



Republic of the Philippines
 Supreme Court
 Manila

THIRD DIVISION

GIOVANNI
 PURUGGANAN,

SANTOS

G.R. No. 251778

Petitioner,

Present:

- versus -

CAGUIOA, *Chairperson,*
 INTING,
 GAERLAN,
 DIMAAMPAO, and
 SINGH, *JJ.*

PEOPLE OF THE
 PHILIPPINES,

OF THE
Respondent.

Promulgated:

February 22, 2023

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DECISION

INTING, *J.:*

Before the Court is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court seeking to reverse and set aside the Decision² dated November 6, 2019 and the Resolution³ dated February 10, 2020, of the Sandiganbayan, Third Division, in Case No. SB-18-A/R-0014 to 0015. The assailed Decision partially granted the appeal⁴ filed by Giovanni S. Purugganan (petitioner) and modified the Joint Decision⁵ dated February 8, 2017 of Branch 88, Regional Trial Court (RTC), Quezon City. The dispositive portion of the assailed Decision reads:

1. The judgment in Criminal Case No. Q-11-171918 finding the accused-appellant Giovanni Purugganan y Santos guilty beyond reasonable doubt of the [*sic*] direct bribery is **AFFIRMED**; and

¹ *Rollo*, pp. 12-36.

² *Id.* at 41-86. Penned by Presiding Justice Amparo M. Cabotaje-Tang and concurred in by Associate Justices Bernelito R. Fernandez and Ronald B. Moreno.

³ *Id.* at 88-102.

⁴ *Id.* at 265-266.

⁵ *Id.* at 231-246. Penned by Presiding Judge Rosanna Fe Romero-Maglaya.

2. The judgment in Criminal Case No. Q-11-171919 finding the accused-appellant Giovanni Purugganan y Santos guilty beyond reasonable doubt of violation of Section 3(b) of Republic Act No. 3019 is **REVERSED** and **SET ASIDE**. The accused-appellant Giovanni Purugganan y Santos is **ACQUITTED** in Criminal Case No. Q-11-171919 for failure of the prosecution to establish the presence of one (1) of the indispensable elements of the crime charged.⁶

The assailed Resolution denied petitioner's Motion for Partial Reconsideration⁷ for lack of merit and/or for being *pro forma*.

The Antecedents

The Ombudsman, in OMB-C-C-11-0540-H, issued a Resolution⁸ dated August 24, 2011 finding probable cause to charge petitioner with the crime of Direct Bribery, defined and penalized under Article 210 of the Revised Penal Code, as amended by *Batas Pambansa Bilang 871*; and violation of Section 3(b) of Republic Act No. (RA) 3019. Consequently, the following Informations were filed before the RTC:

Criminal Case No. Q-11-171918
For: Direct Bribery

That on 23 August 2011, or sometime prior or subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, GIOVANNI PURUGGANAN y SANTOS, low ranking public officer, being an Examiner of the Land Registration Authority (LRA), taking advantage thereof, with grave abuse of authority, did then and there, willfully, unlawfully and criminally demand and received the sum of P50,000.00 in cash, Philippine Currency, from Albert AVECILLA y RAMOS, a resident of Lot 11, Blk 1, Calderon Compound, Zuzuaregui [*sic*] St., Old Balara, Quezon City, in exchange for the said accused expediting the release of the Order from the LRA to the Register of Deeds of La Union regarding the titling of the property of the complainant's uncle, Benjamin Ramos.

CONTRARY TO LAW.⁹

Criminal Case No. Q-11-171919
For: Violation of Section 3(b) of R.A. No. 3019

⁶ Id. at 85.

⁷ Id. at 152-160.

⁸ Id. at 192-197. Signed by Graft Investigation and Prosecution Officer II Vladimir F. Pelaez and approved by Overall Deputy Ombudsman Orlando C. Casimiro on August 24, 2011.

⁹ Id. at 43, Sandiganbayan Decision.

That on 23 August 2011, or sometime prior or subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, GIOVANNI PURUGGANAN y SANTOS, low ranking public officer, being an Examiner of the Land Registration Authority (LRA), while in the performance of his official function as such, committing the offense in relation to his office and taking advantage thereof, with grave abuse of authority, did then and there, willfully, unlawfully and criminally demand and receive the sum of P50,000.00 in cash, Philippine Currency, from Albert Avecilla y Ramos, a resident of Lot 11, Blk 1, Calderon Compound, Zuzaregui [*sic*] St., Old Balara, Quezon City, in exchange for the said accused expediting the release of the Order from the LRA to the Register of Deeds of La Union regarding the titling of the property of the complainant's uncle, Benjamin Ramos, in which transaction said accused has to intervene in his official capacity.

CONTRARY TO LAW.¹⁰

Upon arraignment, petitioner pleaded "not guilty" to the offenses charged.¹¹

Trial ensued.¹²

The prosecution presented the following witnesses: (1) Albert R. Avecilla (private complainant); (2) National Bureau of Investigation (NBI) Agent Normando Anire (NBI Agent Anire); and (3) Land Registration Authority (LRA) Director Porfirio Encisa, Jr. (Director Encisa).¹³

On the other hand, the defense presented petitioner as its sole witness.¹⁴

Version of the Prosecution

Private complainant testified as follows:

Branch 29, RTC, La Union rendered a Decision¹⁵ dated October 22, 2010 ordering the issuance of a Decree of Registration in favor of private complainant's uncle, Benjamin Ramos (Benjamin), over a parcel of land

¹⁰ Id. at 44.

¹¹ Id.

¹² Id. at 45.

¹³ Id.

¹⁴ Id.

¹⁵ Id. at 204-208. Penned by Pairing Judge Victor M. Vilorio.

(property) in La Union. Benjamin asked private complainant to follow up on the status of the titling of the property.¹⁶

In July 2011, private complainant went to the LRA and inquired from petitioner, who was then an examiner at its Plan Examination Section, about his uncle's property. Petitioner told him: that based on the records, the shape of the property is irregular and has numerous boundaries; and that it would take about six to eight months to process the documents of the property because there were around nine to twelve signatories who would approve the documents. Because it was close to lunch hour, private complainant invited petitioner to go to the LRA canteen for lunch. During lunch, private complainant asked petitioner if there was any way to cut short the processing period to two months. Petitioner told him that it would cost ₱300,000.00, which amount private complainant found "quite high." Petitioner explained that the people at the Bureau of Lands would demand payment for their services; he would incur travel expenses going to La Union to procure pertinent documents; and part of the amount would be used for the designated signatories to approve the documents.¹⁷

After which, private complainant received about two or three text messages from petitioner, who asked him about the status of the amount of ₱300,000.00. Petitioner informed him that the payment could be made by installments. In August 2011, private complainant received a phone call from petitioner asking for an update. He told petitioner that his uncle found both the ₱300,000.00 payment and the eight-month waiting period unacceptable.¹⁸

In the second half of August 2011, private complainant decided to return to the LRA. This time, his friend referred him to Atty. Rex Rivalal (Atty. Rivalal), who was then Assistant Administrator at the LRA. Atty. Rivalal told him to proceed to the office of Director Encisa. After showing the documents to Director Encisa, the latter told him: "[o], *madali lang 'to. Bakit 6 to 8 months? Bakit ganito katagal? Sino bang examiner?*"¹⁹ Upon learning from him that petitioner was the examiner, Director Encisa immediately called his secretary to summon petitioner. Before the secretary was able to call petitioner, private complainant informed Director Encisa that petitioner asked for ₱300,000.00. Director Encisa reacted with disappointment and told private complainant that the LRA does not condone such actions of its employees. So, Director Encisa

¹⁶ Id. at 233.

¹⁷ Id. at 233-234.

¹⁸ Id. at 234.

¹⁹ Id.

brought private complainant to the office of LRA Administrator Eulalio Diaz (LRA Administrator Diaz) who, upon learning of what transpired, got mad and called the NBI.²⁰

At around 3 to 4 p.m. of the same day, after receiving a call from Director Encisa, who informed him that the NBI wanted to speak with him, private complainant met with NBI Agent Anire and Director Encisa at Jollibee Philcoa. He informed NBI Agent Anire of what transpired between him and petitioner. A week later, NBI Agent Anire instructed him to go to the NBI Office for the plotting of an entrapment operation. Per the NBI's instruction to him, private complainant confirmed a meeting with petitioner on August 23, 2011 at Jollibee East Avenue. Also, as directed by the NBI, he told petitioner that he did not have the ₱300,000.00, but he could make a downpayment of ₱50,000.00 instead.²¹

On August 23, 2011, private complainant went to the NBI with the amount of ₱50,000.00 and gave it to NBI Agent Anire. In turn, NBI Agent Anire marked the top three ₱1,000.00 bills and the bottom two ₱1,000.00 bills with fluorescent powder. Afterwards, they all proceeded to Jollibee East Avenue. He recalled that there were two unmarked vehicles with about ten NBI agents that participated in the entrapment operation. The NBI informed private complainant that two NBI agents would be seated inside Jollibee, and upon petitioner's receipt of the envelope with money, private complainant should scratch his head as the pre-arranged signal. When they arrived at Jollibee, private complainant saw petitioner already seated and the NBI agents were seated a table or two away from their table. Private complainant greeted petitioner and he tried at first to hand the latter the money under the table, but petitioner told him to place it on top of the table. Petitioner asked him, "[m]agkano ba ito?" to which private complainant answered ₱50,000.00.²²

Private complainant alleged that petitioner touched the envelope, pulled it towards him, turned the envelope with the flap facing him, and looked inside. He then executed the pre-arranged signal. Thereafter, the two NBI agents approached them, introduced themselves, held petitioner, and brought petitioner to the NBI office. The NBI left private complainant at Jollibee but instructed him to follow them to the NBI office. When he arrived at the NBI office, the NBI asked him to execute a *Karagdagang Sinumpaang Salaysay*.²³

²⁰ Id.

²¹ Id. at 234-235.

²² Id. at 235.

²³ Id.

The day after, an inquest proceeding was conducted in the Office of the Ombudsman (Ombudsman). There, petitioner asked private complainant to drop the case against him.²⁴

NBI Agent Anire and Director Encisa both confirmed private complainant's version of the events.²⁵ Forensic Chemist Calalo also testified that petitioner's hands tested negative for fluorescent powder when they were examined using ultraviolet light. She examined only the money bills but not the brown envelope. She also confirmed that Edwin Purificando, Forensic Chemist II of the NBI, only dusted the money bills, but not the envelope.²⁶

Version of the Defense

Petitioner testified that from February 1990 up to 2011, he worked in the LRA at East Avenue corner NIA Road. He started as a draftsman until he was promoted to the position of examiner, earning less than ₱15,000.00 a month. As an examiner, he inspected the technical aspects of a plan, and if a discrepancy was found, he would inform the different agencies such as the Bureau of Lands or the Land Management Bureau for appropriate action.²⁷

Petitioner further testified that private complainant came to his office sometime in May 2011 and inquired about the status of his uncle's registration over his property in La Union; private complainant told him that the registration was taking too long and asked if there was a way to expedite the procedure. He responded that the procedure would pass through different agencies such as the Bureau of Lands and the LRA, and if the requirements were complete and without discrepancies in the technical aspect of the plan, the processing would be finished within a year. He informed private complainant about a letter from the previous examiner regarding the discrepancy on his uncle's property which needed to be verified and corrected. He instructed private complainant to go directly to the Bureau of Lands to inquire about the matter and to return once the correction was made. Private complainant asked for his number to follow up on the case.²⁸

²⁴ Id.

²⁵ Id. at 236-238.

²⁶ Id. at 238-239.

²⁷ Id. at 239.

²⁸ Id. at 240.

Petitioner furthermore testified that the next time he spoke to private complainant was already on August 23, 2011 when he was having a snack by himself at Jollibee in front of the LRA. Private complainant called him to ask where he was because he had some inquiries as to how they could expedite the procedure. Thereafter, private complainant came to him and gave him an envelope for the purpose of expediting the case. Private complainant placed the envelope on top of the table. He did not see what was inside it, but he just assumed that the envelope contained money. He stressed that he did not go to Jollibee to meet private complainant; that he told private complainant that he does not engage in that kind of transaction. He insisted that he did not touch the envelope, but to his surprise, the NBI agents suddenly handcuffed him, brought him to the NBI detention cell, and held him there for three days. The NBI examined him for traces of ultraviolet powder on his hands, but he tested negative as evidenced by the NBI's Certification dated August 23, 2011. Consequently, the NBI released him.²⁹

Lastly, petitioner testified that the NBI initially charged him with Robbery and Extortion before the Ombudsman, but no case was established against him. Private complainant also filed a complaint for Grave Misconduct before the Ombudsman, but it was dismissed due to lack of evidence per the Ombudsman's Decision dated June 20, 2013.³⁰ On September 24, 2011, he filed his counter-affidavit relating to the instant case of Direct Bribery and violation of Section 3(b) of RA 3019.³¹

The RTC Ruling

In its Joint Decision³² dated February 8, 2017, the RTC convicted petitioner of Direct Bribery and violation of Section 3(b) of RA 3019.³³

The RTC court ruled that all the elements of direct bribery are present in the case: (1) petitioner was a public officer within the contemplation of Article 203³⁴ of the Revised Penal Code; (2) at the time

²⁹ Id.

³⁰ Id. at 240-241.

³¹ Id. at 241.

³² Id. at 231-246.

³³ Id. at 245.

³⁴ Article 203 of the Revised Penal Code provides:

ARTICLE 203. *Who are public officers.* — For the purpose of applying the provisions of this and the preceding titles of this book, any person who, by direct provision of the law, popular election or appointment by competent authority, shall take part in the performance of public functions in the Government of the Philippine Islands, or shall perform in said

of the incident, petitioner was a Land Registration Examiner I of the LRA and was tasked with examining land titles, verifying lot boundaries, and preparing report of findings and recommendations; (3) petitioner demanded and directly received money from private complainant in exchange for expediting the titling of the property owned by his uncle; and (4) the act which petitioner agreed to perform in exchange for the partial bribe money of ₱50,000.00 was connected with the performance of his official duties as an examiner of the LRA.³⁵

Likewise, the RTC ruled that all the elements of Section 3(b)³⁶ of RA 3019 are present, to wit: (1) petitioner was a public officer, specifically a Land Registration Examiner I of the LRA, at the time of the incident; (2) petitioner demanded ₱300,000.00 and received ₱50,000.00 from private complainant in exchange for the speedy processing of the titling of the property owned by his uncle, which was considered a transaction with the government; and (3) petitioner's act of demanding and receiving money was in connection with the performance of his duties as an examiner of the LRA.³⁷

The *fallo* of the Joint Decision reads:

WHEREFORE, judgment is hereby rendered finding accused Giovanni Purugganan y Santos:

1. In Criminal Case No. Q-11-171918, GUILTY beyond reasonable doubt of the crime of Direct Bribery, and he is hereby sentenced to suffer the indeterminate penalty of imprisonment of two (2) years and four (4) months as minimum to three (3) years, six (6) months and twenty (20) days as maximum; and a fine of One Hundred Thousand (Php100,000.00) Pesos; and,
2. In Criminal Case No. Q-11-171919, GUILTY beyond reasonable doubt of violation of Section 3(b) of Republic

Government or in any of its branches public duties as an employee, agent or subordinate official, of any rank or class, shall be deemed to be a public officer.

³⁵ *Rollo*, p. 242.

³⁶ 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

(b) Directly or indirectly requesting or receiving any gift, present, share, percentage, or benefit, for himself or for any other person, in connection with any contract or transaction between the Government and any other party, wherein the public officer in his official capacity has to intervene under the law.

³⁷ *Id.* at 243-244.

Act No. 3019, and he is hereby sentenced to suffer the penalty of imprisonment of six (6) years and one (1) months as minimum to eight (8) years as maximum, with perpetual disqualification from public office.

Cost against the accused.

SO ORDERED.³⁸ (Emphases omitted.)

On appeal to the Sandiganbayan, petitioner submitted that the lower court erred in finding him guilty beyond reasonable doubt of the offenses charged against him because the prosecution failed to prove the essential elements of both offenses. Petitioner argued that there was no proof that he requested, accepted, or received a gift from private complainant, apart from the latter's bare allegations.³⁹

Petitioner pointed out the following inconsistencies in private complainant's testimony which purportedly affect the latter's credibility: (1) private complainant testified that he could not present petitioner's text messages demanding money from him because he lost his mobile phone and (2) private complainant testified that NBI Agent Anire briefed him to tell petitioner that he could only give ₱50,000.00 of the ₱300,000.00 demand, contrary to his statement during cross-examination that it was petitioner who suggested the amount of ₱50,000.00 as downpayment.⁴⁰

Lastly, petitioner asserted that his alleged receipt of ₱50,000.00 was not proven because of the absence of fluorescent powder on his hands. If it were true that he pulled the envelope containing the marked money towards him and peered inside it, the fluorescent powder on the flap and the edges of the envelope would have been transferred to his hands. The pulling of the envelope towards him, opening its flap, and peering inside it did not amount to the act of receiving. Finally, he insisted that his exoneration in the administrative case arising from the same set of facts supports his acquittal in the criminal cases filed against him.⁴¹

The Sandiganbayan Ruling

In its Decision⁴² dated November 6, 2019, the Sandiganbayan affirmed the conviction of petitioner in Criminal Case No. Q-11-171918

³⁸ Id. at 245.

³⁹ Id. at 64.

⁴⁰ Id. at 64-65.

⁴¹ Id. at 65.

⁴² Id. at 41-86.

for Direct Bribery. However, the Sandiganbayan reversed and set aside the lower court's judgment in Criminal Case No. Q-11-171919 for violation of Section 3(b) of RA 3019, thereby acquitting petitioner for failure of the prosecution to establish the presence of one of the indispensable elements of the offense charged.⁴³

Petitioner filed a Motion for Partial Reconsideration⁴⁴ of the Sandiganbayan Decision.

In a Resolution⁴⁵ dated February 10, 2020, the Sandiganbayan denied the motion for lack of merit and/or for being *pro forma*.⁴⁶

The Issue

WHETHER THE GUILT OF PETITIONER WAS PROVEN BEYOND REASONABLE DOUBT IN CRIMINAL CASE NO. Q-11-171918 x x x.⁴⁷

Our Ruling

The petition has no merit.

Time and again, it has been ruled that the Court's appellate jurisdiction over decisions and final orders of the Sandiganbayan is limited only to questions of law. As a general rule, factual findings of the Sandiganbayan are not reviewed and are conclusive upon the Court.⁴⁸ However, the Court "may delve into and resolve factual issues in those cases where the findings of the lower court and the Sandiganbayan are absurd, contrary to the evidence on record, impossible, capricious or arbitrary, or based on a misappreciation of facts."⁴⁹

The Court does not find the existence of any circumstance in the case that would warrant a review or reversal of the uniform factual findings of the courts *a quo*.

⁴³ Id. at 85.

⁴⁴ Id. at 152-160.

⁴⁵ Id. at 88-102.

⁴⁶ Id. at 102.

⁴⁷ Id. at 21.

⁴⁸ *People v. Adana*, G.R. No. 250445, March 29, 2022.

⁴⁹ *Tad-y v. People*, 504 Phil. 51, 66 (2005), citing *Romago Electric Co., Inc. v. Court of Appeals*, 388 Phil. 964 (2000); *Martinez v. Court of Appeals*, 410 Phil. 241 (2001).

Petitioner was charged with Direct Bribery, defined and penalized under Article 210 of the Revised Penal Code, as amended, which states:

ARTICLE 210. *Direct Bribery*. — Any public officer who shall agree to perform an act constituting a crime, in connection with the performance of his official duties, in consideration of any offer, promise, gift or present received by such officer, personally or through the mediation of another, shall suffer the penalty of *prisión mayor* in its medium and maximum periods and a fine not less than three times the value of the gift, in addition to the penalty corresponding to the crime agreed upon, if the same shall have been committed.

If the gift was accepted by the officer in consideration of the execution of an act which does not constitute a crime, and the officer executed said act, he shall suffer the same penalty provided in the preceding paragraph; and if said act shall not have been accomplished, the officer shall suffer the penalties of *prisión correccional* in its medium period and a fine of not less than twice the value of such gift.

If the object for which the gift was received or promised was to make the public officer refrain from doing something which it was his official duty to do, he shall suffer the penalties of *prisión correccional* in its maximum period to *prisión mayor* in its minimum period and a fine not less than three times the value of the gift.

In addition to the penalties provided in the preceding paragraphs, the culprit shall suffer the penalty of special temporary disqualification.

The provisions contained in the preceding paragraphs shall be made applicable to assessors, arbitrators, appraisal and claim commissioners, experts or any other persons performing public duties.

To sustain petitioner's conviction for Direct Bribery, the following essential elements must be established: "(a) the offender is a public officer; (b) the offender accepts an offer or promise or receives a gift or present by himself or through another; (c) such offer or promise be accepted or gift or present be received by the public officer with a view to committing some crime, or in consideration of the execution of an act which does not constitute a crime but the act must be unjust, or to refrain from doing something which it is his official duty to do; and (d) the act which the offender agrees to perform or which he executes is connected with the performance of his official duties."⁵⁰

⁵⁰ *Mangulabnan v. People*, G.R. No. 236848, June 8, 2020, citing *Re: Decision dated 17 March 2011 in Criminal Case No. SB-28361 entitled "People of the Philippines vs. Joselito C. Barrozo,"* 764 Phil. 310, 317-318 (2015).

The existence of the first and last elements is not in question. Petitioner, at the time of the incident, was a Land Registration Examiner I of the LRA. As an examiner, examines the technical aspect of the plan; if there should be discrepancies, he informs the different agencies such as the Regional Technical Director of the Bureau of Lands or the Land Management Sector to make the necessary correction of the discrepancy found in the plan.⁵¹ Further, apart from this, the examiner also reports to the courts the legal aspects and ownership of the land for approval.⁵²

With respect to the second and third elements, these were established by the prosecution. Private complainant testified that petitioner initially demanded ₱300,000.00 in exchange for expediting the titling of Benjamin's property.⁵³ He then lowered the amount to ₱50,000.00.⁵⁴ Petitioner and private complainant met at Jollibee where the latter tried to hand over the envelope containing the money to the former underneath the table. Petitioner instructed private complainant to place the envelope on the table instead, which he complied with. Petitioner asked how much was inside the envelope, brought it closer to him, and looked at its contents.⁵⁵ NBI Agent Anire confirmed that he saw petitioner bring the envelope closer to him and peered inside it.⁵⁶ The totality of the circumstances sufficiently show petitioner's intention to accept the envelope containing the money. Unlike in *Formilleza v. Sandiganbayan*,⁵⁷ there are no circumstances in the present case that would evince petitioner's refusal of the bribe money. He even instructed private complainant where to place the envelope and inquired how much money it contained.

Petitioner alleges that he did not touch the envelope and informed private complainant that he did not engage in illegal transactions. However, the Court sees no reason to question the weight given by the courts *a quo* to the testimonies of private complainant and NBI Agent Anire over that of petitioner, especially because it was the RTC that had the opportunity to observe the witnesses firsthand.⁵⁸

Anent private complainant's failure to present copies of the text messages sent by petitioner, a copy thereof is not the only means to prove

⁵¹ TSN dated April 14, 2015, p. 6.

⁵² Id. at 7.

⁵³ TSN, September 19, 2017, p. 17 and TSN, September 10, 2013, pp. 32-33.

⁵⁴ TSN, November 2, 2012, p. 19 and TSN, September 10, 2013, p. 46.

⁵⁵ TSN, November 27, 2012, pp. 30-33 and TSN, September 10, 2013, p. 53.

⁵⁶ TSN, March 13, 2013, pp. 13, 31, 38-39.

⁵⁷ 242 Phil. 519 (1988).

⁵⁸ See *Merencillo v. People*, 549 Phil. 544 (2007).

its existence. Text messages, the evidence of which is not recorded or retained, qualifies as ephemeral electronic communication under Section 1(K), Rule 2⁵⁹ of the Rules on Electronic Evidence. Section 2, Rule 11⁶⁰ of the same rule provides that ephemeral electronic communication “shall be proven by the testimony of a person who was a party to the same or has personal knowledge thereof. In the absence or unavailability of such witnesses, other competent evidence may be admitted.” In any event, petitioner’s conviction is not based on these text messages but on his actions as testified to by the prosecution’s witnesses. Their testimonies duly established that petitioner demanded money from private complainant to expedite the titling of his uncle’s property and that petitioner did, in fact, receive money for this purpose. Hence, all the elements for the crime of direct bribery were proven in the case.

Petitioner’s exoneration from the administrative case cannot serve as the basis for his acquittal. In *Pahkiat v. Office of the Ombudsman-Mindanao*,⁶¹ the Court clarified that the dismissal of the administrative case based on the same subject matter shall result in the dismissal of the criminal case when it is found that the act from which the liability is anchored does not exist.⁶² Here, the administrative case against petitioner was dismissed due to insufficiency of evidence and not that the act subject of the case does not exist. Notably, an affidavit from Director Encisa was not submitted as evidence in the administrative case. Anent the observation that petitioner tested negative for fluorescent powder,⁶³ it was duly explained by Forensic Chemist Calalo that the envelope was not dusted with said powder.⁶⁴ Private complainant testified that petitioner only touched the envelope.⁶⁵

⁵⁹ Section 1(k), Rule 2 of A.M. No. 01-7-01-SC provides:

SECTION 1. *Definition of Terms.* —

x x x x

(k) “Ephemeral electronic communication” refers to telephone conversations, text messages, chatroom sessions, streaming audio, streaming video, and other electronic forms of communication the evidence of which is not recorded or retained.

⁶⁰ Section 2, Rule 11 of A.M. No. 01-7-01-SC provides:

SECTION 2. *Ephemeral electronic communications.* —

Ephemeral electronic communications shall be proven by the testimony of a person who was a party to the same or has personal knowledge thereof. In the absence or unavailability of such witnesses, other competent evidence may be admitted.

A recording of the telephone conversation or ephemeral electronic communication shall be covered by the immediately preceding section.

If the foregoing communications are recorded or embodied in an electronic document, then the provisions of Rule 5 shall apply.

⁶¹ G.R. No. 223972, November 3, 2020.

⁶² *Id.*

⁶³ *Rollo*, p. 28-29.

⁶⁴ TSN, October 16, 2013, p. 22.

⁶⁵ TSN, September 10, 2013, pp. 53, 56.

The expediting of the titling of Benjamin's property does not constitute a crime. Petitioner was unable to accomplish this act as he was immediately arrested. Under Article 210 of the Revised Penal Code, as amended, the proper penalty for this is *prision correccional* in its medium period, a fine of not less than twice the value of such gift, and special temporary disqualification from office. Applying Act No. 4103 or the Indeterminate Sentence Law,⁶⁶ as amended, the minimum period should be one degree lower than the prescribed penalty, or *prision correccional* in its minimum period. The medium term of *prision correccional* in its minimum period should be applied in view of the absence of any modifying circumstances. Thus, the penalty of two (2) years and four (4) months imposed by the RTC should be lowered to one (1) year, eight (8) months, and twenty (20) days. Similarly, the maximum should be the medium term of *prision correccional* in its medium period. The maximum penalty of three (3) years, six (6) months, and twenty (20) days imposed by the RTC, as upheld by the Sandiganbayan, is correct. The fine of ₱100,000.00 imposed by the RTC is likewise correct. In addition to the penalties imposed by the courts *a quo*, petitioner must be meted out with the penalty of special temporary disqualification pursuant to Article 210 of the Revised Penal Code.

WHEREFORE, the petition is **DENIED**. The Decision dated November 6, 2019 and the Resolution dated February 10, 2020 of the Sandiganbayan, Third Division, in Case No. SB-18-A/R-0014 to 0015 finding petitioner Giovanni S. Purugganan **GUILTY** of Direct Bribery under Article 210 of the Revised Penal Code, as amended, are **AFFIRMED** with the **MODIFICATION** in that petitioner is sentenced to a penalty of imprisonment of one (1) year, eight (8) months, and twenty (20) days of *prision correccional* in its minimum period, as minimum, to three (3) years, six (6) months, and twenty (20) days of *prision correccional* in its medium period, as maximum, and to pay a fine of ₱100,000.00, with special temporary disqualification from holding public office.

⁶⁶ SEC. 1. Hereafter, in imposing a prison sentence for an offense punished by the Revised Penal Code, or its amendments, the court shall sentence the accused to an indeterminate sentence the maximum term of which shall be that which, in view of the attending circumstances, could be properly imposed under the rules of the said Code, and to a minimum which shall be within the range of the penalty next lower to that prescribed by the Code for the offense; and if the offense is punished by any other law, the court shall sentence the accused to an indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same.

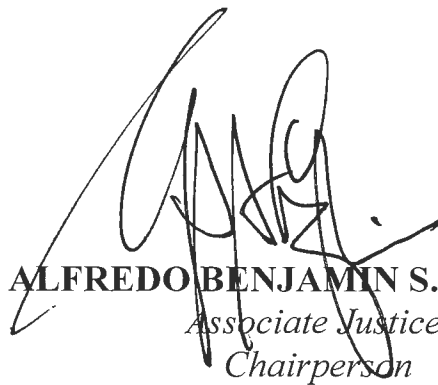


SO ORDERED.

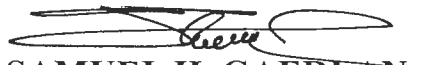


HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson



SAMUEL H. GAERLAN
Associate Justice



JAPAR B. DIMAAMPAO
Associate Justice

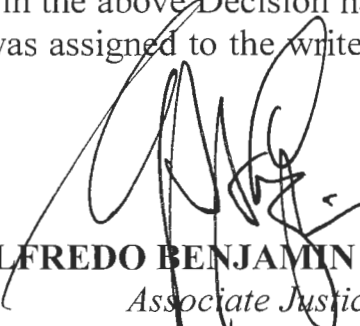


MARIA FILOMENA D. SINGH
Associate Justice



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.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson, Third Division

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

