



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

RAMON C. RENALES,
Petitioner,

G.R. No. 231530-33

- versus -

PEOPLE OF THE PHILIPPINES,
Respondent.

X-----X

LCDR ROSENDO C. ROQUE,
Petitioner,

G.R. No. 231603-08

Present:

- versus -

GESMUNDO, C.J.,
Chairperson,
CAGUIOA,
CARANDANG,
ZALAMEDA, and
GAERLAN, JJ.

SANDIGANBAYAN (FIRST
DIVISION) AND PEOPLE OF THE
PHILIPPINES,

Promulgated:

Respondents.

JUN 16 2021

X-----X

DECISION

CARANDANG, J.:

Before this Court are two separate Petitions for Review on *Certiorari*¹ under Rule 45 of the Rules of Court assailing the Decision² dated January 12, 2017 and the Resolution³ dated May 9, 2017 rendered by the Sandiganbayan,

¹ Rollo (G.R. No. 231530-33), pp. 10-54; rollo (G.R. No. 231603-08), pp. 83-160.

² Rollo (G.R. No. 231603-08), pp. 10-69.

³ Id. at 70-81.

Special First Division, which convicted petitioners LCDR Rosendo C. Roque (Roque) and Ramon C. Renales (Renales) with five counts and four counts, respectively, of violation of Section 3(e) of Republic Act No. (R.A.) 3019, otherwise known as *the* “Anti-Graft and Corrupt Practices Act.”

Facts of the Case

On August 5, 2011, 12 Informations for violation of Sections 3(e) and 3(g) of R.A. 3019 were filed against Roque, Renales, Vice Admiral Mariano Dumancas, Jr. (Dumancas), Commodore Lamberto R. Torres (Torres), Captain Alfredo V. Penola, Captain Walter A. Briones, Commodore Francisco L. Tolin (Tolin), Commander Manuel R. Tuason (Tuason), Ramon F. Vito, Wilma C. Aquino (Aquino), Ben Edulag, (Edulag) and Connie B. Tagle (Tagle; collectively, accused).⁴

The accused are public officers and members of the Philippine Navy (PN) of the Armed Forces of the Philippines (AFP). They were accused of conspiring with each other and with private individuals in certifying the need for emergency purchase of certain medicines without the conduct of public bidding.⁵ The Informations filed against accused stated that they took advantage of their official positions as members of the Bids and Awards Committee and/or Procurement Committee, and with manifest partiality and acting with evident bad faith, caused undue injury to the Government and gave unwarranted benefits to the suppliers of the medicines. The prosecution likewise accused them of entering into contracts grossly disadvantageous to the Government.⁶

When arraigned, only Roque, Renales, Dumancas, Aquino, Edulag, Tolin, Torres, and Tuason entered their plea of not guilty. The other accused remain at large and their whereabouts are unknown.⁷

For his part, Torres moved to quash the Informations against him, alleging that his constitutional right to speedy disposition of cases was violated. His motion to quash was denied by the Sandiganbayan, but when he went to this Court *via certiorari* under Rule 65, the Court granted his petition and the cases against him were consequently dismissed.⁸

During trial, the prosecution presented its sole witness, Director Mary S. Adelino (Adelino) from the Commission on Audit (COA). Adelino testified that pursuant to Assignment Order No. 1507, the COA audited the PN for its selected transactions from 1991 to June 1992 in order to determine whether PN’s transactions for the said period are compliant with government rules and regulations.⁹ The COA audit team examined numerous documents including disbursement vouchers, official receipts, purchase orders, purchase

⁴ Id. at 84, 11-12.

⁵ Id. at 11-12.

⁶ Id. at 16.

⁷ Id. at 21.

⁸ Id. at 21.

⁹ Id. at 23-24.

requisition, certificate of availability of fund, certificate of emergency purchase, certificate of exclusive distributorship issued by the supplier, and certificate from the manufacturer in relation to the questioned transactions of the PN. The audit team compared the prices of the medicines using the PIMS¹⁰ of 1990, 1991, and 1992. The audit team also looked into the invoices issued by the manufacturer and the latter's license to operate, the procurement directives, requisition and issue vouchers, comparison of prices, purchase request and comparative pricing analysis.¹¹

During audit, the team found that drugs and medicines were purchased through emergency mode of procurement. However, Adelino claimed that at the time of the purchase, there was no emergency because the medicines were for stock purposes only. Even assuming that emergency purchase was justified, Adelino added that the canvass requirement from three suppliers under COA Circular No. 85-55-A was nevertheless not followed.¹² Allegedly, a total amount of approximately ₱2,900,000.00 was used to purchase the medicines from five different suppliers.¹³

The defense, on the other hand, presented five witnesses including Roque and Renales. Roque testified that he was the Naval Procurement Officer of the PN in 1991. His duties include procurement of the items, materials, equipment, medicines, office supplies, and other things needed by the PN units. According to Roque, the process of purchasing medicines is initiated by a particular PN unit through a requisition and issue voucher. In this case, the medicines were certified as "badly needed" as seen in its supporting vouchers. Specifically for Criminal Cases Nos. SB-11-CRM-0422 and 0428, the Therapeutic Board of Dental Doctors requested the medicines which were certified as "badly needed" and were to be purchased through emergency mode.¹⁴ For Criminal Cases Nos. SB-11-CRM-0423 and 0429, Roque claimed that it was the Medical Therapeutic Board which initiated the request for purchase because there was no longer any supply for medicines. The same procedure was followed for transactions involved in Criminal Cases Nos. 0424, 0426, 0427, 0430, 0432, and 0433, likewise upon information from Medical Therapeutic Board that there were zero medicine left in its warehouse.¹⁵

Roque added that when he received the procurement directive, he required documents from other naval offices to support the purchase of the medicines through emergency mode. Hence, before issuing the purchase order, he made sure that the PN units submitted the following documents: (a) distribution list of dental medicines; (b) procurement directive; (c) certificate of emergency purchase; (d) certification issued by the price monitoring office

¹⁰ "PIMS is an index of essential prescribing information designed to be used as a handy reference for routine prescribing of pharmaceutical products available in Philippines and as an update to PIMS Annual;" *id.* at 34.

¹¹ *Id.* at 23-24.

¹² *Id.* at 24.

¹³ *Id.* at 38-39.

¹⁴ *Id.* at 33-34.

¹⁵ *Id.* at 35.

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that the medicines are of exclusive sole distributorship; and (e) certification affirming that the medicines are exclusively distributed by the pharmaceutical companies that the PN is dealing with.¹⁶

Renales, for his part, testified that he was Head of the Price Monitoring Office at the time the medicines were purchased. His duties include: (a) conducting price comparison checks on all purchases made by the PN through a continuously updated computerized price listing and actual independent canvasses; (b) signing the comparative pricing analysis printed from the computer as produced by the database program; (c) indicating in the comparative pricing analysis whether the purchase order is “reasonably priced,” “overpriced,” “not canvassed,” “prices noted,” or “no basis for comparison;” and (d) filing and saving information in the database program for PN’s future reference.¹⁷

Renales averred that his findings depended upon the availability of prices registered in the database program and the documents attached to the purchase orders. According to him, in the subject purchase orders, he checked only the space before the phrase “not canvassed/prices noted and filed” based on the following: (a) authority of procurement; (b) certificate of exclusive distributorship; and (c) requisition and issue voucher prepared by the end-user who specified the names of the medicines requested.¹⁸

Renales claimed that his duty is only ministerial, as he merely compared and noted prices based on the updated computerized listing and the documentary record in his possession. He has no authority to change what has been requested by the proper offices. In the comparative pricing analyses, Renales pointed out that he did not approve the fact that no canvass was made. Rather, he only noted that no canvass was made because the documents submitted to him showed that the suppliers were the exclusive distributors of the medicines requested.¹⁹

Renales also denied knowing any of the suppliers, contending that it was not his duty to determine whether a supplier is an exclusive distributor of an item or not. He also had no knowledge whether the medicines are generic or branded. According to him, the persons knowledgeable of these are the requisitioning officers and the Medical Therapeutic Board.²⁰

Ruling of the Sandiganbayan

On January 12, 2017, the Sandiganbayan rendered the challenged Decision,²¹ convicting Dumancas, Roque, Renales, Tolin, and Tuason, except private individual Aquino, with violation of Section 3(e) of R.A. 3019. The Sandiganbayan meted upon them the indeterminate penalty of imprisonment

¹⁶ Id. at 34.
¹⁷ Id. at 32.
¹⁸ Id.
¹⁹ Id. at 32-33.
²⁰ Id. at 33.
²¹ Id. at 10-69.

of six (6) years and one (1) month, as minimum, to ten (10) years, as maximum, and further imposed against them the accessory penalty of perpetual disqualification from holding public office for each count. However, they were acquitted for violation of Section 3(g) of R.A. 3019.²²

According to the Sandiganbayan, all the elements of violation of Section 3(e) of R.A. 3019 are present in this case, to wit: (1) that the accused are public officers discharging administrative, judicial or official functions; (2) that the accused acted with manifest partiality, evident bad faith or gross inexcusable negligence; and (3) that the accused caused undue injury to any party including the Government, or gave any private party unwarranted benefits, advantage or preference in the discharge of their functions.²³

The Sandiganbayan held that majority of the accused are public officers discharging official functions. When the crime was committed, two of them were holding positions with salary grade 27 and higher.²⁴

Unwarranted benefits were also found to be given to medicine suppliers, namely: Jerso Marketing, PMS Commercial, Gebruder Marketing, Dofra Pharmaceutical, and Roddensers Pharmaceuticals. Medicines were purchased without the benefit of a public bidding notwithstanding the clear requirements for emergency mode of procurement under Section 4.1.b of COA Circular No. 85-55-A, to wit:

b. Emergency Purchase

1. Unless otherwise provided by law or the charter, agencies are authorized to make emergency purchase of supplies, materials and spare parts to meet an emergency which may involve the **loss of or danger to life and/or property**, or are to be used in connection with a **project or activity which cannot be delayed causing detriment to the public service**.

2. An **emergency purchase shall be allowed only upon a proper showing of the nature of the purchase**. For this purpose, a certification shall be made by the agency head or his duly authorized representative particularly stating the actual conditions obtaining at the time of purchase, the quantity of items needed and the time or period when such items are to be used.

3. In an emergency purchase, **canvass of prices of items from at least three (3) bonafide reputable suppliers** shall be required, except when the amount involved is less than P1,000.00 or in case of repeat orders where the price is the same or less than the original price.

x x x x²⁵ (Emphasis supplied)

²² Id. at 65-68.

²³ Id. at 49-50.

²⁴ Id. at 51-52.

²⁵ Id. at 53-54.

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Based on the obtaining circumstances, the Sandiganbayan found no justification for the accused to resort to emergency mode of procurement of medicines. The accused, including Roque and Renales, were not able to show the presence of an emergency, *i.e.*, one that involves the loss of or danger to life and/or property or that the medicines are to be used in connection with a project or activity which cannot be delayed causing detriment to the public service. The Sandiganbayan observed that the medicines are mostly over-the-counter, such as paracetamol, amoxicillin, and multivitamins, which will only be used for stock purposes.²⁶

Further, the Sandiganbayan ruled that assuming that emergency purchase was justified, still, the accused were not able to canvass prices from at least three different suppliers as required by the law at that time. To do away with the requirement of canvass, the accused deliberately used the branded names of the medicines even if the requisition and issue vouchers indicated the generic names requested by the medical units. Had the accused utilized the generic names of the medicines, the Sandiganbayan observed that the accused would not have encountered difficulties in the canvassing of said medicines.²⁷

The Sandiganbayan also found conspiracy between and among the accused. The acts and omissions of each of them were instrumental in carrying out the subject transactions which gave unwarranted benefits to the suppliers.²⁸ Specifically for Roque who claimed that the period when the medicines were purchased was unusual because of the rumors of *coup*, the Sandiganbayan noted that if the purpose is to stock up the supplies in anticipation of a *coup*, then it is highly questionable why the request was made when there were zero supplies left. They should have requested the supplies ahead of time.²⁹ Moreover, as head of procurement, Roque oversees the contacting of suppliers. However, the Sandiganbayan pointed out that in securing suppliers, his office only used the brand names of the medicines even if the generic names of the medicines are also indicated in the requisition and issue vouchers. Had Roque adopted the generic names of the medicines, the PN would not have been limited to five suppliers and a comparison of prices would have been possible.³⁰

As for Renales, the Sandiganbayan found that his recommendation for the approval of the purchase orders reeks of evident bad faith because he knew that the prices of the medicines subject of the purchase orders were not canvassed. Instead of checking the prices of medicines based on their generic names, which were all indicated in the purchase orders, he utilized the branded names of the medicines in the database. In doing so, he failed to conduct competent price comparisons in violation of his duties as head of the price

²⁶ Id. at 54-55.

²⁷ Id. at 55.

²⁸ Id. at 55-56.

²⁹ Id. at 58-59.

³⁰ Id. at 59.

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monitoring office. The Sandiganbayan noted that Renales' recommendations were highly considered in the procurement process.³¹

Nonetheless, the Sandiganbayan acquitted Roque, Renales, and their co-accused for violation of Section 3(g) of R.A. 3019. The elements of said crime are the following: (1) that the accused is a public officer; (2) that the accused entered into a contract or transaction on behalf of the government; and (3) that such contract or transaction is grossly and manifestly disadvantageous to the government. Here, the Sandiganbayan held that the fact of over-pricing was not sufficiently established. Since the COA audit team compared the prices of the branded medicines procured by the accused to the prices of generic ones, the Sandiganbayan conceded that there are certainly differences in the prices thereof because branded medicines could be pricier owing to the marketing involved, advertising, and packaging or presentation.³² Hence, it cannot be said that the accused entered into contracts grossly disadvantageous to the government so as to fall under violation of Section 3(g) of R.A. 3019.³³

Meanwhile, on October 5, 2016, the case against Commodore Torres was dismissed by this Court for violation of his constitutional right to speedy disposition of cases. Thereafter, the dismissal of the case against Commodore Torres was invoked by Roque and Renales in their motions for reconsideration as basis to argue that the case against them should also be dismissed for inordinate delay. In a Resolution³⁴ dated May 9, 2017, the Sandiganbayan denied their motions. The Sandiganbayan held that the constitutional right to speedy disposition of cases is a relative and flexible concept such that mere mathematical reckoning of the time involved would not be sufficient.³⁵ The Sandiganbayan highlighted that Roque and Renales even requested for and were granted separate extensions of time to file their respective counter-affidavits during the preliminary investigation of the cases. Hence, according to the Sandiganbayan, if the cases against them were prolonged, Roque and Renales likewise contributed to it. For the Sandiganbayan, the period of 5 years and 5 months – the period it took the Ombudsman to conclude the preliminary investigation – is reasonable and justified since there are 12 Informations and 12 accused involved. Moreover, the complexity of the issues and numerous transactions necessitated a lengthy and careful review of the records. Lastly, the Sandiganbayan emphasized that before it, Roque and Renales only raised the issue of inordinate delay for the first time in their respective motions for reconsideration.³⁶

Aggrieved, Roque filed before this Court his Petition for Review on *Certiorari*³⁷ on July 3, 2017 reiterating that the case against him should be dismissed because his constitutional right to speedy disposition of cases was

³¹ Id. at 60.
³² Id. at 64-65.
³³ Id. at 65.
³⁴ Id. at 70-81.
³⁵ Id. at 78.
³⁶ Id. at 79.
³⁷ Id. at 83-160.

violated, following this Court's dismissal of the case against Commodore Torres.³⁸ Further, Roque insists that at the time he issued the purchase orders, he has no criminal intent, thus, negating the elements of bad faith and/or evident partiality. Roque explains that at the time the transactions took place, he was just a junior officer newly assigned to his post in the naval procurement office and therefore, he was bound by the process. Roque emphasized that the technical personnel (composed of doctors) certified that the purchase of medicines was urgent, while the staff personnel and logistics division reiterated such request.³⁹ Having no background in medicine, he relied on the certifications of his superiors.⁴⁰

Renales, in his separate Petition for Review on *Certiorari*⁴¹ filed before this Court on May 25, 2017, argues that the elements of violation of Section 3(e) of R.A. 3019 are not proven in this case.⁴² He also reiterates that as head of the price monitoring office, his duty was ministerial.⁴³ Likewise, Renales argues that his right to speedy disposition of cases was violated.⁴⁴

The People of the Philippines, through the Office of the Special Prosecutor (OSP), filed its Comment⁴⁵ before this Court on April 4, 2018. In the comment, the OSP argues that Roque, as head of procurement, had the opportunity to ensure the conduct of competitive bidding. However, Roque stuck to the branded names of the medicines previously identified by his co-accused in order to do away with the canvassing of medicines. The OSP avers that a branded medicine will definitely correspond to its registered distributor and thus, would facilitate the giving of unwarranted benefits, advantage or preference to their favored suppliers.⁴⁶

On the one hand, in the Comment on Renales's Petition, the OSP insists that Renales, as head of price monitoring office, has the duty to ascertain whether the prices indicated in the purchase orders are the least price obtainable based on their database. When Renales used the branded names of the medicines as basis for the price comparisons, he failed to properly compare the prices. Renales should have used the generic names of the medicines as indicated in the purchase orders since the medicines are common and will only be used for stock purposes. By using the branded names of the medicines, Renales, according to the OSP, was able to give unwarranted preference to the respective suppliers of such branded medicines.⁴⁷

³⁸ Id. at 136.
³⁹ Id. at 148.
⁴⁰ Id. at 149.
⁴¹ *Rollo* (G.R. No. 231530-33), pp. 10-54.
⁴² Id. at 19.
⁴³ Id. at 23.
⁴⁴ Id. at 30.
⁴⁵ *Rollo* (231603-08), pp. 426-448.
⁴⁶ Id. at 438-439, 442.
⁴⁷ Id. at 385.

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In his Reply⁴⁸ filed on June 13, 2019, Roque reiterates his claim that the dismissal of the case with respect to Commodore Torres should benefit him.⁴⁹

Issue

The issue in this case is whether Roque and Renales are guilty beyond reasonable doubt of violation of Section 3(e) of R.A. 3019.

Ruling of the Court

The petitions are meritorious.

In convicting Roque, Renales, and their co-accused, the Sandiganbayan centered its discussion on the violation of the existing rules of procurement at the time the purchase of medicines took place. The Sandiganbayan emphasized the failure of Roque, Renales, and their co-accused to prove the presence of an emergency justifying the resort to direct procurement of medicines from the five suppliers involved in this case. The Sandiganbayan likewise pointed out that even if the emergency mode is justified, the accused still failed to canvass the prices of medicines from at least three suppliers, contrary to the COA Circular prevailing at the time of procurement.

However, in the case of *Martel v. People*,⁵⁰ citing *Sabalдан, Jr. v. Ombudsman*,⁵¹ the Supreme Court emphasized that in order to successfully prosecute the accused under Section 3(e) of R.A. 3019, based on violation of the procurement laws, the prosecution cannot solely rely on the fact that a violation of the procurement laws was committed. Rather, the prosecution must still prove beyond reasonable doubt the elements of violation of Section 3(e) of R.A. 3019.

Manifest partiality and evident bad faith are not proven.

Again, the essential elements for violation of Section 3(e) of R.A. 3019 are the following: (1) that the accused must be a public officer discharging administrative, judicial or official functions; (2) that the accused must have acted with manifest partiality, evident bad faith or gross inexcusable negligence; and (3) that the action of the accused caused undue injury to any party, including the government, or gave any private party unwarranted benefits, advantage or preference in the discharge of the functions of the accused.⁵²

⁴⁸ Id. at 455-478.

⁴⁹ Id. at 464.

⁵⁰ G.R. No. 224720-23, February 2, 2021.

⁵¹ G.R. No. 238014, June 15, 2020.

⁵² *Rivera v. People*, 749 Phil. 124, 142 (2014).

Here, it is undeniable that Roque and Renales were public officers discharging official functions at the time of the questionable purchase of medicines. However, the second and third elements are lacking.

In the Informations against Roque and Renales, the prosecution alleged that they, together with their co-accused, as members of the bids and awards committee and/or procurement committee, acted with manifest partiality and evident bad faith in certifying: (1) the existence of an emergency; and (2) that the supplier is the sole distributor of the medicine, thereby avoiding the requirement of public bidding.

Partiality is synonymous with **bias**, which “excites a disposition to see and report matters as they are wished for rather than as they are.” **Bad faith** does not simply connote bad judgment or negligence; it imputes a **dishonest purpose** or some **moral obliquity and conscious doing of a wrong**; a **breach of sworn duty** through some **motive or intent or ill will**; it partakes of the nature of **fraud**.⁵³

In *Sistoza v. Desierto*,⁵⁴ the Court held that “mere bad faith or partiality are not enough for one to be held liable under the law since the act of bad faith or partiality must be x x x evident or manifest, respectively.”

For an act to be considered as exhibiting “**manifest partiality**,” there must be a showing of a **clear, notorious or plain inclination or predilection to favor one side rather than the other**. “**Evident bad faith**,” on the other hand, contemplates a state of mind affirmatively operating with **furtive design**, or some motive of **self-interest** or **ill will** for **ulterior purpose**. Evident bad faith connotes a manifest and deliberate intent on the part of the accused to do wrong or cause damage.⁵⁵ Because evident bad faith entails manifest deliberate intent to do wrong, it must be shown that the accused was spurred by any **corrupt motive**.⁵⁶

In *Villarosa v. People of the Philippines*,⁵⁷ Villarosa, who was a municipal mayor, erroneously believed that he has the power to issue extraction permits to several quarry operators in the area. However, under the Local Government Code (LGC), only the Provincial Governor may issue extraction permits. Hence, the action of Villarosa is contrary to the LGC and therefore, illegal. Be that as it may, this Court acquitted Villarosa from violation of Section 3(e) of R.A. 3019 upon finding that Villarosa did not act in bad faith. This Court held that a violation of the LGC does not automatically equate to evident bad faith as an element of Section 3(e) of R.A. 3019. This Court stressed that an independent finding of furtive and fraudulent design should still be established beyond reasonable doubt.

⁵³ *Coloma, Jr. v. Sandiganbayan*, 744 Phil. 214, 229 (2014).

⁵⁴ 437 Phil. 117, 130 (2002).

⁵⁵ *People v. Sandiganbayan*, 642 Phil. 640, 651-652 (2010)

⁵⁶ *Republic v. Desierto*, 516 Phil. 509, 516 (2006).

⁵⁷ G.R. No. 233155-63, June 9, 2020.

In this case, Roque as the procurement officer, issued the purchase orders subject of the transactions after it had undergone various layers of review from his superiors. When the paper work reached him, various certifications accompanied the requisitions including the prescription of branded medicines made by the doctors from the technical personnel division, certificate of zero stocks of the medicines, as well as certifications that the suppliers are the exclusive distributors of the prescribed branded medicines.⁵⁸ Renales, as price monitoring officer, merely stated that the prices of the branded medicines were not canvassed because the medicines listed in the requisition and issue vouchers were under sole or exclusive distributorship as evidenced by certifications issued by the suppliers.⁵⁹

To this Court's mind, Roque's and Renales's reliance on the certification and specification issued by the doctors from the Medical Therapeutic Board as well as the technical personnel division, who have medical background and are more familiar or knowledgeable with pharmaceutical products, cannot be stretched to mean that they acted in evident bad faith and/or with manifest partiality. Reliance on the expertise of appropriate personnel cannot be equated with fraudulent and corrupt design. In the absence of clear evidence showing the elements of evident bad faith and/or manifest partiality, Roque and Renales cannot be convicted of the crime charged.

The third element of violation of Section 3(e) of R.A. 3019 is likewise unproven.

This Court has consistently held that there are two ways by which a public official violates Section 3(e) of R.A. 3019 in the performance of his functions, namely: (1) by causing undue injury to any party, including the Government; or (2) by giving any private party any unwarranted benefit, advantage or preference. The accused may be charged under either mode or both.⁶⁰ In the Informations filed against Roque and Renales, the prosecution alleged both modes of committing the crime.

In the case of *Llorente, Jr. v. Sandiganbayan*,⁶¹ the Court explained the concept of "undue injury" in the context of Section 3(e) of R.A. 3019 in this wise:

In jurisprudence, "undue injury" is consistently interpreted as "actual damage." Undue has been defined as "more than necessary, not proper, [or] illegal" and injury as "any wrong or damage done to another, either in his person, rights, reputation or property [that is, the] invasion of any legally protected interest of another." Actual damage, in the context of these definitions, is akin to that in civil law.

⁵⁸ *Rollo* (G.R. No. 231603-08), p.154.

⁵⁹ *Id.* at 24

⁶⁰ *Sison v. People*, 628 Phil. 573, 585 (2010).

⁶¹ 350 Phil. 820 (1998).

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In turn, actual or compensatory damages is defined by Article 2199 of the Civil Code as follows:

Art. 2199. Except as provided by law or by stipulation, one is entitled to an adequate compensation only for such pecuniary loss suffered by him as he has duly proved. Such compensation is referred to as actual or compensatory damages.

Fundamental in the law on damages is that one injured by a breach of a contract, or by a wrongful or negligent act or omission shall have a fair and just compensation commensurate to the loss sustained as a consequence of the defendant's act. Actual pecuniary compensation is awarded as a general rule, except where the circumstances warrant the allowance of other kinds of damages. Actual damages are primarily intended to simply make good or replace the loss caused by the wrong.

Furthermore, damages must not only be capable of proof, but must be actually proven with a reasonable degree of certainty. They cannot be based on flimsy and non-substantial evidence or upon speculation, conjecture, or guesswork. They cannot include speculative damages which are too remote to be included in an accurate estimate of the loss or injury.⁶²

The same principle was reiterated in *Rivera v. People*,⁶³ thus:

x x x [U]ndue injury should be equated with that civil law concept of "actual damage." Unlike in actions for torts, undue injury in Sec. 3 (e) cannot be presumed even after a wrong or a violation of a right has been established. Its existence must be proven as one of the elements of the crime. In fact, the causing of undue injury, or the giving of any unwarranted benefits, advantage or preference through manifest partiality, evident bad faith or gross inexcusable negligence constitutes the very act punished under this section. Thus, it is required that the undue injury be specified, quantified, and proven to the point of moral certainty.⁶⁴

In *Abubakar v. People of the Philippines*,⁶⁵ this Court held that an accused is said to have caused undue injury to the government or any party when the latter sustains actual loss or damage, which must exist as a fact and cannot be based on speculations or conjectures. The loss or damage need not be proven with actual certainty. However, there must be "some reasonable basis by which the court can measure it." Aside from this, the loss or damage

⁶² Id. at 838-839.

⁶³ 749 Phil. 124 (2014)

⁶⁴ Id. at 148.

⁶⁵ 834 Phil. 435 (2018).

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must be substantial. It must be “more than necessary, excessive, improper or illegal”.⁶⁶

In other words, jurisprudence requires that for a successful prosecution of violation of Section 3(e) of R.A. 3019, the fact of undue injury to the government must be specified, quantified, and proven beyond reasonable doubt.

In this case, it can be observed that the prosecution failed to prove any undue injury suffered by the Government because of the emergency purchase of the medicines from the five suppliers. The Sandiganbayan itself even acknowledged that the prosecution failed to prove the fact of overpricing in the medicines purchased by the accused. To be able to show that indeed the government suffered damage, the prosecution should have canvassed and should have compared the prices of the branded medicines purchased by the accused to the exact brands sold by other suppliers. The difference of the prices, if any, would prove the presence of undue injury to the government. However, this was not done. Hence, there is no actual basis for Sandiganbayan to conclude that the government suffered undue injury because of the emergency purchase of the subject medicines.

Even under the second mode, which is by giving any private party unwarranted benefits, advantage, or preference, the prosecution failed to prove that the five suppliers of the subject medicines were favored. **“Unwarranted” means lacking adequate or official support; unjustified; unauthorized; or without justification or adequate reasons. “Advantage” means a more favorable or improved position or condition; benefit or gain of any kind; benefit from course of action. “Preference” signifies priority or higher evaluation or desirability; choice or estimation above another.**⁶⁷

In this case, it cannot be said that Roque and Renales, by undertaking their specific duties as procurement officer and price monitoring officer, respectively, gave unwarranted benefits, advantage, or preference to the medicine suppliers. As comprehensively discussed, Roque and Renales merely relied on the certifications of the doctors from the Medical Therapeutic Board and the technical division. They did not personally choose from whom to purchase the medicines. The prosecution did not even attempt to show any connection between Roque, Renales, and their co-accused, on one hand, and the medicine suppliers, on the other, to back the claim that the accused preferred the suppliers.

Additionally, in *Martel v. People*,⁶⁸ this Court held that in cases of violation of Section 3(e) of R.A. 3019 by giving any private party any unwarranted benefit, advantage or preference, it is not enough that the benefits, advantage, or preference was obtained in transgression of laws, rules, and regulations, such as the procurement laws. The benefits must have been

⁶⁶ Id. at 473.

⁶⁷ *Gallego v. Sandiganbayan*, 201 Phil. 379 (1982).

⁶⁸ G.R. No. 224720-23, February 2, 2021.

given by the accused public officer to the private party with corrupt intent, dishonest design, or some unethical interest, to be consistent with the spirit of R.A. 3019 which centers on the concept of graft and corruption.

In this case, Roque, Renales, and their co-accused did not deny the absence of public bidding and their resort to emergency mode of procurement. However, this alone is not sufficient to conclude that the suppliers were preferred. Based on the evidence on record, there is no showing that pecuniary benefit went to the Roque, Renales, and their co-accused or to any other person or entity. Hence, no graft and corruption transpired. The fact that the Sandiganbayan itself was not able to find over pricing in the purchase of medicines is a strong indication that Roque and Renales were not motivated by corrupt intent, dishonest motive, and ill-will as procurement officer and price monitoring officer, respectively. The absence of these elements debunks the finding of guilt beyond reasonable doubt upon Roque and Renales.

The acquittal of Roque and Renales at bench is not to diminish the importance of public bidding in awarding government contracts. In fact, it is established that the rationale behind the requirement of a public bidding is to ensure that the people get maximum benefits and quality services from the contracts. More significantly, strict compliance with the requirement of public bidding echoes the call for transparency in government transactions and accountability of public officers. Public biddings are intended to minimize occasions for corruption and temptations to abuse discretion on the part of government authorities in awarding contracts.⁶⁹ Nevertheless, the lack of public bidding alone, or the violation of procurement laws, is not enough to support the conviction of a public official for violation of Section 3(e) of R.A. 3019. The burden to prove that all the elements of the crime are present beyond reasonable doubt rests on the prosecution, which unfortunately in this case, the prosecution failed to discharge.

Foregoing considered, this Court finds no need to address the additional argument of Roque and Renales that the dismissal of the case against Commodore Torres for inordinate delay should also be applied to them. It is irrelevant at this point in view of the finding that not all the elements of violation of Section 3(e) of R.A. 3019 are present in this case.

WHEREFORE, the Petitions for Review on *Certiorari* are **GRANTED**. The Decision dated January 12, 2017 and the Resolution dated May 9, 2017 of the Sandiganbayan, Special First Division, finding Rosendo C. Roque and Ramon C. Renales guilty beyond reasonable doubt for violation of Section 3(e) of Republic Act No. 3019, are **REVERSED** and **SET ASIDE**. Rosendo C. Roque and Ramon C. Renales are hereby **ACQUITTED**.

SO ORDERED.

⁶⁹ *Power Sector Assets and Liabilities Management Corp. v. Pozzolan Philippines, Inc.*, 671 Phil. 731 (2011).

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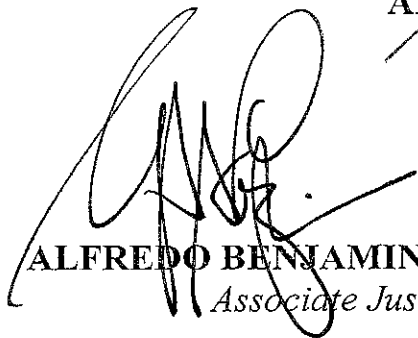


ROSMARI D. CARANDANG
Associate Justice

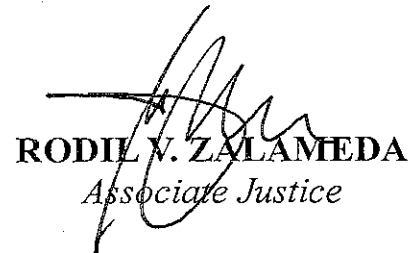
WE CONCUR:



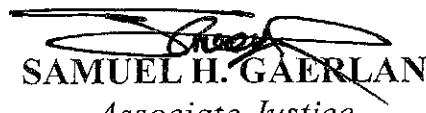
ALEXANDER G. GESMUNDO
Chief Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



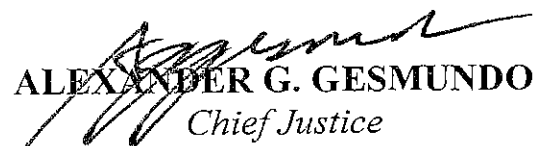
RODIL V. ZALAMEDA
Associate Justice



SAMUEL H. GAERLAN
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.



ALEXANDER G. GESMUNDO
Chief Justice