicitor General Galvez, and Garcia-Diaz, through her counsel, then Atty. Santiago, signed and jointly filed a Motion for Approval of Amicable Settlement dated May 18, 1999. In the Compromise Agreement, Garcia-Diaz agreed to withdraw her application for registration of the property covered by BL Plan II-6752 that was within Fort Magsaysay in exchange for the Republic's withdrawal of its opposition to the registration of the portion outside the reservation, a portion which was supposedly comprised of 4,689 hectares. Gaudencio A. Mendoza, Assistant

²⁹ *Rollo* (G.R. No. 193236), pp. 90 and 39, and *rollo* (G.R. Nos. 193248-49), pp. 86 and 35.

³⁰ *Rollo* (G.R. No. 193236), pp. 73-74 and *rollo* (G.R. Nos. 193248-49), pp. 69-70.

³¹ *Id.*

Executive for Legal Affairs, and Bonnevie served as witnesses.³² The Compromise Agreement particularly provided:

1. The First Party [Garcia-Diaz] hereby withdraws her application for registration of title for the portion of the land described in BL Plan II-6752 which is situated within the military reservation described under Presidential Proclamation No. 237;
2. The First Party [Garcia-Diaz] undertakes to set aside and donate to the government five hundred (500) hectares for development as housing project;
3. The Second Party [the Republic] hereby withdraws its opposition to the registration in the name of the First Party FLORENCIA GARCIA DIAZ, Filipino, of legal age, widow, of the portion of BL Plan II[-]6752 with an area of 4,689 hectares more or less (Annex "B") which is situated outside the Fort Magsaysay military reservation;
4. Both parties agree to submit this Compromise Agreement for approval and for judgment in accordance therewith by the Court of Appeals.³³

In its June 30, 1999 Resolution, the Court of Appeals granted the Motion for Approval of Amicable Settlement and rendered judgment based on the compromise.³⁴

On January 12, 2000, Solicitor General Galvez filed a Manifestation and Motion before the Court of Appeals. Thereafter, in its March 9, 2000 Resolution, the Court of Appeals *motu proprio* ordered and directed the Land Registration Authority to hold in abeyance the processing and issuance of the registration decree and certificate of title covering the 4,689-hectare property until Garcia-Diaz commented on the January 12, 2000 Manifestation and Motion filed by the Office of the Solicitor General.³⁵

In the meantime, Secretary of Environment and Natural Resources Antonio Cerilles directed the new NAMRIA Administrator, Isidro S. Fajardo, to form a team to investigate the alleged anomaly involving the Compromise Agreement.³⁶ The Investigating Committee then submitted a Memorandum to the Administrator dated April 12, 2000, where they declared inaccurate the statement of then Administrator Solis in his February 12, 1998 Letter that a portion of the property described in BL Plan II-6752 was outside the technical description of Fort Magsaysay as provided in Presidential Proclamation No. 237.³⁷ The Investigating Committee based its

³² *Rollo* (G.R. No. 193236), p. 74 and *rollo* (G.R. Nos. 193248-49), p. 70.

³³ *Rollo* (G.R. No. 193236), p. 40 and *rollo* (G.R. Nos. 193248-49), p. 36.

³⁴ *Rollo* (G.R. No. 193236), p. 74 and *rollo* (G.R. Nos. 193248-49), p. 70.

³⁵ *Rollo* (G.R. No. 193236), p. 40 and *rollo* (G.R. Nos. 193248-49), p. 36.

³⁶ *Rollo* (G.R. No. 193236), p. 43 and *rollo* (G.R. Nos. 193248-49), p. 39.

³⁷ *Rollo* (G.R. No. 193236), pp. 44-45 and *rollo* (G.R. Nos. 193248-49), pp. 40-41.

findings, among others, on Map SP 203, a plotting of technical description provided in Presidential Proclamation No. 237, which showed that the entire property described in BL Plan II-6752 was within the actual ground location of Fort Magsaysay.³⁸

A Motion to Set Aside Compromise Settlement dated June 5, 2001 was then filed before the Court of Appeals.³⁹

In the Information dated March 17, 2004,⁴⁰ public officers Solicitor General Galvez, NAMRIA officials Solis, Fabian, Bonnevie, Valencia, and Viernes, and private person Garcia-Diaz were charged for violating Section 3(g)⁴¹ of the Anti-Graft and Corrupt Practices Act before the Sandiganbayan. The accusatory portion of the Information in Criminal Case No. 27974 read:

That on or about May 18, 1999 or sometime prior (or) subsequent thereto, in the City of Makati, Philippines, and within the jurisdiction of this Honorable Court, accused **Ricardo P. Galvez**, a high-ranking public officer, being then the Solicitor General, with accused **Jose G. Solis**, **Salvador V. Bonnevie**, **Virgilio I. Fabian, Jr.**, **Ireneo T. Valencia** and **Arthur J. Viernes**, being then the Administrator, Officer-in-Charge, HGSD Assistant Director, Remote Sensing and Resource Data Analysis Department (RSRDAD), and Senior Remote Sensing Technologists, respectively, of the National Mapping and Resource Information Administration (NAMRIA), while in the performance of their official functions and committing the offense in relation to office, conspiring, confederating and mutually helping one another, together with **Florencia Garcia-Diaz**, a private person, did then and there willfully, unlawfully and criminally enter into a Compromise Agreement dated May 18, 1999 with the said **Florencia Garcia-Diaz**, wherein the Republic of the Philippines, as represented by accused Solicitor General **Ricardo P. Galvez**, withdrew opposition to the registration in the name of accused **Florencia Garcia-Diaz** a portion of BL Plan II-6752, with an area of 4,689 hectares, which contract was grossly disadvantageous to the government, considering that the parcel of land, subject of the compromise agreement, is not alienable or registerable as the same falls within the Fort Magsaysay Military Reservation, the probative value of purported *titulo de informacion posesoria* issued in the name of **Melecio Padilla**, from whom the title applicant **Flora Garcia** and now her heiress claimant **Florencia Garcia-Diaz** (herein accused), derived their claim, had been declared by the Supreme Court in the case of Director of Lands v. Reyes, 68 SCRA 177 (1975) as seriously flawed, and the decision of the Court of Appeals dated February 26, 1992 in CA-GR CV No. 22217 (Flora L.

³⁸ *Rollo* (G.R. No. 193236), p. 46 and *rollo* (G.R. Nos. 193248-49), p. 42.

³⁹ *Rollo* (G.R. No. 193236), p. 41 and *rollo* (G.R. Nos. 193248-49), p. 37.

⁴⁰ *Rollo* (G.R. No. 193236), p. 13.

⁴¹ Rep. Act No. 3019, sec. 3(g) provides:

Section 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:

.....

(g) Entering, on behalf of the Government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby.

Garcia vs. Republic of the Philippines) denying the application for registration of Flora Garcia relative to the parcels of land stated in the said agreement.

CONTRARY TO LAW.⁴² (Emphasis in the original)

In another Information of the same date, Solis, Fabian, Bonnevie, Valencia, and Viernes were further charged with falsification of public documents under Article 171, paragraph 4⁴³ of the Revised Penal Code. The accusatory portion of the Information in Criminal Case No. 27975 read:

That on or about February 12, 1998 in the City of Makati, Philippines, and within the jurisdiction of this Honorable Court, accused **Jose G. Solis, Salvador V. Bonnevie, Virgilio I. Fabian, Jr., Ireneo T. Valencia** and **Arthur J. Viernes**, being then the Administrator, with Salary Grade 27, Officer-in-Charge, HGSD, Assistant Director, Remote Sensing and Resource Data Analysis Department (RSRDAD), and Senior Remote Sensing Technologists, respectively, of the National Mapping and Resource Information Administration (NAMRIA), conspiring, confederating and mutually helping one another, and committing the offense in relation to office, did then and there willfully, unlawfully and feloniously make it appear in an official letter dated February 12, 1998, addressed to the Solicitor General, which form part of the public record, that Fort Magsaysay Military Reservation is not located in the topographic map sheets referred to in the technical description in Proclamation No. 237 (Reserving for Military Purpose a portion of the public domain situated in the Municipalities of Papaya, Sta. Rosa and Laur, Province of Nueva Ecija and portion of Quezon Province, Philippines), the description of corner points 6 and 7 are misleading, the tie point cannot be located, hence comparison with BL Plan [II]-6752 cannot be effected, and for submitting a relocation of points 6 and 7 of proclamation and the survey plan of portion BL [Plan] II-6752 indicating that an area of 4,689 hectares is located outside the military reservation, when in truth and in fact, as the accused knew fully well and are legally bound to disclose, that said substantial portion of Fort Magsaysay Military Reservation being claimed by one Florencia Garcia-Diaz, a private person, is inside the Army Map Sheet (AMS) topographic map as referred to in the technical description of Proclamation [No.] 237, thereby making untruthful statements in the narration of facts.

CONTRARY TO LAW.⁴⁴

Garcia-Diaz filed a Motion to Dismiss/Quash⁴⁵ Information, contending that private persons cannot be charged under the Anti-Graft and

⁴² *Rollo* (G.R. No. 193236), pp. 33-A-34 and *rollo* (G.R. Nos. 193248-49), pp. 29-30.

⁴³ REV. PEN. CODE, art. 171(4) provides:

Article 171. *Falsification by Public Officer, Employee or Notary or Ecclesiastic Minister.* — The penalty of *prision mayor* and a fine not to exceed 5,000 pesos shall be imposed upon any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts:

....

4. Making untruthful statements in a narration of facts[.]

⁴⁴ *Rollo* (G.R. No. 193236), pp. 34-35 and *rollo* (G.R. Nos. 193248-49), pp. 30-31.

Corrupt Practices Act. This Motion was denied by the Sandiganbayan in its August 2, 2006 Resolution.⁴⁶

As for Solicitor General Galvez, he died during the pendency of the case. Thus, the charge against him was dismissed.⁴⁷

The case then proceeded to arraignment during which all the accused, except Fabian, who was and still remains at large, pleaded not guilty to the charges.⁴⁸

After trial, the Sandiganbayan found Garcia-Diaz and Solis guilty beyond reasonable doubt of violating Section 3(g) of the Anti-Graft and Corrupt Practices Act. According to the Sandiganbayan, the prosecution established the following elements of the crime: first, that the accused is a public officer; second, that he or she entered into a contract or transaction on behalf of the government; and, third, that such contract or transaction is grossly and manifestly disadvantageous to the government.⁴⁹

With respect to the first issue, it was undisputed that accused Solis, Bonnevie, Valencia, and Viernes were public officers as they were officials of the NAMRIA, an agency attached to the Department of Environment and Natural Resources. While it is true that Garcia-Diaz was a private person, the Sandiganbayan nevertheless held that a private person may be held liable under the Anti-Graft and Corrupt Practices Act if he or she acts in conspiracy with a public officer. It cited as basis *Go v. Sandiganbayan*⁵⁰ as well as the “avowed policy” of the Anti-Graft and Corrupt Practices Act “to repress certain acts of public officers and *private persons alike* which may constitute graft or corrupt practices or which may lead thereto.”⁵¹

As for the second element, the Sandiganbayan found that Solicitor General Galvez, in conspiracy with Solis and Garcia-Diaz, entered into the Compromise Agreement on behalf of the government. Garcia-Diaz was the first party in the Compromise Agreement,⁵² while Solis’ statement in his February 12, 1998 Letter “completed the conspiracy and complemented the whole scheme”⁵³ by making it appear that 4,689 hectares of the land covered

⁴⁵ *Rollo* (G.R. No. 193236), pp. 197–205.

⁴⁶ *Id.* at 230–233. The Resolution was penned by Associate Justice Efren N. De La Cruz and concurred in by Associate Justices Godofredo L. Legaspi and Norberto Y. Geraldez of the Third Division, Sandiganbayan, Quezon City.

⁴⁷ *Id.* at 41 and *rollo* (G.R. Nos. 193248–49), p. 37.

⁴⁸ *Rollo* (G.R. No. 193236), p. 35 and *rollo* (G.R. Nos. 193248–49), p. 31.

⁴⁹ *Rollo* (G.R. No. 193236), p. 75 and *rollo* (G.R. Nos. 193248–49), p. 71, citing *Morales v. People*, 434 Phil. 471, 488 (2002) [Per J. Panganiban, Third Division].

⁵⁰ 603 Phil. 393 (2009) [Per J. Ynares-Santiago, Special Third Division].

⁵¹ *Rollo* (G.R. No. 193236), p. 76 and *rollo* (G.R. Nos. 193248–49), p. 72, citing *Go v. Sandiganbayan*, 603 Phil. 393, 395 (2009) [Per J. Ynares-Santiago, Special Third Division].

⁵² *Rollo* (G.R. No. 193236), p. 76 and *rollo* (G.R. Nos. 193248–49), p. 72.

⁵³ *Rollo* (G.R. No. 193236), p. 81 and *rollo* (G.R. Nos. 193248–49), p. 77.

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by BL Plan II-6752 was alienable, disposable, and may be the subject of a compromise.

On the third element, the Sandiganbayan discussed how entering into the Compromise Agreement was grossly and manifestly disadvantageous to the government. Like the Court of Appeals, the Sandiganbayan cited *Director of Lands v. Reyes*,⁵⁴ where this Court found that Padilla's purported possessory information title, from which Garcia-Diaz ultimately derived her title to the property described in BL Plan II-6752, was an unreliable evidence of title. In addition, the Court of Appeals in CA-G.R. CV No. 22217 found that the entire property covered by BL Plan II-6752 was within Fort Magsaysay. The execution of the Compromise Agreement would have led to the loss of 4,689 hectares in public land, to the disadvantage of the government.⁵⁵

For the Sandiganbayan, Garcia-Diaz could not claim good faith in entering into the Compromise Agreement. It held that violation of the Anti-Graft and Corrupt Practices Act is *malum prohibitum* where good faith is not a defense.⁵⁶

The Sandiganbayan noted that the execution of the Compromise Agreement would not have been possible if not for Solis' false representation in his February 12, 1998 Letter that 4,689 hectares of the property described in BL Plan II-6752 was located outside Fort Magsaysay.⁵⁷ Solis could not dispute his liability, according to the Sandiganbayan, for even assuming that Fabian prepared the letter, Solis admitted on direct examination that he had examined it and its attachments. Further, the Sandiganbayan disbelieved Solis' claim that he only perfunctorily signed the letter because it was a product of several negotiations. Solis knew the purpose and importance of his recommendation to Solicitor General Galvez: the Republic's withdrawal of opposition to the registration in favor of Garcia-Diaz of a portion of Fort Magsaysay.⁵⁸

The Sandiganbayan, however, acquitted Bonnevie, Valencia, and Viernes. It found that Bonnevie, who was then the executive assistant of Solis, only followed the orders of his superior, Solis, when he presided over the meeting where the Department of Environment and Natural Resources, the Armed Forces of the Philippines, and Garcia-Diaz agreed to a re-survey of Fort Magsaysay. It ruled that Bonnevie's signing as witness to the Compromise Agreement did not prove that he had a hand in its execution.⁵⁹

⁵⁴ 160-A Phil. 832 (1975) [Per J. Antonio, En Banc].

⁵⁵ *Rollo* (G.R. No. 193236), p. 78 and *rollo* (G.R. Nos. 193248-49), p. 74.

⁵⁶ *Id.*

⁵⁷ *Rollo* (G.R. No. 193236), pp. 80-81 and *rollo* (G.R. Nos. 193248-49), pp. 77-78.

⁵⁸ *Rollo* (G.R. No. 193236), pp. 82-83 and *rollo* (G.R. Nos. 193248-49), pp. 78-79.

⁵⁹ *Rollo* (G.R. No. 193236), pp. 85-86 and *rollo* (G.R. Nos. 193248-49), pp. 81-82.

As for Valencia and Viernes, the Sandiganbayan found no evidence that they were part of the conspiracy to register in Garcia-Diaz's name 4,689 hectares of land within Fort Magsaysay. Valencia and Viernes re-surveyed the property only in compliance with the Travel Order issued by their superior, Solis. Further, in their Summary Report, they never represented that a portion of the property described in BL Plan II-6752 was located outside Fort Magsaysay. All they said was that they conducted a survey and they were able to retrieve the tie points and relocate the actual ground positions of corners 6 and 7 referred to in Presidential Proclamation No. 237.⁶⁰

Aside from the graft charge, Solis was found guilty of falsification by a public officer punished under Article 171, paragraph 4 of the Revised Penal Code. The Sandiganbayan found that the February 12, 1998 Letter of Solis to Solicitor General Galvez was a public document, having been written and transmitted in Solis' official capacity.⁶¹ Solis had a legal obligation to disclose the truth of the facts narrated in the letter. Not only did he head the country's central mapping agency, he also knew that his letter would be the basis for approval of the Compromise Agreement.⁶² Lastly, the statement that 4,689 hectares of the property described in BL Plan II-6752 were outside Fort Magsaysay described in Presidential Proclamation No. 237 was absolutely false. The contention that corners 6 and 7 were misleading was likewise false and was contrary to Valencia and Viernes' findings in their Summary Report that they were able to relocate corners 6 and 7 as computed and positioned based on the topographic map of the reservation. Further, superimposing BL Plan II-6752 on the already available topographic map of Fort Magsaysay easily revealed that the whole property claimed by Garcia-Diaz was within the military reservation.⁶³

As for Bonnevie, Valencia, and Viernes, the Sandiganbayan said that "[t]here is a dearth of evidence as to [their] participation . . . in the falsification."⁶⁴ They were, therefore, acquitted.

The dispositive portion of the Sandiganbayan March 3, 2010 Decision⁶⁵ read:

IN LIGHT OF ALL THE FOREGOING, judgment is hereby rendered as follows:

1. In **Criminal Case No. 27974**, accused Jose G. Solis and Florencia Garcia-Diaz are found **GUILTY** beyond reasonable doubt of

⁶⁰ *Rollo* (G.R. No. 193236), pp. 86–87 and *rollo* (G.R. Nos. 193248–49), pp. 82–83.

⁶¹ *Rollo* (G.R. No. 193236), pp. 90–91 and *rollo* (G.R. Nos. 193248–49), pp. 86–87.

⁶² *Rollo* (G.R. No. 193236), p. 96 and *rollo* (G.R. Nos. 193248–49), p. 92.

⁶³ *Rollo* (G.R. No. 193236), pp. 91–95 and *rollo* (G.R. Nos. 193248–49), pp. 87–91.

⁶⁴ *Rollo* (G.R. No. 193236), p. 95 and *rollo* (G.R. Nos. 193248–49), p. 91.

⁶⁵ *Rollo* (G.R. No. 193236), p. 33-A–99 and *rollo* (G.R. Nos. 193248–49), pp. 29–95.

violation of Section 3 (g) of [Republic Act No. 3019 or the Anti-Graft and Corrupt Practices Act], and each is hereby sentenced to suffer the indeterminate penalty of imprisonment of six (6) years and one (1) month to ten (10) years, with perpetual disqualification from public office.

2. In **Criminal Case No. 27975**, accused Solis is found **GUILTY** beyond reasonable doubt of falsification, defined and penalized under Article 171, paragraph 4 of the Revised Penal Code, and is sentenced to suffer the indeterminate penalty of two (2) years, four (4) months and one (1) day of *prision correccional* medium to six (6) years and one (1) day of *prision mayor* medium.

3. Accused Bonnevie, Valencia and Viernes are **ACQUITTED** in both cases, for failure of the prosecution to prove their guilt beyond reasonable doubt.

SO ORDERED.⁶⁶

Garcia-Diaz⁶⁷ and Solis⁶⁸ filed their respective Motions for Reconsideration. Garcia-Diaz reiterated her argument that she could not be convicted under the Anti-Graft and Corrupt Practices Act because she was a private person. She added that she could not be faulted for entering into a compromise with the Republic considering that its alleged ownership of Fort Magsaysay was not yet finally decided. Lastly, she pointed out that then Court of Appeals Justice Vicente V. Mendoza (Justice Mendoza), the ponente of the Court of Appeals February 26, 1992 Decision that reversed the Decision of the land registration court on Garcia's application for registration, was the solicitor general who represented the Republic before the land registration court. Thus, he had no authority to render the Court of Appeals February 26, 1992 Decision.⁶⁹

As for Solis, he maintained that the prosecution failed to prove his part in the conspiracy to execute the Compromise Agreement. First, he was not a party to it. Second, he had never met Solicitor General Galvez, the solicitor general who entered into the Compromise Agreement. He only dealt with Solicitor General Bello, who requested for his opinion. Lastly, there was nothing on record to prove that he knew Garcia-Diaz so as to establish conspiracy.⁷⁰

With respect to his conviction of falsification, Solis argued that the prosecution failed to prove the second element. He allegedly had no legal obligation to disclose the truth in his February 12, 1998 Letter for he merely expressed an opinion there.⁷¹

⁶⁶ *Rollo* (G.R. No. 193236), p. 97 and *rollo* (G.R. Nos. 193248-49), p. 93.

⁶⁷ *Rollo* (G.R. No. 193236), pp. 100-115.

⁶⁸ *Rollo* (G.R. Nos. 193248-49), pp. 96-114.

⁶⁹ *Rollo* (G.R. No. 193236), pp. 109-113.

⁷⁰ *Rollo* (G.R. Nos. 193248-49), pp. 97-100.

⁷¹ *Id.* at 100-102.

In its July 29, 2010 Resolution,⁷² the Sandiganbayan denied Garcia-Diaz's and Solis' Motions for Reconsideration. It reiterated that a private person may be convicted under the Anti-Graft and Corrupt Practices Act if he or she is found to have committed the crime in conspiracy with a public official.⁷³ It added that Garcia-Diaz could not claim that the Republic's ownership of Fort Magsaysay was not yet final given that this Court had already ruled as early as 1975 in *Director of Lands v. Reyes*⁷⁴ that Padilla, Garcia-Diaz's alleged predecessor, had no title to the property covered by BL Plan II-6752 despite the existence of Possessory Information Title No. 216. Finally, it was never proven that then Court of Appeals Justice Mendoza was the solicitor general before the land registration court that initially granted Garcia's application for registration. Further, this issue was raised for the first time on motion for reconsideration and this Court had ultimately upheld the Decision of the Court of Appeals in *Flora L. Garcia v. Court of Appeals, et al.*, G.R. No. 104561. Thus, the Sandiganbayan disregarded Garcia-Diaz's arguments.⁷⁵

Addressing the arguments of Solis involving the graft charge, the Sandiganbayan held that there can be conspiracy even if all the conspirators do not know each other personally. What is important is that the conspirator knowingly contributed to the criminal design. According to the Sandiganbayan, the most indispensable part of the conspiracy was the February 12, 1998 Letter issued by Solis to then Solicitor General Galvez as this served as the technical basis to conclude that 4,689 hectares of the property described in BL Plan II-6752 were outside the reservation described in Presidential Proclamation No. 237, and hence, alienable and disposable.⁷⁶

The Sandiganbayan affirmed Solis' conviction of falsification of documents. He could not claim that his recommendation to amend Presidential Proclamation No. 237 was a mere opinion to escape liability. Valencia and Viernes, the foresters who resurveyed Fort Magsaysay, never claimed that corners 6 and 7 were "misleading" as Solis had said in his February 12, 1998 Letter. Valencia and Viernes even said in their Summary Report that they found the actual ground positions of corners 6 and 7. As the head of the central mapping agency of the government, Solis had the legal obligation to disclose the truth as found by foresters Valencia and Viernes, yet, he distorted his subordinates' findings.⁷⁷

⁷² *Rollo* (G.R. No. 193236), pp. 175-192 and *rollo* (G.R. Nos. 193248-49), pp. 115-132.

⁷³ *Rollo* (G.R. No. 193236), pp. 186-187 and *rollo* (G.R. Nos. 193248-49), pp. 126-127.

⁷⁴ 160-A Phil. 832 (1975) [Per J. Antonio, En Banc].

⁷⁵ *Rollo* (G.R. No. 193236), p. 189 and *rollo* (G.R. Nos. 193248-49), p. 129.

⁷⁶ *Rollo* (G.R. No. 193236), pp. 179-180 and *rollo* (G.R. Nos. 193248-49), pp. 119-120.

⁷⁷ *Rollo* (G.R. No. 193236), pp. 180-185 and *rollo* (G.R. Nos. 193248-49), pp. 120-125.

The dispositive portion of the Sandiganbayan July 29, 2010 Resolution read:

WHEREFORE, in light of the foregoing:

....

2. The separate motions for reconsideration, dated March 8, 2010, and March 17, 2010, of accused Jose G. Solis and Florencia Garcia-Diaz, respectfully, are **DENIED** for lack of merit.

SO ORDERED.⁷⁸

Garcia-Diaz⁷⁹ and Solis⁸⁰ filed their respective Petitions for Review on Certiorari before this Court. The Office of the Special Prosecutor, on behalf of the Sandiganbayan and the People of the Philippines, filed separate Comments⁸¹ to which Garcia-Diaz⁸² and Solis⁸³ filed their respective Replies. Considering that the Petitions assail the same Sandiganbayan Decision and Resolution, the Petitions were consolidated pursuant to this Court's November 15, 2010 Resolution.⁸⁴

Based on the pleadings, the issues for this Court's resolution are the following:

First, whether or not a private person may be charged and convicted of violating the provisions of the Anti-Graft and Corrupt Practices Act;

Second, whether or not conspiracy exists even if the public officer is not a party to the contract or transaction that caused a gross and manifest disadvantage to the government; and

Finally, whether or not petitioner Jose G. Solis violated a legal obligation to disclose the truth when he executed his February 12, 1998 Letter.

Petitioner Garcia-Diaz insists that she cannot be charged and convicted under Section 3(g) of the Anti-Graft and Corrupt Practices Act because Section 3 refers to "corrupt practices of public officers" and she is

⁷⁸ *Rollo* (G.R. No. 193236), p. 192 and *rollo* (G.R. Nos. 193248-49), p. 132.

⁷⁹ *Rollo* (G.R. No. 193236), pp. 9-33.

⁸⁰ *Rollo* (G.R. Nos. 193248-49), pp. 8-28.

⁸¹ *Rollo* (G.R. No. 193236), pp. 289-306 and *rollo* (G.R. Nos. 193248-49), pp. 210-235.

⁸² *Rollo* (G.R. No. 193236), pp. 321-327.

⁸³ *Rollo* (G.R. Nos. 193248-49), pp. 246-259 and 273-293.

⁸⁴ *Rollo* (G.R. No. 193236), p. 276 and *rollo* (G.R. Nos. 193248-49), p. 149.

not a public officer. According to her, a private person may be penalized under the statute only under Section 4(b)⁸⁵ of which she was not charged.⁸⁶

For his part, petitioner Solis maintains that he cannot be charged of violation of Section 3(g) of the Anti-Graft and Corrupt Practices Act because he was not even a party to the Compromise Agreement. He had already resigned from his position as NAMRIA Administrator at the time of its execution. He argues that “it is unfair that [he] be presumed to be involved in the execution and signing of the . . . compromise agreement.”⁸⁷ He maintains that his February 12, 1998 Letter was drafted by his subordinate, Fabian, and that he merely signed it on the assumption that everything was in order. The “[a]bsence of [his participation in the] conspiracy is, [therefore], very evident.”⁸⁸

Additionally, Solis argues that he should not have been convicted of falsification under Article 171, paragraph 4 of the Revised Penal Code because the second element of the felony is allegedly absent in this case. He claims that he had no legal obligation to disclose the truth of the narration of facts in his February 12, 1998 Letter. At best, what he said was an “inexact, inaccurate or erroneous”⁸⁹ interpretation of the Summary Report of Remote Sensing Technologists Valencia and Viernes.⁹⁰

Proceeding first with a procedural matter, respondent People of the Philippines argues that Garcia-Diaz’s appeal should have been dismissed outright because she solely impleaded the Sandiganbayan as respondent. It claims that this is contrary to Rule 45, Section 4⁹¹ of the Rules of Court, which states that the lower court that rendered the assailed decision should not be impleaded as respondent in the Petition.⁹²

On the merits, respondent People of the Philippines counters that it has long been settled that a private person may be convicted under the Anti-Graft and Corrupt Practices Act if he or she acted in conspiracy with a

⁸⁵ Rep. Act No. 3019, sec. 4(b) provides:
Section 4. *Prohibition on private individuals.* —

....
(b) It shall be unlawful for any person knowingly to induce or cause any public official to commit any of the offenses defined in Section 3 hereof.

⁸⁶ *Rollo* (G.R. No. 193236), pp. 20–31.

⁸⁷ *Rollo* (G.R. Nos. 193248–49), p. 16.

⁸⁸ *Id.* at 18.

⁸⁹ *Id.* at 23.

⁹⁰ *Id.* at 22–24.

⁹¹ RULES OF COURT, Rule 45, sec. 4(a) provides:

Section 4. *Contents of petition.* — The petition shall be filed in eighteen (18) copies, with the original copy intended for the court being indicated as such by the petitioner, and shall (a) state the full name of the appealing party as the petitioner and the adverse party as respondent, without impleading the lower courts or judges thereof either as petitioners or respondents[.]

⁹² *Rollo* (G.R. No. 193236), pp. 288–289.

public officer. It cites as legal bases *Go v. Sandiganbayan*,⁹³ *Meneses v. People*,⁹⁴ *Balmadrid v. Sandiganbayan*,⁹⁵ *Domingo v. Sandiganbayan*,⁹⁶ *Singian, Jr. v. Sandiganbayan*,⁹⁷ and *United States v. Ponte*.⁹⁸ Considering that petitioner Garcia-Diaz was found to have conspired with Solicitor General Galvez and petitioner Solis in entering into the Compromise Agreement that caused gross and manifest disadvantage to the government, she was validly convicted of violating Section 3(g) of the Anti-Graft and Corrupt Practices Act.⁹⁹

As regards petitioner Solis, respondent People of the Philippines maintains that he was correctly convicted of violating Section 3(g) of the Anti-Graft and Corrupt Practices Act. Petitioner Solis cannot hide behind the fact that he was not a signatory to the Compromise Agreement because he issued the very basis for its execution: his February 12, 1998 Letter where he declared that “the military reservation is not located in the topographic map sheets referred to in the technical description in Proclamation No. 237.”¹⁰⁰ For respondent People of the Philippines, it does not matter that petitioner Solis did not know personally Solicitor General Galvez or petitioner Garcia-Diaz. All that is required is unity of purpose for there to be conspiracy. Here, the purpose is to “give the proposed compromise settlement a semblance of propriety and legitimacy.”¹⁰¹

On the falsification charge against him, respondent People of the Philippines argues that petitioner Solis cannot put the blame on Fabian, who allegedly prepared the February 12, 1998 Letter. During his direct examination, petitioner Solis testified that he did not name the person who allegedly prepared this Letter but that he nevertheless reviewed its contents. It did not even pass through the usual procedure as it did not bear the signatures of the Director and Assistant Director of NAMRIA’s Remote Sensing Resources Data Analysis Department, and that of the Deputy Administrator.¹⁰² Finally, contrary to Solis’ argument, he had the legal obligation to disclose the truth that the property described in BL Plan II-6752 was within Fort Magsaysay because of the functions of NAMRIA, of which he was the Administrator.¹⁰³

The Petitions for Review on Certiorari must be denied.

⁹³ 603 Phil. 393 (2009) [Per J. Ynares-Santiago, Special Third Division].

⁹⁴ 237 Phil. 292 (1987) [Per J. Narvasa, En Banc].

⁹⁵ 272-A Phil. 486 (1991) [Per J. Paras, En Banc].

⁹⁶ 510 Phil. 691 (2005) [Per J. Azcuna, First Division].

⁹⁷ 514 Phil. 536 (2005) [Per J. Chico-Nazario, Second Division].

⁹⁸ 20 Phil. 379 (1911) [Per J. Carson, En Banc].

⁹⁹ *Rollo* (G.R. No. 193236), pp. 295–303.

¹⁰⁰ *Rollo* (G.R. Nos. 193248–49), p. 220.

¹⁰¹ *Id.*

¹⁰² *Id.* at 228.

¹⁰³ *Id.* at 229.

I

Petitioners Garcia-Diaz and Solis were convicted of violating Section 3(g) of the Anti-Graft and Corrupt Practices Act, which provides:

Section 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:

....

(g) Entering, on behalf of the Government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby.

The elements of Section 3(g) are: first, the accused is a public officer; second, that he or she entered into a contract or transaction on behalf of the government; and third, that the contract or transaction is grossly and manifestly disadvantageous to the government.¹⁰⁴

Given the above elements, petitioner Garcia-Diaz claims that she cannot be convicted under Section 3(g) because the first element is absent. She is not a public officer but a private person.

Petitioner Garcia-Diaz's argument is not new. It is true that Section 3 of the Anti-Graft and Corrupt Practices Act speaks of corrupt practices of public officers. "However, if there is an allegation of conspiracy, a private person may be held liable together with the public officer."¹⁰⁵ This is consistent with the policy behind the statute, which, as provided in its first section, is "to repress certain acts of public officers and *private persons alike* which may constitute graft or corrupt practices or which may lead thereto."¹⁰⁶

The reason that private persons may be charged with public officers under the Anti-Graft and Corrupt Practices Act is "to avoid repeated and unnecessary presentation of witnesses and exhibits against conspirators in different venues, especially if the issues involved are the same. It follows, therefore, that if a private person may be tried jointly with public officers, he or she may also be convicted jointly with them."¹⁰⁷

¹⁰⁴ *Go v. Sandiganbayan*, 603 Phil. 393, 395 (2009) [Per J. Ynares-Santiago, Special Third Division].

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *Balmadrid v. Sandiganbayan*, 272-A Phil. 486, 492 (1991) [Per J. Paras, En Banc].

Thus, when an information alleges that a public officer “conspires,” “confederates,” “connives,” or “colludes” with a private person, or when the “allegation of basic facts constituting conspiracy [between the public officer and the private person is made] in a manner that a person of common understanding would know what is intended,”¹⁰⁸ then a private person may be convicted under Section 3 of the Anti-Graft and Corrupt Practices Act. The information against the private person will be sufficient in form and substance and, contrary to Garcia-Diaz’s argument, there is no “impossible crime”¹⁰⁹ against the private person.

The Information filed in Criminal Case No. 27974 provides that Solicitor General Galvez, NAMRIA Administrator Solis, Officer-in-Charge Bonnevie, Assistant Director Fabian, and Remote Sensing Technologists Valencia and Viernes, all public officers, “conspiring, confederating and mutually helping one another, together with Florencia Garcia-Diaz, a private person,”¹¹⁰ executed the Compromise Agreement that declared a part of Fort Magsaysay as outside the technical description provided in Presidential Proclamation No. 237. It obviously contains an allegation of conspiracy against petitioner Garcia-Diaz.

Having been charged and tried under a valid Information, petitioner Garcia-Diaz was validly convicted of Section 3(g) of the Anti-Graft and Corrupt Practices Act. This is despite her being a private person.

II

For his part, petitioner Solis mainly contends that he was erroneously convicted because of the absence of the second and third elements. He was not a party to the Compromise Agreement. Thus, he never entered into a contract or transaction on behalf of the government as provided in Section 3(g) of Republic Act No. 3019. Furthermore, he points out that the registration of the 4,689 hectares in the name of petitioner Garcia-Diaz did not push through; hence, there was no gross and manifest disadvantage to the government.

In so arguing, petitioner Solis disregards the essence of conspiracy where the act of one is the act of all.¹¹¹ A finding of conspiracy means that all the accused are deemed to have “consented to and adopted as their own,

¹⁰⁸ *Go v. Sandiganbayan*, 603 Phil. 393, 396 (2009) [Per J. Ynares-Santiago, Special Third Division], citing *Estrada v. Sandiganbayan*, 427 Phil. 820 (2002) [Per J. Puno, En Banc].

¹⁰⁹ *Rollo* (G.R. No. 193236), p. 20.

¹¹⁰ *Id.* at 34 and *rollo* (G.R. Nos. 193248-49), p. 30.

¹¹¹ *Meneses v. People*, 237 Phil. 292, 306 (1987) [Per J. Narvasa, En Banc], citing *People v. Damaso*, 176 Phil. 1 (1978) [Per Curiam, En Banc], *U.S. v. Ponte*, 20 Phil. 379 (1911) [Per J. Carson, En Banc], *U.S. v. Dato*, 37 Phil. 359 (1917) [Per J. Johnson, First Division], *People v. Caluag, et al.*, 94 Phil. 457 (1954) [Per J. Diokno, Second Division], and *Halili v. CIR*, 220 Phil. 507 (1985) [Per J. Makasiar, En Banc].

the offense [of the other accused].”¹¹² Co-conspirators are answerable collectively *and equally*, regardless of the degree of their participation in the crime,¹¹³ because it is *the common scheme, purpose, or objective* that is punished, not the individual acts of each of the accused.¹¹⁴

Here, the common scheme was to make it appear that part of the property described in BL Plan II-6752 is outside Fort Magsaysay as described in Presidential Proclamation No. 237, and hence, alienable, disposable, and can be the subject of a compromise. So while it is true that petitioner Solis was not the party who entered into the Compromise Agreement on behalf of the government, it was his recommendation in his February 12, 1998 Letter that served as the basis for its execution. In the words of petitioner Solis, “finding[s] disclose that the military reservation is not located in the topographic map sheets referred to in the technical description in Proclamation No. 237.”¹¹⁵ Without this recommendation, there would be nothing to compromise on in the first place. Petitioner Solis’ recommendation was indispensable for the existence of the second element.

It was also the recommendation of petitioner Solis that caused the existence of the third element. The segregation of 4,689 hectares of land of the public domain, to be registered in the name of a private person, was grossly and manifestly disadvantageous to the government. It is immaterial that the registration in the name of petitioner Garcia-Diaz did not push through. Petitioner Solis remains liable because “the core element” of Section 3(g) is that the “engagement in a transaction or contract . . . is grossly and manifestly disadvantageous to the government.”¹¹⁶ Section 3(g) is unlike Section 3(e)¹¹⁷ of the Anti-Graft and Corrupt Practices Act, which requires actual injury to the government.¹¹⁸ Surely, surrendering 4,689 hectares of public domain is grossly and manifestly disadvantageous to the government.

¹¹² Id. at 305–306.

¹¹³ *Domingo v. Sandiganbayan*, 510 Phil. 691, 706–707 (2005) [Per J. Azcuna, First Division].

¹¹⁴ *Balmadrid v. Sandiganbayan*, 272-A Phil. 486, 493 (1991) [Per J. Paras, En Banc].

¹¹⁵ *Rollo* (G.R. No. 193236), pp. 90 and 39, and *rollo* (G.R. Nos. 193248–49), pp. 86 and 35.

¹¹⁶ *Presidential Ad Hoc Fact-Finding Committee on Behest Loans v. Desierto*, 585 Phil. 1, 16 (2008) [Per J. Tinga, Second Division].

¹¹⁷ Rep. Act No. 3019, sec. 3(e) provides:

Section 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:

....

(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 employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

¹¹⁸ *Presidential Ad Hoc Fact-Finding Committee on Behest Loans v. Desierto*, 664 Phil. 16, 33 (2011) [Per J. Perez, First Division].

Petitioner Solis' other arguments, i.e., that Fabian prepared his February 12, 1998 Letter and that petitioner Solis routinely affixed his signature in it, and that he did not personally know Solicitor General Galvez and petitioner Garcia-Diaz, are factual in nature and cannot be raised in the present Petition.¹¹⁹ In any case, it was never established that Fabian or any other of petitioner Solis' subordinates prepared his February 12, 1998 Letter. This Court agrees with the following findings of the Sandiganbayan:

To exonerate himself, accused Solis contended that he only relied on his subordinates when he signed the said February 12, 1998 letter, because it had already passed the 5 offices of the NAMRIA, as shown by the routing slip. He did not thoroughly examine the attachments to the letter but relied on his technical people. However, the conformity to the contents of these offices to the letter, dated February 12, 1998, could not be ascertained on the face of the routing slip. In fact, in item no. 4, Basa merely requested accused Fabian of the Land Classification Division a briefing before the records would be forwarded to accused Solis. Nonetheless, the said briefing did not happen, as could be gleaned from Basa's testimony that the papers directly went to accused Bonnevie. Moreover, Basa testified, which accused Solis failed to rebut, that the February 12, 1998 letter did not pass through the usual procedure. Except for the initial of accused Fabian under accused Solis' name, the letter did not bear the signatures of the Assistant Director and Deputy Administrator Vinia. In fact, the letter appears to have been drafted even before the routing slip reached Basa on February 16, 1998. As to accused Solis' testimony that he did not examine the attachments to the letter but depended on his technical people, the same is inconsistent with his statement on direct examination. He claimed that he studied the letter the first time he saw it, because of the map and several documents attached thereto. This simply means that he also scrutinized the attachments because these were the very reason why he studied the letter. He was also the one who ordered the relocation survey, thus, it is impossible that he did not peruse the survey report or the field notes. Moreover, to represent that 4,689 hectares of BL Plan II-6752 are outside the military reservation is certainly a decision of great importance, as it would decide the fate of the compromise settlement. Accused Solis knew this, having been told by the Office of the Solicitor General of the purpose of the relocation survey. Thus, we find it incredible that he only signified his conformity without bothering to examine the attachments, unless, such decision had been a foregone conclusion.¹²⁰

Therefore, petitioner Solis cannot put the blame on any of his subordinates as to the contents of his February 12, 1998 Letter.

Further, it is immaterial that petitioner Solis knew Solicitor General Galvez and petitioner Garcia-Diaz personally. Their collective acts

¹¹⁹ RULES OF COURT, Rule 45, sec. 1. *See also* section 7 of Pres. Decree No. 1606, as amended by Rep. Act No. 8249, which states that "decisions and final orders of the Sandiganbayan shall be appealable to the Supreme Court by petition for review on certiorari raising pure questions of law in accordance with Rule 45 of the Rules of Court."

¹²⁰ *Rollo* (G.R. No. 193236), pp. 82-83 and *rollo* (G.R. Nos. 193248-49), pp. 78-79.

nevertheless show the common purpose of giving the Compromise Agreement a semblance of legitimacy. Petitioners Garcia-Diaz and Solis remain equally liable as co-conspirators.

In sum, the prosecution established beyond reasonable doubt the guilt of petitioners Garcia-Diaz and Solis. They conspired to make it appear that a 4,689-hectare portion of the property described in BL Plan II-6752 is outside the reservation described in Presidential Proclamation No. 237. Garcia-Diaz cannot claim good faith because as early as 1975, this Court held in *Director of Lands v. Reyes*¹²¹ that the source of her supposed ownership—Possessory Information Title No. 216—does not exist. As for petitioner Solis, he issued his February 12, 1998 Letter as basis to claim that the 4,689 hectares of land described in BL Plan II-6752 are located outside Fort Magsaysay, knowing fully well that this statement is false. Petitioners Garcia-Diaz and Solis are liable for violation of Section 3(g) of the Anti-Graft and Corrupt Practices Act, and the sentence of six (6) years and one (1) month to 10 years, with perpetual disqualification from office, conforms with the penal provision of the statute¹²² and with the Indeterminate Sentence Law.¹²³

III

Article 171 of the Revised Penal Code defines and penalizes the felony of falsification by a public officer, thus:

Article 171. *Falsification by public officer, employee or notary or ecclesiastic minister.* — The penalty of *prisión mayor* and a fine not to exceed 5,000 pesos shall be imposed upon any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts:

1. Counterfeiting or imitating any handwriting, signature or rubric;

¹²¹ 160-A Phil. 832 (1975) [Per J. Antonio, En Banc].

¹²² Rep. Act No. 3019, sec. 9(a) partly provides:

Section 9. *Penalties for violations.* — (a) Any public officer or private person committing any of the unlawful acts or omissions enumerated in Sections 3, 4, 5 and 6 of this Act shall be punished with imprisonment for not less than one year nor more than ten years, perpetual disqualification from public office, and confiscation or forfeiture in favor of the Government of any prohibited interest and unexplained wealth manifestly out of proportion to his salary and other lawful income.

¹²³ Act No. 4103, as amended, sec. 1 provides:

Section 1. Hereafter, in imposing a prison sentence for an offense punished by the Revised Penal Code, or its amendments, the court shall sentence the accused to an indeterminate sentence the maximum term of which shall be that which, in view of the attending circumstances, could be properly imposed under the rules of the said Code, and to a minimum which shall be within the range of the penalty next lower to that prescribed by the Code for the offense; and if the offense is punished by any other law, the court shall sentence the accused to an indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same.

2. Causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate;
3. Attributing to persons who have participated in an act or proceeding statements other than those in fact made by them;
4. Making untruthful statements in a narration of facts;
5. Altering true dates;
6. Making any alteration or intercalation in a genuine document which changes its meaning;
7. Issuing in authenticated form a document purporting to be a copy of an original document when no such original exists, or including in such copy a statement contrary to, or different from, that of the genuine original; or
8. Intercalating any instrument or note relative to the issuance thereof in a protocol, registry, or official book.

The same penalty shall be imposed upon any ecclesiastical minister who shall commit any of the offenses enumerated in the preceding paragraphs of this article, with respect to any record or document of such character that its falsification may affect the civil status of persons.

In general, the elements of Article 171 are: first, “the offender is a public officer, employee, or notary public”; second, he or she takes advantage of his or her official position; and third, he or she falsifies a document by committing any of the acts enumerated in Article 171.¹²⁴

Specific to the fourth mode in Article 171, i.e., making untruthful statements in a narration of facts, the elements are: first, “the offender makes in a [public] document untruthful statements in a narration of facts”; second, the offender “has a legal obligation to disclose the truth of the facts narrated by him [or her]”; and, third, the facts that he or she narrated are absolutely false.¹²⁵ Further, to be convicted under Article 171, the public officer must have taken advantage of his or her official position to commit the falsification either because “he [or she] has the duty to make or prepare or otherwise to intervene in the preparation of a document,” or because he or she has the official custody of the falsified document.¹²⁶

Petitioner Solis contends that the second element is absent because he had no legal obligation to disclose the truth of the facts that he narrated in his February 12, 1998 Letter to Solicitor General Galvez. At best, what he made was an inaccurate opinion on whether a portion of the property described in BL Plan II-6752 is outside Fort Magsaysay as described in Presidential Proclamation No. 237.

¹²⁴ *Regidor v. People*, 598 Phil. 714, 732 (2009) [Per J. Nachura, Third Division].

¹²⁵ *Santos v. Sandiganbayan*, 400 Phil. 1175, 1216–1217 (2000) [Per J. Buena, En Banc].

¹²⁶ *Fullero v. People*, 559 Phil. 524, 539 (2007) [Per J. Chico-Nazario, Special Third Division].

At any rate, the February 12, 1998 Letter was allegedly prepared by Fabian, and that petitioner Solis signed it on the assumption that Fabian properly performed his duty. Therefore, based on *Arias v. Sandiganbayan*,¹²⁷ where this Court said that “all heads of offices have to rely to a reasonable extent on their subordinates,”¹²⁸ petitioner Solis contends that he should be exonerated from the falsification charge.

Contrary to petitioner Solis’ argument, he did not make a mere opinion but deliberately made an untruthful statement in his February 12, 1998 Letter. To recall, he wrote that “*finding[s] disclose* that the military reservation is not located in the topographic map sheets referred to in the technical description in Proclamation No. 237,”¹²⁹ referring to the findings of Remote Sensing Technologists Valencia and Viernes in their Summary Report. Nothing in the Summary Report, however, indicates that the property described in BL Plan II-6752 is outside the military reservation as described in Presidential Proclamation No. 237. After re-surveying Fort Magsaysay, Valencia and Viernes actually confirmed that they were able to relocate the actual ground positions of corners 6 and 7 of Fort Magsaysay. They found that the Bureau of Lands Location Monuments remained in the position as earlier computed and plotted in the topographic map referred to in Presidential Proclamation No. 237, indicating that the actual ground location of Fort Magsaysay conformed with the technical description in Presidential Proclamation No. 237.

It is ridiculous to say that petitioner Solis had no legal obligation to disclose the truth of the facts as he narrated in his February 12, 1998 Letter. On the contrary, inherent in the very nature and purpose of the document was petitioner Solis’ obligation, as NAMRIA Administrator, to disclose the truth of the facts as he narrated.¹³⁰ NAMRIA is the government agency responsible for conducting geophysical surveys as well as managing resource information needed by both the public and private sectors.¹³¹ Because of the agency’s special competence, petitioner Solis was requested by the Republic, through the Solicitor General, to conduct a re-survey of Fort Magsaysay. He was informed at the outset that his agency’s findings would determine whether or not the government would enter into a compromise with petitioner Garcia-Diaz. To allow petitioner Solis to claim that he had no legal obligation to disclose the truth in his letter will be contrary to NAMRIA’s functions. It will erode the public’s confidence in NAMRIA and all its issuances and research findings.

¹²⁷ 259 Phil. 794 (1989) [Per J. Gutierrez, Jr., En Banc].

¹²⁸ *Id.* at 801.

¹²⁹ *Rollo* (G.R. No. 193236), p. 90 and *rollo* (G.R. Nos. 193248–49), p. 86.

¹³⁰ *People v. Po Giok To*, 96 Phil. 913, 916 (1955) [Per J. J.B.L. Reyes, En Banc].

¹³¹ DENR Adm. O. No. 1 (1998), par. 4.2.6.3.

It is true that this Court said in *Arias*¹³² that “all heads of offices have to rely to a reasonable extent on their subordinates and on the good faith of those who . . . enter into negotiations.”¹³³ However, as earlier found, it was never established that a subordinate prepared the February 12, 1998 Letter and that petitioner Solis merely signed it perfunctorily. The Sandiganbayan even found that it did not pass the usual procedure, not being signed by an assistant director, a director, and a deputy administrator. Furthermore, petitioner Solis testified on direct examination that he examined it and its attachments. It must be presumed that petitioner Solis prepared it, not a subordinate. *Arias*, therefore, does not apply.

All told, petitioner Solis is guilty of falsification of public document. Petitioner Solis, then NAMRIA Administrator, wrote the February 12, 1998 Letter, an official correspondence to the Solicitor General, and therefore, a public document. He had the legal obligation to disclose the truth of the facts narrated in it for he was fully aware that his findings would determine whether 4,689 hectares of the property covered by BL Plan II-6752, claimed to be located outside Fort Magsaysay, may be the subject of a compromise. Lastly, as established, the narration of facts was absolutely false and contrary to the findings of the foresters who re-surveyed Fort Magsaysay. There being no modifying circumstance in this case, the indeterminate penalty of two (2) years, four (4) months, and one (1) day of *prisión correccional* medium as minimum to six (6) years and one (1) day of *prisión mayor* medium as maximum is in order.¹³⁴

This Court notes that from the Office of the Solicitor General, only the late Solicitor General Galvez was charged before the Sandiganbayan. Other officials of the Office of the Solicitor General who participated in the proceedings leading to the compromise, specifically those who drafted the letters of Solicitor General Galvez to Administrator Solis requesting for a re-survey, were not investigated. As such, copies of this Decision must be forwarded to the Office of the Ombudsman to determine the individuals who should likewise be investigated for their possible liabilities.

¹³² 259 Phil. 794 (1989) [Per J. Gutierrez, Jr., En Banc].

¹³³ Id. at 801.

¹³⁴ REV. PEN. CODE, art. 171 in relation to the INDETERMINATE SENTENCE LAW, as amended, sec. 1 of which provides:

Section 1. Hereafter, in imposing a prison sentence for an offense punished by the Revised Penal Code, or its amendments, the court shall sentence the accused to an indeterminate sentence the maximum term of which shall be that which, in view of the attending circumstances, could be properly imposed under the rules of the said Code, and to a minimum which shall be within the range of the penalty next lower to that prescribed by the Code for the offense; and if the offense is punished by any other law, the court shall sentence the accused to an indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same.

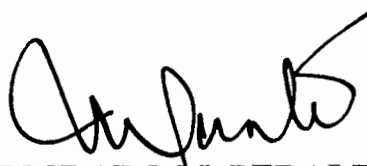
The penalty next lower to that prescribed by the Revised Penal Code for falsification under Article 171 is *prisión correccional*.

WHEREFORE, the Petitions for Review on Certiorari are **DENIED**.
The Sandiganbayan March 3, 2010 Decision and July 29, 2010 Resolution in
Criminal Cases Nos. 27974-75 are **AFFIRMED**.

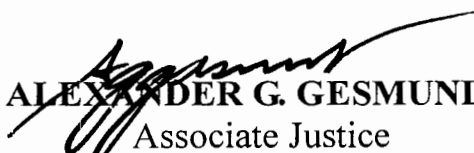
SO ORDERED.

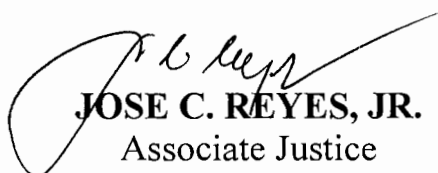

MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:


DIOSDADO M. PERALTA
Associate Justice
Chairperson



ANDRES B. REYES, JR.
Associate Justice


ALEXANDER G. GESMUNDO
Associate Justice


JOSE C. REYES, JR.
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in
consultation before the case was assigned to the writer of the opinion of the
Court's Division.


DIOSDADO M. PERALTA
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Chief Justice

CERTIFIED TRUE COPY
Wilfredo V. Lapan
WILFREDO V. LAPAN
Division Clerk of Court
Third Division

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