



Republic of the Philippines
Supreme Court
 Manila

SECOND DIVISION

J.R. NEREUS O. ACOSTA* and
SOCORRO O. ACOSTA,
 Petitioners,

G.R. Nos. 225154-57

Present:

PERLAS-BERNABE, *S.A.J.*,
 Chairperson,
 HERNANDO,**
 INTING,
 GAERLAN, and
 DIMAAMPAO, *JJ.*

- versus -

PEOPLE OF THE PHILIPPINES,
 Respondent.

Promulgated:

NOV 24 2021

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DECISION

GAERLAN, J.:

Before this Court is a Petition for Review on *Certiorari*¹ dated July 13, 2016, filed by petitioners J.R. Nereus O. Acosta (Nereus) and Socorro O. Acosta (Socorro) assailing the Decision² dated March 28, 2016, and the Resolution³ dated June 14, 2016 of the *Sandiganbayan* Fourth Division in Criminal Case Nos. SB-09-CRM-0020 and SB-09-CRM-0021, convicting: (1) Socorro for violation of Section 3(h) of Republic Act (R.A.) No. 3019; and (2) Socorro and Nereus for violation of Section 3(e) of R.A. No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act.

The undisputed facts, as culled from the *Sandiganbayan's* Decision, are as follows:

* Also referred to as Juan Romeo Nereus O. Acosta in some parts of the *rollo*.

** On official leave

¹ *Rollo*, Vol. I, pp. 10-57.

² Id. at 59-100. Penned by Associate Justice Oscar C. Herrera, Jr. with Associate Justices Jose R. Hernandez and Alex L. Quiroz concurring.

³ Id. at 102-103.

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Nereus was a member of the House of Representatives representing the First District of the Province of Bukidnon from 1998 to 2007, covering the 11th, 12th, and 13th Congresses. The First District of Bukidnon is composed of eight municipalities, namely: 1) Malitbog, 2) Tribuna, 3) Baungon, 4) Talakag, 5) Kalilangan, 6) Pangantukan, 7) Manolo Fortich, and 8) Sumilao.⁴

As a member of the House of Representatives, Nereus utilized his Priority Development Assistance Fund (PDAF) and appropriated the same in favor of certain non-stock and non-profit organizations, such as the Bukidnon Integrated Network of Home Industries, Inc. (BINHI) and the Bukidnon Vegetable Producers Cooperative (BVPC).

BINHI is a non-stock, non-profit organization registered with the Securities and Exchange Commission on March 9, 1989. Its Articles of Incorporation dated February 17, 1989 lists Juan C. Acosta (Juan), the father of Nereus, and Ma. Nemia O. Bornidor (Nemia), the aunt of Nereus, as among its incorporators.⁵

Meanwhile, BVPC is a cooperative organized under R.A. No. 6938, otherwise known as Cooperative Code of the Philippines. Its Articles of Cooperation and By-Laws are duly registered with the Cooperative Development Authority (CDA). BVPC's Articles of Cooperation dated July 6, 1998 indicates Juan, Socorro, and Nemia as among its cooperators who formed BVPC.⁶

Among the transactions entered into by Nereus involving his PDAF are the following:

First, the acquisition and installation of a solar tunnel dryer for BINHI located in the Municipality of Talakag and its transfer to the Municipality of Manolo Fortich.

On January 9, 2001, Nereus and then Mayor Amado Noble, Sr. (Mayor Noble) of the Municipality of Talakag, Bukidnon executed a Memorandum of Agreement (MOA) where it stated that Nereus' PDAF appropriated the amount of ₱2,500,000.00 with Special Allotment Release Order (SARO) No. ROCS-00-00399, for the acquisition and installation of a solar tunnel dryer for BINHI, Talakag Branch.

⁴ Id. at 69.

⁵ Id. at 70.

⁶ Id.

It was agreed therein, among others, that BINHI, Talakag Branch will be the beneficiary of the said project. Pursuant to the Purchase Request dated January 15, 2001 signed by Mayor Noble, the amount of ₱2,500,000.00 was released by the Municipal Treasurer's Office of Talakag to Bulkem, Inc. of New Manila, Quezon City for the "payment of one (1) unit solar tunnel dryer."⁷

Subsequently, the solar tunnel dryer was delivered by Bulkem, Inc. to the Municipality of Talakag on February 3, 2001. The same was received by Nemia, per the Delivery Receipt No. 0130.

Thereafter, Nereus took possession of the solar tunnel dryer and transferred the same to the Municipality of Manolo Fortich, pursuant to the Memorandum Receipt for Equipment, Semi-Expendable and Non-Expendable Property dated March 3, 2001.⁸

Second, the release of the amount of ₱2,500,000.00 by the Municipality of Talakag in favor of BINHI.

In July 2001, a MOA was executed between the Municipality of Talakag, represented by Mayor Noble, and BINHI, represented by Nemia as its Project Coordinator. Pursuant to the MOA, the amount of ₱2,500,000.00 was to be released by the Municipality of Talakag in favor of BINHI on August 2, 2001. Such amount was sourced from Nereus' PDAF.

Moreover, the release of ₱2,500,000.00 was covered by Disbursement Voucher No. 4010107068. Thereafter, Development Bank of the Philippines Check No. 961645 dated August 2, 2001 issued to BINHI was received by Nemia.⁹

Third, the release of the amount of ₱5,500,000.00 by the Municipality of Manolo Fortich in favor of BVPC.

On July 2, 2002, the Municipality of Manolo Fortich, represented by Socorro, then the Municipal Mayor, released the amount of ₱5,500,000.00 in favor of BVPC. The amount was sourced from Nereus' PDAF.

⁷ Id. at 69.

⁸ Id.

⁹ Id.

The release of the said amount was covered by Disbursement Voucher No. 401220207328 dated July 2, 2002. Thereafter, Postal Bank Check No. 99500 also dated July 2, 2002 was issued to BVPC as payee, and was received by Engr. Rogelio Pangan (Engr. Pangan) per Official Receipt No. 152 dated July 3, 2002.

Moreover, according to the Journal Entry Voucher No. 07-232 of the Municipality of Manolo Fortich, the release of ₱5,500,000.00 was debited as Withdrawal of Congressional Funds by BVPC.¹⁰

Criminal cases in the Sandiganbayan

Because of the three aforementioned transactions involving Nereus' PDAF, four criminal cases were filed against Nereus and Socorro for violations of R.A. No. 3019.

For Criminal Case No. SB-09-CRM-0018, Nereus was charged with violation of Section 3(e) of R.A. No. 3019. The accusatory portion of the Information reads:

That on or about March 03, 2001, or for sometime prior or subsequent thereto, in the Municipality of Talakag, Bukidnon, Philippines, and within the jurisdiction of this Honorable Court, accused J.R. Nereus O. Acosta, a high-ranking public officer, being the Representative of the First Legislative District of Bukidnon, while in the performance of his official functions, committing the offense in relation to his office, and taking advantage of his official position, acting with manifest partiality, evident bad faith or gross inexcusable negligence, did then and there, willfully, unlawfully and criminally cause undue injury to the Municipality of Talakag, Bukidnon, to the government as a whole, and to the public interest, and at the same time give unwarranted benefit, advantage or preference to Bukidnon Integrated Network of Home Industries, Inc. (BINHI, Inc.), a private entity with Juan C. Acosta and Ma. Nemia O. Bornidor, father and aunt of accused J.R. Nereus O. Acosta, respectively, as two of the incorporators, by then and there transferring the Solar tunnel dryer purchased by the Municipality of Talakag for official use in connection with its agricultural services but with funding coming from the Priority Development Assistance Fund of accused J.R. Nereus O. Acosta worth Php 2,500,000.00, to the use and management of the said BINHI, Inc. for its private purpose, to the damage and prejudice of the Municipality of Talakag, Bukidnon, to the government as a whole, and to public interest, in the form of deprivation of the beneficial use of the said public property Solar tunnel dryer.

CONTRARY TO LAW.¹¹

¹⁰ Id.

¹¹ Id. at 59 (dorsal part).

For Criminal Case No. SB-09-CRM-0019, Nereus and Nemia were charged with violation of Section 3(e) of R.A. No. 3019. The accusatory portion of the Information reads:

That on or about August 02, 2001, or for sometime prior or subsequent thereto, in the Municipality of Talakag, Bukidnon, Philippines, and within the jurisdiction of this Honorable Court, accused J.R. Nereus O. Acosta, a high-ranking public officer, being the Representative of the First Legislative District of Bukidnon, in conspiracy with private individual and herein accused Ma. Nemia O. Bornidor, while in the performance of his official functions, committing the offense in relation to his office, and taking advantage of his official position, acting with manifest partiality, evident bad faith or gross inexcusable negligence, did then and there, willfully, unlawfully and criminally cause undue injury to the government and to the public interest, and at the same time give unwarranted benefit, advantage or preference to Bukidnon Integrated Network of Home Industries, Inc. (BINHI, Inc.), a private entity represented by accused Ma. Nemia O. Bornidor, aunt of accused J.R. Nereus O. Acosta, of which entity Juan C. Acosta, the father of accused J.R. Nereus O. Acosta, is also an incorporator, by then and there granting the release of public fund amounting to P2,500,000.00 sourced from the Priority Development Assistance Fund of accused J.R. Nereus O. Acosta, coursed thru the Municipality of Talakag, Bukidnon and imposing upon one Amado Noble, the Mayor of Talakag, Bukidnon the already approved arrangement between accused Ma. Nemia O. Bornidor and accused J.R. Nereus O. Acosta, that the Municipality of Talakag will merely serve as conduit of the said release of fund; which release of public fund is contained in Development Bank of the Philippines Check No. 961645 dated August 02, 2001, in the form of financial assistance to the said BINHI, Inc. for its private purpose, to the damage and prejudice of the government and to public interest in the said amount of Php2,500,000.00.

CONTRARY TO LAW.¹²

For Criminal Case No. SB-09-CRM-0020, Socorro was charged with violation of Section 3(h) of R.A. No. 3019. The accusatory portion of the Information¹³ reads:

That on or about July 02, 2002, or for sometime prior or subsequent thereto, in the Municipality of Manolo Fortich, Bukidnon, Philippines, and within the jurisdiction of this Honorable Court, accused Socorro O. Acosta, a high-ranking public officer with salary grade 27, being the Municipal Mayor of Manolo Fortich, Bukidnon, and as such Municipal Mayor, is prohibited under Section 7(a) of Republic Act 6713 to have any financial or material interest, directly or indirectly, in any transaction which requires the approval of her office, the accused taking advantage of her official position, did then and there, willfully, unlawfully and criminally possessed a direct and/or indirect financial or material

¹² Id. at 60.

¹³ Id. at 145-146.

interest over the release of public fund amounting to Php 5,500,000.00 sourced from the Priority Development Assistance Fund of Congressman J.R. Nereus O. Acosta, to Bukidnon Vegetable Producers Cooperative (BVPC), a private entity, where the accused is also a cooperator and director, together with her husband Juan C. Acosta and sister Ma. Nemia O. Bornidor, in which transaction, the accused intervened by approving in her official capacity as municipal mayor, such release of the said fund to BVPC.

CONTRARY TO LAW.¹⁴

Finally, for Criminal Case No. SB-09-CRM-0021, both Nereus and Socorro were charged with violation of Section 3(e) of R.A. No. 3019. The accusatory portion of the Information¹⁵ reads:

That on or about July 02, 2002, or for sometime prior or subsequent thereto, in the Municipality of Manolo Fortich, Bukidnon, Philippines, and within the jurisdiction of this Honorable Court, accused J.R. Nereus O. Acosta, a high-ranking public officer, being the Representative of the First Legislative District of Bukidnon, and Socorro O. Acosta, a high-ranking public officer with salary grade 27, being the Municipal Mayor of Manolo Fortich, Bukidnon, in conspiracy with one another, while in the performance of their official functions, committing the offense in relation to their respective offices, and taking advantage of their official positions, acting with manifest partiality, evident bad faith or gross inexcusable negligence, did then and there, willfully, unlawfully and criminally cause undue injury to the government and to the public interest, and at the same time give unwarranted benefit, advantage or preference to Bukidnon Vegetable Producers Cooperative (BVPC), a private entity where the accused Socorro O. Acosta is also a cooperator and director, together with her husband Juan C. Acosta and sister Ma. Nemia O. Bornidor, by then and there granting the release of public fund amounting to Php 5,500,000.00 sourced from the Priority Development Assistance Fund of accused J.R. Nereus O. Acosta, coursed through the Municipality of Manolo Fortich as approved in her official capacity by accused Socorro O. Acosta, as contained in Postal Bank Check No. 99500 dated July 02, 2002, in the form of financial assistance to the said BVPC for its private purpose, without any security or consideration, to the damage and prejudice of the government and to public interest in the said amount of Php5,500,000.00.

CONTRARY TO LAW.¹⁶

On August 2, 2010, Nereus was arraigned in Criminal Case Nos. SB-09-CRM-0018, SB-09-CRM-0019, and SB-09-CRM-0021 and pleaded not guilty to the charges against him.¹⁷

¹⁴ Id. at 60.

¹⁵ Id. at 149-150.

¹⁶ Id.

¹⁷ Id. at 61.

Thereafter, on August 9, 2010, Socorro was arraigned in Criminal Case Nos. SB-09-CRM-0020 and SB-09-CRM-0021 and pleaded not guilty to the charges against her.

The cases were set for pre-trial, which was terminated on September 8, 2010. Subsequently, the *Sandiganbayan* issued a Pre-Trial Order¹⁸ dated October 14, 2010. Trial then ensued.

To prove the charges filed against Nereus and Socorro, the prosecution, through the Office of the Special Prosecutor (OSP), presented seven witnesses, namely: (1) Mayor Noble; (2) Fr. Venancio P. Balansag, Jr.; (3) Fr. Wilfredo M. Torayno; (4) Commission on Audit (COA) Auditor Carlito Matias; (5) Engr. Pangan; (6) COA Auditor Arnulfo E. Lancin; and (7) Atty. Myrna C. Mallari.¹⁹

On June 18, 2012, the prosecution, through the OSP, filed a Formal Offer of Exhibits for the Prosecution dated June 15, 2012. In a Resolution adopted on October 18, 2012, the *Sandiganbayan* admitted all the evidence offered by the prosecution.²⁰

For the defense, the following witnesses were presented: (1) Nereus; (2) Socorro; (3) Perla S. Suan; (4) Herlyn G. Calam; (5) Virgilio O. Factura; (6) Alma P. Espanol; (7) Anecita L. Factura; (8) Arlene A. Resente; (9) Roland O. Escol; (10) Domingo P. Cinchez (Cinchez); (11) Nestor M. Tabaco; and (12) Adolfa A. Creayla.²¹

On June 17, 2014, Nereus, through counsel, filed an Offer of Exhibits of even date. On June 23, 2014, Socorro, through counsel, filed a Formal Offer of Exhibits dated June 19, 2014. Thereafter, Nemia, through counsel, filed a Formal Offer of Exhibits dated June 18, 2014.²²

In a Resolution adopted on February 16, 2015, the *Sandiganbayan* admitted the evidence offered by the defense, but excluded therefrom the “Annual Report of BVPC as of December 2001 as received by the Cooperative Development Authority.” Nevertheless, the *Sandiganbayan* noted the tender of excluded evidence proffered by Nereus, as adopted by Socorro.²³

¹⁸ Id. at 200-213.

¹⁹ Id. at 63.

²⁰ Id. at 61 (dorsal part).

²¹ Id. at 63.

²² Id. at 62.

²³ Id. at 62-63.

Ruling of the Sandiganbayan

On March 28, 2016, the *Sandiganbayan* rendered its Decision,²⁴ the dispositive portion of which states:

WHEREFORE, premises considered, judgment is hereby rendered, as follows:

1. In Criminal Case No. SB-09-CRM-0018, accused Jose Romeo Nereus O. Acosta is hereby acquitted, for failure of the prosecution to prove his guilt of the crime charged beyond a reasonable doubt.

2. In Criminal Case No. SB-09-CRM-0019, the accused Jose Romeo Nereus O. Acosta and Ma. Nemia O. Bornidor are hereby acquitted, for failure of the prosecution to prove their guilt of the crime charged beyond a reasonable doubt.

3. In Criminal Case No. SB-09-CRM-0020, the Court finds accused Socorro O. Acosta guilty beyond reasonable doubt of ***Violation of Section 3(h) of Republic Act (R.A.) No. 3019***, as charged in the ***Information*** dated December 8, 2008. Pursuant to the provisions of the ***Indeterminate Sentence Law***, she is hereby sentenced to suffer the penalty of imprisonment of six (6) years and one (1) month, as minimum, to ten (10) years, as maximum. She shall also suffer perpetual disqualification from public office.

4. In Criminal Case No. SB-09-CRM-0021, the Court finds accused Jose Romeo Nereus O. Acosta and Socorro O. Acosta guilty beyond reasonable doubt of ***Violation of Section 3(e) of R.A. No. 3019*** as charged in the ***Information*** dated December 8, 2008. Pursuant to the provisions of the ***Indeterminate Sentence Law***, each one (1) of them is sentenced to suffer the penalty of imprisonment of six (6) years and one (1) month, as minimum, to ten (10) years, as maximum. They shall also suffer perpetual disqualification from public office.

SO ORDERED.²⁵

In finding both Nereus and Socorro guilty of violating Section 3(e) of R.A. No. 3019, the *Sandiganbayan* enumerated the elements of the crime charged:

1. The accused must be a public officer discharging administrative, judicial or official functions;

²⁴ Id. at 59-100.

²⁵ Id. at 99.

2. The accused acted with manifest partiality, evident bad faith or gross inexcusable negligence; and
3. 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 his functions.²⁶

Thereafter, the *Sandiganbayan* stated that all the elements of the crime charged were duly proven by the prosecution:

First, both Nereus and Socorro were public officers exercising administrative and official functions at the time material to the case. Nereus was a member of the House of Representatives representing the First District of Bukidnon, while Socorro was the Municipal Mayor of Manolo Fortich, Bukidnon.²⁷

Second, both Nereus and Socorro, using the Municipality of Manolo Fortich as conduit, worked for the release of public funds in the amount of ₱5,500,000.00 from Nereus' PDAF to BVPC. In doing so, both Nereus and Socorro acted with manifest partiality, evident bad faith or gross inexcusable negligence.

According to the *Sandiganbayan*, there was no legal justification as to the release of the ₱5,500,000.00 to BVPC. Unlike in the other criminal cases where the *Sandiganbayan* acquitted Nereus, there was no MOA or anything in writing between the Municipality of Manolo Fortich and BVPC defining the terms and conditions of the release, transfer, and use of the ₱5,500,000.00.²⁸

Moreover, the *Sandiganbayan* noted that SARO No. ROCS-02-01458, which purportedly states that the amount of ₱5,500,000.00 is intended as financial assistance to BVPC was never submitted as evidence. Instead, the document submitted by the defense, and testified by one of its witnesses, Mr. Cinchez, is actually a letter dated May 6, 2002 of the Department of Budget and Management (DBM) Undersecretary Mario L. Relampagos. Notably, such letter does not indicate that the ₱5,500,000.00 is allotted as financial assistance to BVPC.²⁹

Finally, the *Sandiganbayan* found that the release of such amount to BVPC did not comply with Sections 34, 35, and 36 of R.A. No. 7160,

²⁶ Id. at 79.

²⁷ Id. (dorsal part).

²⁸ Id.

²⁹ Id. at 81.

otherwise known as the Local Government Code (LGC). The *Sandiganbayan* reasoned that the use of the Municipality of Manolo Fortich as a conduit for the transfer of PDAF funds from the DBM to BVPC should be construed as a form of assistance provided by the Local Government Unit (LGU) to a non-government organization (NGO). Hence, the conditions found under Sections 34, 35, and 36 of the LGC should have been satisfied. This means that before the ₱5,500,000.00 is released to BVPC, such release should have been covered by a MOA or any written agreement, and the same should have been done with the approval or concurrence of the *Sangguniang Bayan* of Manolo Fortich, Bukidnon.³⁰

Considering that Nereus and Socorro did not comply with the requirements under the LGC, the *Sandiganbayan* found that the main consideration why Nereus and Socorro worked for the release of the ₱5,500,000.00 to BVPC is because BVPC is a cooperative formed and organized by, among others, Socorro, her husband Juan, and her sister, Nemia. Thus, the *Sandiganbayan* ruled that Nereus and Socorro acted with manifest partiality, evident bad faith or gross inexcusable negligence.³¹

Third, the *Sandiganbayan* ruled that the actions of Nereus and Socorro caused damage or undue injury to the government, and gave unwarranted benefit, advantage and preference to BVPC. In this regard, the *Sandiganbayan* did not give credence to the testimonies of the witnesses of the defense that the ₱5,500,000.00 was spent by BVPC for public purposes, and that the same has already been completely liquidated. Instead, the *Sandiganbayan* found that the projects where the ₱5,500,000.00 was supposed to be utilized were improper and pertain to projects already done prior to the release of the ₱5,500,000.00 to BVPC. Likewise, the *Sandiganbayan* emphasized that the defense did not present any receipt or liquidation document to prove the disbursements made by BVPC.³²

Meanwhile, in finding Socorro guilty of violating Section 3(h) of R.A. No. 3019, the *Sandiganbayan* first stated that under R.A. No. 6713, otherwise known as the Code of Conduct and Ethical Standards for Public Officials and Employees, and R.A. No. 3019, public officials, such as Socorro being then the Municipal Mayor of Manolo Fortich, are prohibited from having any financial or material interest in any transaction requiring the approval of their office.³³ Subsequently, the *Sandiganbayan* enumerated the elements of the crime charged:

³⁰ Id. at 83-85.

³¹ Id. at 85.

³² Id. at 85-95.

³³ Id. at 95.

1. The accused is a public officer;
2. He has a direct or indirect financial or pecuniary interest in any business, contract, or transaction; and
3. He either –
 - a. Intervenes or takes part in his official capacity in connection with such interest; or
 - b. Is prohibited from having such interest by the Constitution or by any law.³⁴

The *Sandiganbayan* then found that all the elements of the crime charged are present,³⁵ viz.:

First, Socorro is a public officer being the Mayor of the Municipality of Manolo Fortich.

Second, she has financial or pecuniary interest, indirect if not direct, in the transaction involving the release, through the Municipality of Manolo Fortich as conduit, of the ₱5,500,000.00 from Nereus' PDAF to BVPC, a cooperative she organized with her husband and her sister.

Third, although Socorro is prohibited by R.A. No. 6713 from having any financial interest in the aforesaid transaction, she intervened and took part in approving and signing, in her capacity as Municipal Mayor, Disbursement Voucher No. 401220207328 dated July 2, 2002, for the release of ₱5,500,000.00 to BVPC.

Thus, in convicting Socorro, the *Sandiganbayan* gave credence to the testimony of the prosecution's witness, Engr. Pangan, who testified that he received the ₱5,500,000.00 in favor of BVPC upon the instructions of Socorro. Engr. Pangan likewise stated that at the time the ₱5,500,000.00 was released to BVPC, it was made to appear that he was the Chair of BVPC, when in truth, Socorro remained Chair at that time.³⁶

Further, the *Sandiganbayan* completely disregarded the Annual Report of BVPC as of December 2001 as received by the CDA which shows that at the time the ₱5,500,000.00 was released to BVPC, Mr. Marcelino Remotigue was the elected Chair of BVPC, and Socorro is not listed as a director or officer thereof. As ratiocinated by the *Sandiganbayan*, the

³⁴ Id. at 96.

³⁵ Id.

³⁶ Id. at 96-97.

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Annual Report of BVPC as of December 2001 as received by the CDA is a belatedly produced document, whose admission into evidence was rejected by the *Sandiganbayan*.³⁷

Aggrieved by the Decision of the *Sandiganbayan*, Nereus and Socorro filed their Joint Motion for Reconsideration dated April 12, 2016 (motion for reconsideration),³⁸ where they argued that the prosecution failed to prove all the elements of the crimes charged. Moreover, they alleged that the *Sandiganbayan*'s Decision is based on a misapprehension of facts and incorrect application of the LGC. Thus, their acquittal is warranted.

Subsequently, on April 18, 2016, Nereus and Socorro filed their Supplement (To Accused's Joint Motion for Reconsideration) with prayer for the conduct of a new trial (motion for new trial).

On June 14, 2016, the *Sandiganbayan* promulgated its Resolution, which denied Nereus and Socorro's motion for reconsideration and motion for new trial.

The instant petition

In view of the adverse rulings of the *Sandiganbayan*, Nereus and Socorro filed the instant petition before this Court, where they raised the following arguments:

- I. The *Sandiganbayan* erred in excluding the Annual Report of BVPC as of December 2001 as received by the CDA, which was relevant and material to show the absence of any interest, whether direct or indirect, financial or pecuniary, of Nereus and Socorro over BVPC during the time material to the complaint for violations of Sections 3(e) and 3(h) of R.A. No. 3019.³⁹
- II. The concurrence of the *Sangguniang Bayan* was not required for the release of the ₱5,500,000.00 PDAF to BVPC. Section 36 of the LGC does not apply to the disbursement to BVPC of Nereus' PDAF allocation because such fund did not come from the LGU but from the national government.⁴⁰

³⁷ Id. at 97-98.

³⁸ Id. at 105-134.

³⁹ Id. at 16.

⁴⁰ Id. at 17.

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- III. Both Nereus and Socorro should be acquitted of violation of Section 3(e) of R.A. No. 3019 as not all the elements of the crime are present.⁴¹
- IV. Socorro should be acquitted for violation of Section 3(h) of R.A. No. 3019 as not all the elements of the crime are present.⁴²
- V. That Socorro was an incorporator/Chairperson of BVPC at the time of its incorporation in 1998 does not constitute financial or pecuniary interest over BVPC in 2002, or at the time material to the case, considering that Socorro had already divested herself of any share or participation in BVPC as early as 2001.⁴³

On September 14, 2016, Nereus and Socorro filed their Supplement (To The Petition for Review).⁴⁴ In the Supplement, Nereus and Socorro emphasized that the *Sandiganbayan* gravely erred when it denied their motion for new trial, despite the newly discovered evidence they presented before it. Moreover, in the Supplement, Nereus and Socorro raised, among others, the following additional arguments:

- I. The *Sandiganbayan's* reliance on the testimony of Engr. Pangan, without any other evidence to support or corroborate the same, did not overcome the presumption of innocence, much less give any value, considering that it was based on wrong inferences on the part of the *Sandiganbayan*.⁴⁵
- II. The use of the "Annual Report of BVPC as of December 2001 as received by the Cooperative Development Authority," which was already excluded by the *Sandiganbayan*, to corroborate the testimony of Engr. Pangan, was prejudicial to the substantial rights of Socorro, and was committed in grave abuse of discretion on the part of the *Sandiganbayan*.⁴⁶
- III. The *Sandiganbayan* erred when it denied the Motion for New Trial despite the actual controversies raised by Nereus and Socorro. Thus, they were deprived of their day in court, and were prevented from presenting newly discovered evidence to buttress their case.⁴⁷

⁴¹ Id.

⁴² Id.

⁴³ Id.

⁴⁴ Id., Vol III, pp. 1616-1685.

⁴⁵ Id. at 1619.

⁴⁶ Id.

⁴⁷ Id.

On August 8, 2017, the prosecution, through the OSP, filed its Comment,⁴⁸ where it prayed for the dismissal of the instant petition for utter lack of merit.

Our Ruling

The petition is meritorious.

Prefatorily, it must be emphasized that, as a rule, this Court does not review factual questions in petitions under Rule 45 of the Rules of Court.⁴⁹ In fact, in *Zapanta v. People*,⁵⁰ We categorically held that appeals from the *Sandiganbayan* must only involve questions of law, and as a rule, factual findings of the *Sandiganbayan* are conclusive upon this Court:

In appeals from the *Sandiganbayan* decisions, **only questions of law and not issues of fact may be raised**. Issues on whether the prosecution evidence proved the guilt of the accused beyond reasonable doubt; whether the presumption of innocence was properly accorded the accused; whether there was sufficient evidence to support a charge of conspiracy; or whether the defense of good faith was correctly appreciated are all, in varying degrees, questions of fact. **As a rule, the factual findings of the Sandiganbayan are conclusive on this Court**, subject to the following limited exceptions: 1] the conclusion is a finding grounded entirely on speculations, surmises, and conjectures; 2] the inference made is manifestly mistaken; 3] there is grave abuse of discretion; 4.) the judgment is based on misapprehension of facts; and 5] the findings of fact of the *Sandiganbayan* are premised on the absence of evidence and are contradicted by evidence on record. x x x.⁵¹ (Emphasis supplied; citations omitted)

Here, Nereus and Socorro admit that the issues and arguments they have raised pertain to both questions of fact and law. However, they maintain that the *Sandiganbayan* erred when it anchored its factual conclusions with respect to the supposed existence of pecuniary interest in BVPC, on speculation, surmise, and conjectures.⁵²

We agree. Thus, We shall conduct this review and resolve this pivotal issue – whether Nereus and Socorro are guilty of violation of Section 3(e) and (h) of R.A. No. 3019.

⁴⁸ Id. at 1889-1906.

⁴⁹ *Diokno v. Cacdac*, 553 Phil. 405, 428 (2007); *Miro v. Vda. de Erederos*, 721 Phil. 772, 785 (2013).

⁵⁰ 759 Phil. 156 (2015).

⁵¹ Id. at 170-171.

⁵² *Rollo*, Vol. I, p. 18.

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Socorro cannot be convicted for violation of Section 3(h) of R.A. No. 3019 since she no longer holds any pecuniary interest in BVPC at the time the ₱5,500,000.00 was released.

To recount, Socorro was charged with violation of Section 3(h) of R.A. No. 3019, because she supposedly intervened and took part in approving and signing, in her capacity as Municipal Mayor, Disbursement Voucher No. 401220207328 dated July 2, 2002, for the release of the ₱5,500,000.00 to BVPC.

Section 3(h) of R.A. No. 3019 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:

x x x x

(h) Directly or indirectly having financial or pecuniary interest in any business, contract or transaction in connection with which he intervenes or takes part in his official capacity, or in which he is prohibited by the Constitution or by any law from having any interest.

As explained in *Teves v. Sandiganbayan*,⁵³ the essential elements for the crime of violation of Section 3(h) of R.A. No. 3019 are as follows:

1. The accused is a public officer;
2. He has a direct or indirect financial or pecuniary interest in any business, contract, or transaction;
3. He either
 - a. intervenes or takes part in his official capacity in connection with such interest; or
 - b. is prohibited from having such interest by the Constitution or by any law.

There are, therefore, two modes by which a public officer who has a direct or indirect financial or pecuniary interest in any business, contract, or transaction may violate Section 3(h) of the Anti-Graft Law. The first mode is if in connection with **his pecuniary interest in any business,**

⁵³ 488 Phil. 311 (2004).

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contract or transaction, the public officer intervenes or takes part in his official capacity. The second mode is when he is prohibited from having such interest by the Constitution or any law.⁵⁴ (Emphasis supplied)

In this case, there is no dispute as to the presence of the first element since Socorro was the Municipal Mayor of Manolo Fortich, Bukidnon, at the time material to this case.

However, as regards the second element, the prosecution invariably failed to establish that Socorro remained to have any material interest in BVPC at the time material to this case. It must be emphasized that the prosecution and the *Sandiganbayan* solely relied on the uncorroborated testimony of Engr. Pangan to establish the second element. To reiterate, Engr. Pangan claimed that while Socorro was still the Chairperson of BVPC, she purportedly appointed Engr. Pangan as Chairperson of BVPC “by name only”⁵⁵ to receive the amount of ₱5,500,000.00 on behalf of BVPC. The prosecution did not present any other piece of evidence that proves that when the ₱5,500,000.00 was released to BVPC in 2002, Socorro was still acting as the Chair thereof. At most, the prosecution presented the Articles of Incorporation of BVPC for 1998. However, this is insufficient to establish beyond reasonable doubt that in 2002, Socorro still had any pecuniary interest in BVPC.

Indeed, We are more inclined to adopt Socorro’s version of events with respect to her involvement in BVPC. As succinctly explained by Socorro in her submissions before the *Sandiganbayan* and this Court, the By-Laws of BVPC expressly prohibits those in public office to serve as a director or officer of BVPC. Likewise, R.A. No. 6938, otherwise known as the Cooperative Code of the Philippines, the law in force during the time material to this case, categorically states that elective officials are ineligible from serving as a director or officer of any cooperative, *viz.* :

ARTICLE 28. *Government Officers and Employees.* — (1) Any officer or employee of the Cooperative Development Authority shall be disqualified to be elected or appointed to any position in a cooperative: (2) **Elective officials of the Government, except *barangay* officials, shall be ineligible to become officers and directors of cooperatives;** and (3) Any government employee may, in the discharge of his duties as member in the cooperative, be allowed by the head of office concerned to use official time for attendance at the general assembly, board and committee meetings of cooperatives as well as cooperative seminars, conferences, workshops, technical meetings, and training courses locally or abroad: *Provided, That the operations of the office concerned are not adversely affected.* (Emphasis supplied)

⁵⁴ Id. at 326-327.

⁵⁵ *Rollo*, Vol. I, p. 45.

Thus, when Socorro was elected as Municipal Mayor in 2001, she was disqualified to serve as the Chairperson of BVPC, and was constrained to divest any remaining interest she may have had in BVPC.

To further demonstrate her lack of pecuniary interest in BVPC when the ₱5,500,000.00 was released, Socorro also submitted before Us a copy of the “Annual Report of BVPC as of December 2001 as received by the Cooperative Development Authority,”⁵⁶ which shows that as early as 2001, and at the time the ₱5,500,000.00 was released to BVPC in 2002, Socorro was no longer the Chairperson thereof.

In this regard, it must be emphasized that the *Sandiganbayan* correctly excluded such document for being belatedly submitted. Moreover, as aptly observed by Senior Associate Justice Estela M. Perlas-Bernabe (Justice Perlas-Bernabe) during the deliberations of this case, there is no indication that the copy of the “Annual Report of BVPC as of December 2001 as received by the Cooperative Development Authority”⁵⁷ submitted before Us is a certified true copy of the same filed with the CDA.⁵⁸

Nevertheless, it is worthy to note that what the “Annual Report of BVPC as of December 2001 as received by the Cooperative Development Authority”⁵⁹ tends to establish – that Socorro is no longer connected with BVPC at the time the ₱5,500,000.00 was released – is a negative averment on Socorro’s part, which she need not prove. As held in *People v. Subingsubing*:⁶⁰

It is a fundamental rule in criminal procedure that the prosecution has the *onus probandi* in establishing the guilt of the accused, as a consequence of the tenet *ei incumbit probatio qui dicit non qui negat*, that is, *he who asserts, not he who denies, must prove*. x x x⁶¹ (Emphasis supplied)

With the foregoing, it is clear that the second element of the crime charged is lacking. The fact that Socorro helped organize BVPC in 1998 is not an indication that Socorro has perpetual and permanent interest in BVPC, and such fact, absent any other concrete proof, is insufficient evidence to prove, beyond a reasonable doubt, that Socorro had financial and material interest in BVPC at the time material to this case.

⁵⁶ Id., Vol. III, p. 1346.

⁵⁷ Id.

⁵⁸ Justice Perlas-Bernabe’s Letter dated November 23, 2021, p. 1.

⁵⁹ *Rollo*, Vol. III, p. 1346.

⁶⁰ 298-A Phil. 112 (1993).

⁶¹ Id. at 119.

Meanwhile, as regards the third element, We are likewise convinced that the same is lacking in the instant case.

As explained in *Morales v. People*,⁶² citing *Venus v. Desierto*,⁶³ the third element of Section 3(h) of R.A. No. 3019 requires **actual intervention**:

Petitioner Eulogio is prohibited by the Anti-Graft Law from having direct or indirect financial or pecuniary interest in any business, contract or transaction in which **he intervenes or takes part in his official capacity**. In *Venus v. Desierto*, the Court explained this prohibition as follows:

“x x x What is contemplated in Section 3(h) of the Anti-Graft Law is the **actual intervention** in the transaction in which one has financial or pecuniary interest in order that liability may attach. x x x **For the law aims to prevent dominant use of influence, authority and power.**” x x x.

Eulogio’s intervention in the transaction is proven by his signature in the August 20, 1986 Deed of Absolute Sale x x x and in the October 6, 1986 Deed of Sale. x x x Not only did he sign the Deed of Sale in representation of the OCWD as its general manager, he also signed without authority from its board of directors. This transaction was pursued despite Resolution No. 03-86, dated January 17, 1986, prohibiting OCWD employees and their relatives from engaging in transactions with the water district. **The controversial sale would not have pushed through were it not for Eulogio and Hallare’s involvement.** (Emphasis supplied; original citations omitted)

Here, Socorro’s involvement does not fall within “actual intervention” as contemplated under Section 3(h) of R.A. No. 3019. Socorro merely approved the disbursement of the ₱5,500,000.00 already allotted to BVPC. She did not exert her influence or authority as the Municipal Mayor of Manolo Fortich when she signed the disbursement. Moreover, she was not the one who chose BVPC as one of the beneficiaries of Nereus’ PDAF.

In view thereof, the prosecution failed to establish all the elements of violation of Section 3(h) of R.A. No. 3019 beyond reasonable doubt. Therefore, Socorro must be acquitted in Criminal Case No. SB-09-CRM-0020.

⁶² 434 Phil. 471, 491 (2002).

⁶³ 358 Phil. 675, 685 (1998).

The prosecution failed to establish all the elements of violation of Section 3(e) of R.A. No. 3019 because there exists legal justifications for the release of the ₱5,500,000.00 in favor of BVPC.

Apart from Section 3(h), Socorro, together with her son, Nereus, were charged with violation of Section 3(e) of R.A. No. 3019. In order to convict an accused for violation of Section 3(e), the following elements must be proven beyond reasonable doubt:

1. The accused must be a public officer discharging administrative, juridical or official functions;
2. He must have acted with manifest partiality, or evident bad faith, or gross inexcusable negligence; and
3. His action caused undue injury to any party, including the Government, or gave any private party unwarranted benefits, advantage, or preference in the discharge of his functions.⁶⁴

Similar to the above, there is no dispute as to the presence of the first element since both Nereus and Socorro were public officers at the time they supposedly violated Section 3(e) of R.A. No. 3019.

As regards the second element, it is worthy to note that the law provides three modes of commission of the crime, as explained in *Fuentes v. People*.⁶⁵

As to the second element, it is worthy to stress that the law provides three modes of commission of the crime, namely, through “manifest partiality,” “evident bad faith,” and/or “gross negligence.” In *Coloma, Jr. v. Sandiganbayan*, the Court defined the foregoing terms as follows:

“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.” “Gross negligence has been so

⁶⁴ *Martel v. People*, G.R. Nos. 224720-23, February 2, 2021.

⁶⁵ 808 Phil. 586 (2017).

defined as negligence characterized by the want of even slight care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally with a conscious indifference to consequences in so far as other persons may be affected. It is the omission of that care which even inattentive and thoughtless men never fail to take on their own property.” x x x

In other words, there is “manifest partiality” when there is a clear, notorious, or plain inclination or predilection to favor one side or person rather than another. On the other hand, “evident bad faith” connotes not only bad judgment but also palpably and patently fraudulent and dishonest purpose to do moral obliquity or conscious wrongdoing for some perverse motive or ill will. It contemplates a state of mind affirmatively operating with furtive design or with some motive or self-interest or ill will or for ulterior purposes.⁶⁶ (Emphasis and underscoring in the original; citations omitted)

Thus, to satisfy the second element, it must be established that the accused caused undue injury or gave unwarranted benefits by **manifest partiality, evident bad faith, or gross inexcusable negligence**.

In this case, the *Sandiganbayan* found that Nereus and Socorro caused undue injury and gave unwarranted benefits by manifest partiality, evident bad faith, or gross inexcusable negligence because there was no justification or explanation given as to why BVPC was chosen to be the recipient of ₱5,500,000.00. Such disbursement was likewise not covered by any MOA or *Sangguniang Bayan* approval. As such, the *Sandiganbayan* concluded that the main consideration why BVPC was chosen to be the recipient of ₱5,500,000.00 is because BVPC was formed and organized by Socorro, her husband, and her sister.

We do not agree.

At the outset, it is vital to understand the procedure for the release of PDAF funds to determine whether certain documentations, such as a MOA, or *Sangguniang Bayan* concurrence, are required before funds from the PDAF can be released.

The landmark case of *Belgica v. Ochoa, Jr.*⁶⁷ (*Belgica*) is instructive. In *Belgica*, this Court, sitting *En Banc*, thoroughly explained the historical evolution of the PDAF system. Particularly, the PDAF system, or more commonly known as the pork barrel system, was defined as a kind of lump-sum, discretionary fund of legislators:

⁶⁶ Id. at 593-594.

⁶⁷ 721 Phil. 416 (2013).

Considering petitioners' submission and in reference to its local concept and legal history, the Court defines the Pork Barrel System as the collective body of rules and practices that govern the manner by which **lump-sum, discretionary funds, primarily intended for local projects, are utilized through the respective participations of the Legislative and Executive branches of government, including its members.** The Pork Barrel System involves two (2) kinds of lump-sum discretionary funds:

First, there is the Congressional Pork Barrel which is herein defined as a kind of lump-sum, discretionary fund wherein **legislators, either individually or collectively organized into committees, are able to effectively control certain aspects of the fund's utilization through various post-enactment measures and/or practices.** x x x.⁶⁸ (Emphasis supplied)

Under R.A. No. 9162, the General Appropriations Act of 2002, which governs the budget allocation at the time material to this case, the funds allocated for the PDAF amounted to ₱5,677,500,000.00.⁶⁹ The PDAF Article in R.A. No. 9162, provides:

Special Provision 1

1. Use and release of the Fund. The amount herein appropriated shall be used to fund priority programs and projects or to fund counterpart for foreign-assisted programs and projects: *Provided*, That **such amount shall be released directly to the implementing agency or Local Government Unit concerned.** (Emphasis supplied)

With this in mind, it is clear that at the time material to this case, the PDAF was allowed to be directly released to the implementing agencies and/or LGUs. A MOA or *Sangguniang Bayan* resolution was unnecessary under R.A. No. 9162 because the release of the PDAF funds was without any qualification.

In fact, nowhere in the National Budget Circular No. 476 dated September 20, 2001 (DBM NB Circular No. 476) issued by the DBM, entitled *Guidelines on the Release of Funds Chargeable Against the Priority Development Assistance Fund for the Second Semester of FY 2001 and Thereafter*, which governs the release of PDAF funds at the time material to this case, does it state that a MOA or *Sangguniang Bayan* approval is required before PDAF funds are released. The guidelines and procedures stated in DBM NB Circular No. 476 are as follows:

⁶⁸ Id. at 533.

⁶⁹ See REPUBLIC ACT NO. 9162.

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2.0 GUIDELINES

- 2.1 The PDAF shall be used to fund priority programs and projects in accordance with the provisions of the General Appropriations Act and the guidelines prescribed under this Circular.
- 2.2 The nature of programs and projects to be funded from the PDAF and the corresponding implementing agencies are presented in the attached Annex "A".
- 2.3. The PDAF shall not be used for the payment of personal services expenditures (i.e. payment of salaries including honoraria, allowances, bonus and similar forms of compensation).
- 2.4 National government agencies and government owned and/or controlled corporations shall implement only those programs and projects which fall within their mandated function.
- 2.5 Local Government Units (LGUs) identified as implementing agency should have the administrative and technical capability to implement the programs/projects.

3.0 PROCEDURES

- 3.1. Requests for the release of funds chargeable against the PDAF shall be supported by the following:
 - 3.1.1 Project profile per Annex "B" of this circular. The list of programs/projects to be submitted shall be in accordance with Sections 2.2, 2.3, 2.4 and 2.5 above; and
 - 3.1.2 Endorsement from the implementing agency except those programs/projects to be undertaken by the LGUs.
- 3.2 Submission under Sections 3.1.1 and 3.1.2 above shall serve as basis of the Department of Budget and Management (DBM) for the release of the Special Allotment Release Order (SARO) and the corresponding Notice of Cash Allocation (NCA) to the implementing agency.
- 3.3 **LGUs shall take up releases charged against the PDAF as trust accounts in their books of account.**
- 3.4. All unobligated allotments at the end of the prescriptive period shall be reverted by the concerned implementing agency to the Unappropriated Surplus of the General Fund. (Emphasis supplied)

Moreover, contrary to the conclusions of the *Sandiganbayan*, Sections 34, 35, and 36 of the LGC are inapplicable for the disbursements of funds from the PDAF. Sections 34, 35, and 36 of the LGC provide:

CHAPTER IV
Relations With People's and Nongovernmental Organizations

Section 34. *Role of People's and Nongovernmental Organizations.* - Local government units shall promote the establishment and operation of people's and nongovernmental organizations to become active partners in the pursuit of local autonomy.

Section 35. *Linkages with People's and Nongovernmental Organizations.* - Local government units may enter into joint ventures and such other cooperative arrangements with people's and nongovernmental organizations to engage in the delivery of certain basic services, capability-building and livelihood projects, and to develop local enterprises designed to improve productivity and income, diversify agriculture, spur rural industrialization, promote ecological balance, and enhance the economic and social well-being of the people.

Section 36. *Assistance to People's and Nongovernmental Organizations.* - A local government unit may, through its local chief executive and with the concurrence of the Sanggunian concerned, provide assistance, financial or otherwise, to such people's and nongovernmental organizations for economic, socially-oriented, environmental, or cultural projects to be implemented within its territorial jurisdiction.

From the foregoing, it must be emphasized that concurrence of the *Sanggunian* concerned is needed only when the funds to be disbursed comes from the local funds of the LGU. In contrast, **when such funds to be disbursed in favor of an NGO comes from the National Government, such as the funds coming from the PDAF, no concurrence is needed, because the funds come into the LGU as a trust fund, already earmarked for a specific purpose.** Such conclusion finds support in Section 3.3 of DBM NB Circular No. 476 as cited above, and Section 309(b) of the LGC, which provides:

Section 309. *Special Funds.* - There shall be maintained in every provincial, city, or municipal treasury the following special funds:

x x x x

(b) Trust Funds shall consist of private and **public monies which have officially come into the possession of the local government** or of a local government official as **trustee, agent or administrator**, or which have been received as a guaranty for the fulfillment of some obligation. **A trust fund shall only be used for the specific purpose for which it was created or for which it came into the possession of the local government unit.** (Emphasis supplied)

Undeniably, the ₱5,500,000.00 released in favor of BVPC came into the possession of the LGU of Manolo Fortich, Bukidnon, as a **trust fund**, which does not require the concurrence of the *Sangguniang Bayan* before it is released. In fact, that the ₱5,500,000.00 is in the nature of a trust fund was admitted by the prosecution, as shown by the Disbursement Voucher No. 401220207328 it presented before the *Sandiganbayan*. The said Disbursement Voucher was boldly stamped on its face with the words "TRUST FUND."⁷⁰

Given the foregoing, it is evident that the disbursement of funds from the PDAF does not require a MOA, nor any action, concurrence, or approval from the *Sanggunian* concerned.

Nevertheless, during trial before the *Sandiganbayan*, other pieces of evidence were presented that justify the release of the ₱5,500,000.00 to BVPC:

One, the letter dated May 6, 2002 by Mario L. Relampagos, Undersecretary of DBM, indicates that the release of Nereus' PDAF is covered by SARO No. ROCS-02-01458.⁷¹

Two, the letter dated May 12, 2002 addressed to Socorro expressly indicates that ₱5,500,000.00 of Nereus' PDAF, is allocated for BVPC.⁷²

Three, Engr. Pangan's testimony expressly mentions that the release of the ₱5,500,000.00 in favor of BVPC is covered by a SARO.

Given all the foregoing, We cannot subscribe to the *Sandiganbayan's* findings that the release of the ₱5,500,000.00 in favor of BVPC was attended by manifest partiality, evident bad faith, and gross inexcusable negligence supposedly because there is no legal justification for its release to BVPC. On the contrary, it is clear from the records that the release of the ₱5,500,000.00 to BVPC was legally justified and expressly allowed by the DBM.

That Socorro was an incorporator of BVPC does not automatically show any evil purpose or sinister design on her or Nereus' part when the PDAF funds were released to BVPC. As already explained above, at the time the ₱5,500,000.00 was given to BVPC, Socorro no longer had any material or pecuniary interest therein. Thus, the second element of Section

⁷⁰ *Rollo*, Vol. II, p. 1331.

⁷¹ *Id.* at 1330.

⁷² *Id.* at 1326.

3(e) of R.A. No. 3019 is not present in this case because the prosecution miserably failed to prove that Nereus and Socorro acted with manifest partiality, evident bad faith, or gross inexcusable negligence.

As to the third and last element, case law instructs that there are two ways by which a public official violates Section 3(e) of R.A. No. 3019: (1) by causing undue injury to any party, including the Government; or (2) by giving any private party any unwarranted benefit, advantage, or preference.⁷³ In this case, the *Sandiganbayan* found that Nereus and Socorro's act of releasing the ₱5,500,000.00 to BVPC falls under both ways – (1) the release of funds to BVPC caused undue injury to the government; and (2) such release of funds gave unwarranted benefits, preference and advantage to BVPC.

As to the first punishable act, jurisprudence explains that undue injury, in the context of Section 3(e) of R.A. No. 3019, is akin to the civil law concept of actual damage:

Undue injury in the context of Section 3(e) of R.A. No. 3019 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.**⁷⁴ (Emphasis supplied)

Meanwhile, in *Cabrera v. People*,⁷⁵ the second punishable act – giving unwarranted benefits, advantage, or preference – was explained as follows:

As can be read from the Information, petitioners are charged of violation of Section 3(e) of R.A. No. 3019 under the *second* punishable act which is **giving unwarranted benefits, advantage, or preference to a private party**, through manifest partiality, bad faith and gross inexcusable negligence. x x x The words “unwarranted,” “advantage” and “preference” were defined by the court in this wise:

⁷³ *Coloma, Jr. v. Sandiganbayan*, 744 Phil. 214, 231-232 (2014); *Rivera v. People*, 749 Phil. 124, 148 (2014); *Tiongco v. People*, G.R. Nos. 218709-10, November 14, 2018.

⁷⁴ *Rivera v. People*, *id.*

⁷⁵ G.R. Nos. 191611-14, July 29, 2019.

“[U]nwarranted” 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 some course of action. “Preference” signifies priority or higher evaluation or desirability; choice or estimation above another.⁷⁶ (Emphasis supplied; citations omitted)


Applying the foregoing to the instant case, it cannot be denied that no undue injury was caused, nor were there unwarranted benefits given. The disbursement of the ₱5,500,000.00 in favor of BVPC was expressly authorized by the DBM and complied with the proper procedure as outlined in DBM NB Circular No. 476. Moreover, as borne by the records, the ₱5,500,000.00 was properly utilized by BVPC, spent for the specific purposes for which the said amount was intended, and adequately liquidated.

All in all, We find that the prosecution did not prove all the elements of Section 3(e) of R.A. No. 3019 beyond a reasonable doubt. Thus, the conviction of Nereus and Socorro in Criminal Case No. SB-09-CRM-0021 must be overturned.

WHEREFORE, the Petition for Review on *Certiorari* dated July 13, 2016 filed by petitioners J.R. Nereus O. Acosta and Socorro O. Acosta is **GRANTED**. The Decision dated March 28, 2016 and the Resolution dated June 14, 2016 of the *Sandiganbayan* Fourth Division are **REVERSED** and **SET ASIDE**.

Petitioner Socorro O. Acosta is **ACQUITTED** for the crime of violation of Section 3(h) of Republic Act No. 3019 in Criminal Case No. SB-09-CRM-0020. Petitioners J.R. Nereus O. Acosta and Socorro O. Acosta are likewise **ACQUITTED** for the crime of violation of Section 3(e) of Republic Act No. 3019 in Criminal Case No. SB-09-CRM-0021.

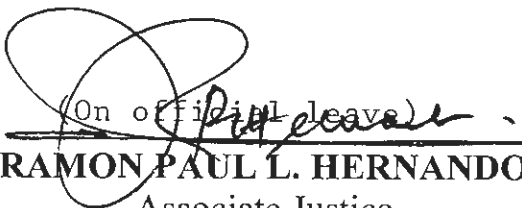
SO ORDERED.

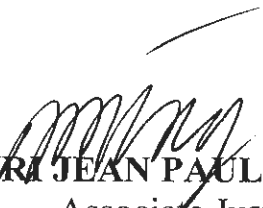

SAMUEL H. GAERLAN
Associate Justice

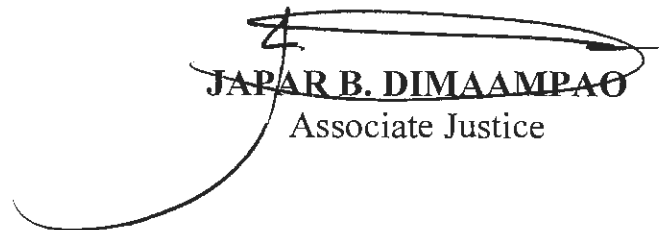
⁷⁶ Id.

WE CONCUR:


ESTELA M. PERLAS-BERNABE
Senior Associate Justice

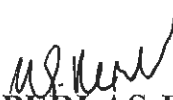

(On official leave)
RAMON PAUL L. HERNANDO
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice


JAPAR B. DIMAAMPAO
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.


ESTELA M. PERLAS-BERNABE
Senior 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.


ALEXANDER G. GESMUNDO
Chief Justice