



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

SPO1 RAMON LIHAYLIHAY¹ G.R. No. 191219
AND C/INSP. VIRGILIO V.
VINLUAN,

Petitioners, Present:

- versus -

PEOPLE OF THE
PHILIPPINES,

Respondent.

CARPIO, J., Chairperson,
BRION,
DEL CASTILLO,
PEREZ, and
PERLAS-BERNABE, JJ.

Promulgated:

JUL 31 2013

Handwritten signature: H. Cabalag

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RESOLUTION

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*² are the Decision³ dated August 8, 2008 and Resolution⁴ dated February 12, 2010 of the Sandiganbayan in Criminal Case No. 22098 which found petitioners Virgilio V. Vinluan (Vinluan) and Ramon Lihaylihay (Lihaylihay) guilty beyond reasonable doubt of the crime of violation of Section 3(e) of Republic Act No. (RA) 3019, otherwise known as the “Anti-Graft and Corrupt Practices Act.”

The Facts

Acting on the special audit report⁵ submitted by the Commission on

¹ “Lihay-Lihay” in some parts of the records.

² *Rollo*, pp. 3-34.

³ *Id.* at 38-74. Penned by Associate Justice Teresita V. Diaz-Baldos, with Associate Justices Ma. Cristina G. Cortez-Estrada and Roland B. Jurado, concurring.

⁴ *Id.* at 76-83. Penned by Associate Justice Roland B. Jurado, with Associate Justices Alexander G. Gesmundo and Napoleon E. Inoturan, concurring.

⁵ Sandiganbayan *rollo*, Vol. 3, pp. 110-199. Referring to Special Audit Office Report No. 92-156 on the audit of the Philippine National Police.

Audit, the Philippine National Police (PNP) conducted an internal investigation⁶ on the purported “ghost” purchases of combat, clothing, and individual equipment (CCIE) worth ₱133,000,000.00 which were allegedly purchased from the PNP Service Store System (SSS) and delivered to the PNP General Services Command (GSC). As a result of the internal investigation, an Information⁷ was filed before the Sandiganbayan, charging 10 PNP officers, including, among others, Vinluan and Lihaylihay, for the crime of violation of Section 3(e) of RA 3019, the accusatory portion of which reads:

That on January 3, 6, 8, 9 and 10, 1992, and for sometime subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused public officers namely: Gen. Cesar P. Nazareno, being then the Director General of the Philippine National Police (PNP); Gen. Guillermo T. Domondon, Director for Comptrollership, PNP; Sr. Supt. Bernardo Alejandro, Administrator, PNP Service Store System; Sr. Supt. Arnulfo Obillos, Director, PNP, General Services Command (GSC); C/Insp. Virgilio Vinluan, Chairman, Inspection and Acceptance Committee, PNP, GSC; C/Insp. Pablito Magnaye, Member, Inspection and Acceptance Committee, PNP, GSC; Sr. Insp. Amado Guiriba, Jr., Member, Inspection and Acceptance Committee, PNP, GSC; SPO1 Ramon Lihay-Lihay, Inspector, Office of the Directorate for Comptrollership, PNP; Chief Supt. Jose M. Aquino, Director, Finance Service, PNP; and Sr. Supt. Marcelo Castillo III, Chief, Gen. Materials Office/Technical Inspector, PNP, while in the performance of their respective official and administrative functions as such, taking advantage of their positions, committing the offense in relation to their office and conspiring, confederating with one another, did then and there willfully, unlawfully and criminally, through evident bad faith, cause undue injury to the government in the following manner:

Accused Gen. Nazareno in his capacity as Chief, PNP and concurrently Board Chairman of the PNP Service Store System, surreptitiously channeled PNP funds to the PNP SSS through “Funded RIVs” valued at ₱8 [M]illion and Director Domondon released ASA No. 000-200-004-92 (SN-1353) without proper authority from the National Police Commission (NAPOLCOM) and Department of Budget and Management (DBM), and caused it to appear that there were purchases and deliveries of combat clothing and individual equipment (CCIE) to the General Service Command (GSC), PNP, by deliberately and maliciously using funds for personal services and divided the invoices of not more than ₱500,000.00 each, pursuant to which the following invoices were made and payments were effected therefor through the corresponding checks, to wit:

<u>Invoice No.</u>	<u>Check No.</u>	<u>Amount</u>
30368	880932	₱ 500,000.00
30359	880934	500,000.00
30324	880935	500,000.00
30325	8080936	500,000.00
30322	8080937	500,000.00
30356	8080938	500,000.00
30364	8080939	500,000.00
30360	8080940	500,000.00

⁶ Id. at 175.
⁷ Sandiganbayan *rollo*, Vol. 1, pp. 1-4.

30365	8080941	500,000.00
30323	880943	500,000.00
30358	880942	500,000.00
30362	880943	500,000.00
30366	880943	500,000.00
30357	880946	500,000.00
30361	880947	500,000.00
30363	880948	500,000.00
		<u>₱ 8,000,000.00</u>
		=====

thereafter, accused members of the Inspection and Acceptance Committee together with respondents Marcelo Castillo III and Ramon Lihay-Lihay certified or caused to be certified that the CCIE items covered by the aforementioned invoices were delivered, properly inspected and accepted, and subsequently distributed to the end-users, when in truth and in fact, as accused well knew, no such purchases of CCIE items were made and no items were delivered, inspected, accepted and distributed to the respective end-users; that despite the fact that no deliveries were made, respondent Alejandro claimed payment therefor, and respondent Obillos approved the disbursement vouchers therefor as well as the checks authorizing payment which was countersigned by respondent Aquino; and as a result, the government, having been caused to pay for the inexistent purchases and deliveries, suffered undue injury in the amount of EIGHT MILLION PESOS (₱8,000,000.00), more or less.

CONTRARY TO LAW.⁸

Four of the above-named accused died during the pendency of the case, while Chief Supt. Jose M. Aquino was dropped from the Information for lack of probable cause.⁹ As such, only Director Guillermo Domondon, Sr. (Domondon), Supt. Arnulfo Obillos (Obillos), C/Inspector Vinluan, Sr. Inspector Amado Guiriba, Jr. (Guiriba), and SPO1 Lihaylihay remained as accused in the subject case. During their arraignment, Domondon, Obillos, Vinluan, and Lihaylihay all pleaded not guilty to the crime charged,¹⁰ while Guiriba remained at large.¹¹

The Sandiganbayan Ruling

On August 8, 2008, the Sandiganbayan rendered the assailed Decision,¹² exonerating Domondon but finding Obillos, Vinluan, and Lihaylihay guilty beyond reasonable doubt of the crime charged.¹³ It found

⁸ Id. at 1-3.
⁹ *Rollo*, p. 40. The following accused died during the pendency of the case: Marcelo Castillo III, Pablito Magnaye, Bernardo Alejandro, and Cesar P. Nazareno.
¹⁰ Id. at 41.
¹¹ Id. at 74.
¹² Id. at 38-74.
¹³ Id. at 69-72. While the Sandiganbayan absolved Domondon from any liability on the ground that his release of the Advises of Sub-Allotment “does not appear to be a conscious participation of whatever defects or irregularities there may have been in the CCIE purchases,” it found that Vinluan, Obillos, and Lihaylihay admittedly signed various receipts and forms and certified them correct even if some of them were tampered with and/or incomplete.

that all the essential elements of the crime of violation of Section 3(e) of RA 3019 were present in the case, in particular that: (a) Obillos, Vinluan, and Lihaylihay are public officers discharging administrative functions; (b) they have acted with evident bad faith in the discharge of their respective functions considering that: (1) seven of the sixteen Requisition and Invoice Vouchers (RIVs) bore erasures and/or superimposition to make it appear that the transactions were entered into in 1992 instead of 1991;¹⁴ (2) the details of the supplies purportedly received and inspected were not reflected in the Reports of Public Property Purchased, thus, indicating that no actual inspection of the items were made;¹⁵ and (3) there was a “splitting” of the subject transactions into ₱500,000.00 each to avoid the review of a higher authority as well as to make it fall within the signing authority of Obillos;¹⁶ and (c) they failed to refute the prosecution’s claim that the subject CCIE items were never received by Supply Accountable Officer of the GSC (GSC SAO), Dante Mateo (Mateo), nor delivered to its end-users,¹⁷ hence, leading to the conclusion that the subject transactions were indeed “ghost” purchases which resulted to an ₱8,000,000.00 loss to the government. In view of their conviction, Obillos, Vinluan, and Lihaylihay were sentenced to suffer imprisonment for a term of six years and one month, as minimum, to nine years and one day, as maximum, including the penalty of perpetual disqualification from public office. They were likewise ordered to jointly and severally indemnify the government the amount of ₱8,000,000.00.¹⁸ Aggrieved, Obillos, Vinluan, and Lihaylihay filed their separate motions for reconsideration which were all denied in a Resolution¹⁹ dated February 12, 2010. Hence, the instant petition.

The Issue Before the Court

The essential issue in this case is whether or not petitioners’ conviction for the crime of violation of Section 3(e) of RA 3019 was proper.

The Court’s Ruling

The petition lacks merit.

At the outset, it bears pointing out that in appeals from the Sandiganbayan, as in this case, only questions of law and not questions of fact may be raised. Issues brought to the Court on whether the prosecution was able to prove the guilt of the accused beyond reasonable doubt, whether the presumption of innocence was sufficiently debunked, whether or not conspiracy was satisfactorily established, or whether or not good faith was

¹⁴ Id. at 62-63.

¹⁵ Id. at 63.

¹⁶ Id. at 63-65.

¹⁷ Id. at 66-67. In fact, the evidence the accused presented to prove delivery pertained to another set of end-users who were not members of the GSC.

¹⁸ Id. at 73.

¹⁹ Id. at 76-83.

properly appreciated, are all, invariably, questions of fact.²⁰ Hence, absent any of the recognized exceptions to the above-mentioned rule,²¹ the Sandiganbayan's findings on the foregoing matters should be deemed as conclusive.

Petitioners were charged with the crime of violation of Section 3(e)²² of RA 3019 which has the following essential elements: (a) the accused must be a public officer discharging administrative, judicial or official functions; (b) he must have acted with manifest partiality, evident bad faith or gross inexcusable negligence; and (c) his action caused any undue injury to any party, including the government, or gave any private party unwarranted benefits, advantage or preference in the discharge of his functions.²³ As observed by the Sandiganbayan, all these elements are extant in this case:

As to the **first** element, it is undisputed that both petitioners were public officers discharging administrative functions at the time material to this case.

As to the **second** element, records show that Vinluan, in his capacity as Chairman of the Inspection and Acceptance Committee, signed the 16 certificates of acceptance, inventory, and delivery of articles from the PNP SSS despite its incompleteness or lack of material dates, while Lihaylihay certified to the correctness of the Inspection Report Forms even if no such deliveries were made.²⁴ Petitioners' claim that the subject CCIE items were received by GSC SAO Mateo²⁵ is belied by the absence of any proof as to when the said deliveries were made. Moreover, the supposed deliveries to the Narcotics Command²⁶ were properly rejected by the Sandiganbayan considering that the said transactions pertained to a different set of end-users other than the PNP GSC. Hence, having affixed their signatures on the disputed documents despite the glaring defects found therein, petitioners

²⁰ *Jaca v. People*, G.R. Nos. 166967, 166974, and 167167, January 28, 2013.

²¹ "Settled is the rule that findings of fact of the Sandiganbayan in cases before this Court are binding and conclusive in the absence of a showing that they come under the established exceptions, among them: (1) when the conclusion is a finding grounded entirely on speculation, surmises and conjectures; (2) the inference made is manifestly mistaken; (3) there is a grave abuse of discretion; 4) the judgment is based on misapprehension of facts; (5) said findings of facts are conclusions without citation of specific evidence on which they are based; and (6) the findings of fact of the Sandiganbayan are premised on the absence of evidence on record." (*Balderama v. People*, G.R. Nos. 147578-85 and G.R. Nos. 147598-605, January 28, 2008, 542 SCRA 423, 432.)

²² Sec. 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

(e) Causing undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official, administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

x x x x

²³ *People v. Atienza*, G.R. No. 171671, June 18, 2012, 673 SCRA 470, 479-480.

²⁴ *Rollo*, pp. 58-59.

²⁵ *Id.* at 24-25.

²⁶ *Id.* at 25-27.

were properly found to have acted with evident bad faith in approving the “ghost” purchases in the amount of ₱8,000,000.00.²⁷ To note, their concerted actions, when taken together, demonstrate a common design²⁸ which altogether justifies the finding of conspiracy.

Lastly, as to the **third** element, petitioners’ participation in facilitating the payment of non-existent CCIE items resulted to an ₱8,000,000.00 loss on the part of the government.

Thus, considering the presence of all its elements, the Court sustains the conviction of petitioners for the crime of violation of Section 3(e) of RA 3019.

In this relation, it must be clarified that the ruling in *Arias v. Sandiganbayan*²⁹ (*Arias*) cannot be applied to exculpate petitioners in view of the peculiar circumstances in this case which should have prompted them to exercise a higher degree of circumspection, and consequently, go beyond what their subordinates had prepared. In particular, the tampered dates on some of the RIVs, the incomplete certification by GSC SAO Mateo on the date of receipt of the CCIE items, the missing details on the Reports of Public Property Purchased and the fact that sixteen checks all dated January 15, 1992 were payable to PNP SSS should have aroused a reasonable sense of suspicion or curiosity on their part if only to determine that they were not approving a fraudulent transaction. In a similar case where the documents in question bore irregularities too evident to ignore, the Court in *Cruz v. Sandiganbayan*³⁰ carved out an exception to the *Arias* doctrine and as such, held:

Unlike in *Arias*, however, there exists in the present case an exceptional circumstance which should have prodded petitioner, if he were out to protect the interest of the municipality he swore to serve, to be curious and go beyond what his subordinates prepared or recommended. In fine, the **added reason contemplated in *Arias* which would have put petitioner on his guard and examine the check/s and vouchers with some degree of circumspection before signing the same was obtaining**

²⁷ Id. at 65.

²⁸ “x x x x

A conspiracy indictment need not, of course, aver all the components of conspiracy or allege all the details thereof, like the part that each of the parties therein have performed, the evidence proving the common design or the facts connecting all the accused with one another in the web of the conspiracy. Neither is it necessary to describe conspiracy with the same degree of particularity required in describing a substantive offense. It is enough that the indictment contains a statement of the facts relied upon to be constitutive of the offense in ordinary and concise language, with as much certainty as the nature of the case will admit, in a manner that can enable a person of common understanding to know what is intended, and with such precision that the accused may plead his acquittal or conviction to a subsequent indictment based on the same facts. x x x.

x x x x” (*Lazarte, Jr. v. Sandiganbayan*, G.R. No. 180122, March 13, 2009, 581 SCRA 431, 449, citing *People v. Quitlong*, 354 Phil. 372 [1998].)

²⁹ The *Arias* doctrine espouses the general rule that all heads of office cannot be convicted of a conspiracy charge just because they did not personally examine every single detail before they, as the final approving authority, affixed their signatures on the subject documents. (259 Phil. 794, 801[1989].)

³⁰ G.R. No. 134493, August 16, 2005, 467 SCRA 52.

in this case.

We refer to the unusual fact that the checks issued as payment for construction materials purchased by the municipality were not made payable to the supplier, *Kelly Lumber*, but to petitioner himself even as the disbursement vouchers attached thereto were in the name of *Kelly Lumber*. The discrepancy between the names indicated in the checks, on one hand, and those in the disbursement vouchers, on the other, should have alerted petitioner - if he were conscientious of his duties as he purports to be - that something was definitely amiss. The fact that the checks for the municipality's purchases were made payable upon his order should, without more, have prompted petitioner to examine the same further together with the supporting documents attached to them, and not rely heavily on the recommendations of his subordinates.³¹ (Emphasis supplied)

Equally compelling is the nature of petitioners' responsibilities and their role in the purchasing of the CCIE items in this case which should have led them to examine with greater detail the documents which they were made to approve. As held in the recent case of *Bacasmás v. Sandiganbayan*,³² when there are reasons for the heads of offices to further examine the documents in question, they cannot seek refuge by invoking the *Arias* doctrine:

Petitioners cannot hide behind our declaration in *Arias v. Sandiganbayan* charge just because they did not personally examine every single detail before they, as the final approving authorities, affixed their signatures to certain documents. The Court explained in that case that conspiracy was not adequately proven, contrary to the case at bar in which petitioners' unity of purpose and unity in the execution of an unlawful objective were sufficiently established. Also, unlike in *Arias*, where there were no reasons for the heads of offices to further examine each voucher in detail, **petitioners herein, by virtue of the duty given to them by law as well as by rules and regulations, had the responsibility to examine each voucher to ascertain whether it was proper to sign it in order to approve and disburse the cash advance.**³³ (Emphasis supplied)

Finally, on the matter of the admissibility of the prosecution's evidence, suffice it to state that, except as to the checks,³⁴ the parties had already stipulated on the subject documents' existence and authenticity and accordingly, waived any objections thereon.³⁵ In this respect, petitioners must bear the consequences of their admission and cannot now be heard to complain against the admissibility of the evidence against them by harking on the best evidence rule. In any event, what is sought to be established is the mere general appearance of forgery which may be readily observed through the marked alterations and superimpositions on the subject

³¹ Id. at 65.

³² G.R. Nos. 189343, 189369, and 189553, July 10, 2013.

³³ Id.

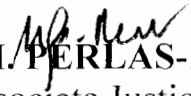
³⁴ *Sandiganbayan rollo*, Vol. 3, pp. 218, 226, 234, 243, 251, 259, 267, 275, 283, 291, 299, 307, 315, 323, 332, and 341.

³⁵ TSN, October 1, 2002, pp. 13-15; and TSN, February 3, 2005, pp. 16-17.

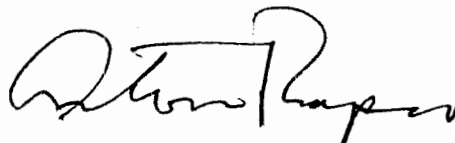
documents, even without conducting a comparison with any original document as in the case of forged signatures where the signature on the document in question must always be compared to the signature on the original document to ascertain if there was indeed a forgery.

WHEREFORE, the petition is **DENIED**. The Decision dated August 8, 2008 and Resolution dated February 12, 2010 of the Sandiganbayan in Criminal Case No. 22098 are hereby **AFFIRMED**.

SO ORDERED.


ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson

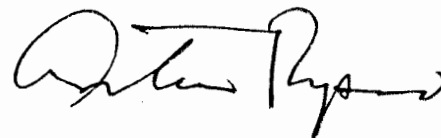

ARTURO D. BRION
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice


ATTESTATION

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


ANTONIO T. CARPIO
Associate Justice
Chairperson, Second 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 Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P.A. SERENO
Chief Justice