



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

DIONISIO B. COLOMA, JR.,  
Petitioner,

G.R. No. 205561

Present:

- versus -

CARPIO, J., Chairperson,  
BRION,  
DEL CASTILLO,  
MENDOZA, and  
LEONEN, JJ.

HON. SANDIGANBAYAN  
(THIRD DIVISION) and PEOPLE  
OF THE PHILIPINES,

Promulgated:

Respondents.

SEP 24 2014

*HW Cabalag Perfecto*

X

X

DECISION

MENDOZA, J.:

Assailed in this petition for review on *certiorari* filed under Rule 45 of the Rules of Court are the May 17, 2012 Decision<sup>1</sup> and the January 11, 2013 Resolution<sup>2</sup> of the Sandiganbayan in SB-07-CRM-0020, which found petitioner, P/C Supt. Dionisio B. Coloma, Jr. (*Coloma*), guilty beyond reasonable doubt of the crime of violation of Section 3 (e) of Republic Act (R.A.) No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act.<sup>3</sup>

<sup>1</sup> *Rollo*, pp. 30-73, penned by Associate Justice Alex L. Quiroz with Associate Justices Francisco H. Villaruz, Jr and Samuel R. Martires, concurring.

<sup>2</sup> *Id.* at 6-9.

<sup>3</sup> 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 any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

**The Facts**

Coloma was the Director of the Philippine National Police Academy (*PNPA*) at the time of the alleged violation of R.A. No. 3019. On November 19, 1999, he was designated as Special Assistant and Action Officer to the Director, Logistics and Installation Services (*LIS*) of the Philippine Public Safety College (*PPSC*). Then PPSC President Ernesto B. Gimenez (*Gimenez*) assigned Coloma to assist in the search for a suitable construction site of the Philippine National Police Regional Training Site 9 Annex in Bongao, Tawi-Tawi (*RTS 9*).

After several site inspections in 2002, the PPSC team including Coloma chose a four-hectare lot planted with coconut trees and other fruit-bearing trees, formerly owned by one Juaini Bahad. The latter sold the property to the late Albia Lim, wife of the labor contractor, Engineer Rolando E. Lim (*Engr. Lim*).

After negotiations for the acquisition of a portion of the subject land, the Engineering Division of the PPSC, composed of Engineer Dosmedo G. Tabrilla (*Engr. Tabrilla*) and Engineer Jerome Vacnot (*Engr. Vacnot*), prepared the graphical layout plan for the construction of the following: a) fifty-capacity barracks; b) one (1) unit classroom; c) land development for the initial construction; and d) administration building. The layout was approved by Gimenez.

The funds for the construction of RTS 9 came from the Congressional Development Fund (CDF) of Tawi-Tawi Representative, Nur Jaafar. The same eventually formed part of PPSC's capital outlay. The approximate cost of the project construction was ₱5,727,278.59, but the said amount was not released in 1998. Thus, in 1999, the amount became "accounts payable" and were released to creditors, namely: New Alems Enterprise (the supplier for materials) in the amount of ₱4,199,994.50; and A.C. Lim Construction (labor supplier) in the amount of ₱1,800,005.50.

Thereafter, the construction of RTS 9 was commenced and supervised by Engr. Tabrilla as project engineer.

On August 1, 2001, Coloma was relieved by Atty. Ramsey Lapuz Ocampo (*Ocampo*), the successor of Gimenez as PPSC President. Coloma's designation as Special Assistant and Action Officer to the LIS-PPSC was terminated, and he was transferred to the Philippine National Training Institute (*PNPI*). He was likewise ordered to render a termination report relative to his participation and observation in the construction of RTS 9.

On October 10, 2001, Coloma submitted a report (*After Mission Report*) on the construction of the training facilities, stating, among others, that: the land development was 100% complete; the construction of the administration building was 90% accomplished; and the construction of the fifty-capacity barracks and classroom had just started and was expected to be completed by December 15, 2001. In the same report, Coloma allegedly attached the Deed of Donation signed by Juaini Bahad in favor of the PPSC.

Subsequently, Ocampo ordered an investigation and instructed SPO4 Gilbert Concepcion (*SPO4 Concepcion*) to conduct the same. Meanwhile, Engineers Tabarilla and Vacnot prepared the pertinent documents.

In his report, SPO4 Concepcion stated that his team conducted an ocular inspection and interviewed the supplier of materials and the Land Bank officials. They discovered the following irregularities: 1) the land development which Coloma reported to be 100% completed referred only to the exact site where the administration building and the one-unit classroom were erected; 2) only the administrative building with one-unit classroom was erected; 3) the construction of the 50-capacity barracks which Coloma reported to have been started was nowhere to be found; 4) the 50-capacity mess hall had also been erected; 5) the appropriate cost of the facilities constructed and the improvements made on the project was valued at around ₱3,150,000.00 only, contrary to what was reported by Coloma that the payment made for the project was ₱5,722,278.29; 6) the payment made by the contractor and the supplier of the construction materials was deposited at Land Bank Tawi-Tawi Branch under current accounts booked with Coloma as joint depositor; and 7) contrary to Coloma's After-Mission Report stating that the value of the property on which the training facilities were constructed was ₱ 1,500,000.00, the value of the property per hectare was only ₱ 9,730.00 as per a provincial ordinance of Tawi-Tawi fixing the schedule of fair market value of real properties.

Upon this discovery, SPO4 Concepcion made the Final Investigation Report, which was eventually endorsed to the Department of Interior and Local Government (*DILG*), and forwarded to the Office of the Ombudsman (*Ombudsman*) for appropriate action.

On September 15, 2006, Coloma was indicted in the Information filed with the Sandiganbayan and docketed as Criminal Case No. SB-07-CRM-0020. The Information reads:

That sometime between June 2001 to October 2001, or immediately prior or subsequent thereto, in Bongao, Tawi-Tawi, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, a high-ranking public official with the rank of a Police Chief Superintendent, Salary Grade 27, being then a member of the Philippine National Police (PNP), committing the offense in relation to office and with grave abuse thereof, did then and there willfully, unlawfully and criminally in his capacity as then Director, PNPA, tasked to implement and oversee the construction of the building facilities of RTS 9 Annex, in Bongao, Tawi-Tawi, cause[d] undue injury to Philippine Public Safety College, a state college, in the amount of more or less Two Million five Hundred Thousand Pesos (₱2,500,000.00) through evident bad faith by making it appear that the said project with the budget of ₱5,727,278.59 was completed or almost completed as stated in his Memorandum dated October 10, 2001, when upon ocular inspection conducted in June 2002, the *fifty-capacity barracks* which was part of the project was not completed, and that the actual cost of the facilities actually constructed is only *Three Million One Hundred Eight Thousand Pesos* (₱3,180,000.00), to the damage and prejudice of the Philippine Public Safety College in particular and the government in general.

Upon arraignment, Coloma entered a plea of “not guilty.” After which, trial ensued. The prosecution presented testimonial evidence, *inter alia*, through the following witnesses:

- a) SPO4 Concepcion testified as to the results of his investigation.
- b) Jimena Piga (*Piga*), Accountant III of the PPSC, testified that the nature of RTS 9 was an expenditure and capital outlay. She recounted that the gross amount disbursed for the project was ₱6,000,000.00 while the net amounted to ₱5,727,010.00. She said that they did not issue checks for external creditors such as New Alems Enterprises and A.C. Lim Construction. Hence, such creditors were required to open a savings account with a Land Bank branch.
- c) Engr. Vacnot, as Project Evaluation Officer I of the PPSC, testified that he was verbally instructed to conduct an inspection of the subject project. Upon investigation, he noted that a standard two-unit classroom, an administration building and land development had already been constructed, but the 50-capacity barracks had not yet been built. He also gave a detailed estimate of the administration cost of the works he found at the site. According to Engr. Vacnot, the administration building

approximately cost ₱11,280,000.00, while the standard two-unit classroom and its comfort rooms approximately cost ₱1,800,000.00.

- d) Architect Peter Razon Viduya (*Viduya*) testified as the overall supervisor for infrastructure projects and chief of the investigation division of the LIS from 1999 to August 2001. He said that during a meeting with Coloma, it was discussed that the lot to be donated to the PPSC was owned by the wife of the labor contractor. When the documents were ready, they agreed that a bank account in the name of the labor contractor or supplier be opened with the assistance of a representative of the PPSC and Coloma. Eventually, the passbook for the said account would be surrendered to Piga for safekeeping. On cross-examination, Viduya averred that after the bidding, the project was awarded to New Alems for materials and Engr. Lim for labor work. After having prepared a program of construction of RTS 9, he was relieved from his position.
- e) Engr. Tabrilla testified that he was designated as acting director of the LIS from August 2001 to 2004. As such, he administered and managed the infrastructure development of the PPSC. He said that after they went to the project site in Bongao, he accompanied Coloma and Engr. Lim to a Land Bank branch where both opened a joint checking account. Coloma then issued a check worth ₱500,000.00 in favor of Engr. Lim, intended for the mobilization expenses of the project. Engr. Tabrilla claimed to have advised Coloma not to issue the check because the instruction of the PPSC President was only to open a savings account for the supplier and labor contractor. Engr. Tabrilla asserted that the PPSC lost control not only over the implementation of the project but over the funds thereof, when Coloma opened the said checking account, and kept the checkbook in his custody. The latter likewise failed to give the contact numbers of the suppliers and contractors to the PPSC.

In addition, the prosecution presented various documentary evidence.<sup>4</sup>

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<sup>4</sup> *Rollo*, pp. 56-60.

In defense, Coloma testified that as director and chief executive officer of the PNPA, he was in charge of the organization, administration and operations of the academy. As Special Assistant to the Director of LIS, he was tasked to help look for at least three locations for a training center. He found sites in Maguindanao, Cebu and Tawi-Tawi. Together with Gimenez and Viduya, the site in Bongao, Tawi-Tawi, was selected as it was near the airport, and power and water sources. The Engineering Division of the LIS with Engr. Tabrilla as project engineer prepared the building plans to estimate the cost of the project. They then searched for a labor contractor and supplier. Coloma maintained that he had nothing to do with the construction of RTS 9. He had, on one occasion, accompanied Engr. Tabrilla upon the instruction of Gimenez, to confer with the labor contractor Engr. Lim as regards the construction of the facilities. Before he was relieved from the PPSC, he was directed to conduct inspection of the ongoing construction in Bongao. After the said inspection, he rendered his After Mission Report.

On cross-examination, Coloma reiterated that he had nothing to do with the construction of the project because he was not the contractor and by the time he executed his After-Mission Report, he had already been relieved from his position at the PPSC. He was able to read the report submitted by SPO4 Concepcion when a case was already filed against him with the Ombudsman.

Engr. Lim likewise took the witness stand. He testified that he was a businessman engaged in a construction business for about 15 years at the time of the controversy. Among his projects was the RTS 9. However, he only participated therein as a labor contractor who provided labor services for the construction of the project. He said that the project started in the middle of 2001 and was finished by 2002, based on the two sets of plans prepared by the PPSC Engineering Division, one of which was for the administration building, and the other for a long building with 281 classrooms. He recalled that Engr. Tabrilla was in Tawi-Tawi. The project took more than a year to finish, and when nobody from the PPSC wanted to accept the project, he was forced to maintain the building for more than two years. The project had been completed and was being occupied by the Philippine Marines. He stated that it was the project engineer who looked out for the condition of the construction project.

### **The Sandiganbayan's Ruling**

On May 17, 2012, the Sandiganbayan rendered the assailed decision finding Coloma guilty as charged. It found that all the essential elements of

the crime of violation of Section 3(e) of R.A. No. 3019 were present in the case. Coloma, irrefutably a public officer at the time of the disputed transactions, acted with evident bad faith in his transactions concerning RTS 9. The testimonies of SPO4 Concepcion and Engr. Vacnot yielded that upon inspection, “not even a trace of any excavation for the foundation of the 50-capacity barracks was seen at the training site,” contrary to Coloma’s claim that construction thereof had started. Not only did Coloma assert that the construction of the other buildings had begun when it had not, but he also failed to comply with the project program which clearly specified a 50-capacity barracks. Further, by making himself a signatory to the current bank account and presenting a cost estimate significantly higher than that submitted by Engr. Vacnot, Coloma caused undue injury to the PPSC when the latter lost control of the funds for RTS 9, because only the authorized signatories could enter into transactions with regard to the project.

For his conviction, Coloma was sentenced to suffer imprisonment ranging from six (6) years and one (1) month, as minimum, to ten (10) years, as maximum, and perpetual disqualification to hold public office.

Aggrieved, Coloma moved for reconsideration, insisting that prosecution witness, Engr. Vacnot, failed to present factual and legal basis on how he came up with the amount of ₱3,180,000.00 as actual cost for the project. Coloma pointed out that Engr. Vacnot did not refer to any agency estimate on the price difference between that of the RTS 9 suppliers, as against what other suppliers could have provided, thus, failing to establish that there was overpricing in the conduct of the project. Further, Coloma stressed that he did not act in bad faith by being one of the signatories of the current accounts for the creditors of PPSC because he simply followed the order of then PPSC President Gimenez. He was not guilty either of misrepresentation when he stated that the project was almost complete because his report merely embodied his latest factual observation. Coloma likewise invoked the January 18, 2008 Resolution<sup>5</sup> by the Fifth Division of the Sandiganbayan, which granted the prosecution’s motion to withdraw the Information in SB-07-CRM-0022,<sup>6</sup> on the ground of absence of proof of a specific injury or actual damage suffered by PPSC when Coloma allowed himself to be one of the signatories in the subject accounts.

In the challenged resolution denying Coloma’s motion for reconsideration, the Sandiganbayan stated that the other cases pending with the court had no bearing in the case where Coloma was charged with causing undue injury to the PPSC in the discharge of his functions through evident

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<sup>5</sup> Id. at 110-111, dated January 18, 2008.

<sup>6</sup> Charging Coloma of causing undue injury to the PPSC by making himself a signatory to the bank account of the contractors.

bad faith, by making it appear that the project with a budget of ₱5,727,278.59 was completed or almost completed, when an ocular inspection showed otherwise.

### **The Issue**

Essentially, the issue in this case is whether or not Coloma's conviction for the crime of violation of Section 3(e) of R.A. No. 3019 was proper.

In this petition, Coloma contends that the Sandiganbayan erred in relying on Engr. Vacnot's testimony as gospel truth. While Engr. Vacnot said that the facilities constructed consisted, among others, of a two-unit classroom, there was no approved two-unit classroom in the graphical layout plan of RTS 9. In other words, Engr. Vacnot's credibility became suspect when he came up with the actual cost of construction by merely looking at it. Also, it was shown during the trial that the possession, control and release of payments to the suppliers remained with the PPSC Accounting Office, when Piga admitted that the passbook was in the custody of the said office. Worse, there was no proof of a Notice of Disallowance issued by the Commission on Audit (*COA*) regarding the alleged irregularities in the construction of RTS 9. Hence, as project engineer, Engr. Tabrilla should be made to explain and be held liable instead.

### **The Court's Ruling**

The petition lacks merit.

At the outset, it bears stressing 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 as to whether the prosecution was able to prove the guilt of the accused beyond reasonable doubt; or whether the presumption of innocence was sufficiently debunked; or whether or not conspiracy was satisfactorily established; or whether or not good faith was properly appreciated, are all, invariably, questions of fact.<sup>7</sup>

Settled is the rule that the 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, such as: (1) when the conclusion is a finding grounded entirely on speculation, surmises and

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<sup>7</sup> *Jaca v. People*, G.R. Nos. 166967, 166974, and 167167, January 28, 2013, 689 SCRA 270, 294.



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.<sup>8</sup>

In the case at bench, it is readily apparent that Coloma decries the Sandiganbayan's evaluation of the witnesses' testimonies. He contests the weight given to the testimonial and documentary evidence presented by the prosecution, and the credibility of its witnesses, particularly, Engrs. Tabrilla and Vacnot. By asserting this, Coloma, in effect, raises questions of facts that may not be delved into by the Court. As the Court is not a trier of facts, a reassessment of testimonies may not be conducted absent a showing that the findings of the Court *a quo* is based on a misapprehension of facts. Verily, a perusal of the Sandiganbayan decision would reveal that the testimonies of the prosecution and defense witnesses, both on direct and cross-examination, were appreciated in detail. As will be discussed hereunder, the Sandiganbayan considered the totality of circumstances that led to the conclusion that he violated the law. Suffice it to say, none of the exceptions that would warrant a reversal of the Sandiganbayan's findings of fact are extant in this case. They remain conclusive and binding to the Court.

Coloma was charged with the crime of violation of Section 3(e) of R.A. No. 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. As observed by the Sandiganbayan, all these elements exist in this case.

It is irrefutable that the first element is present. Coloma was undisputably the Director of the PNPA at the time material to the charge against him. Apart from this, he never denied his designation as the Special Assistant and Action Officer to the Director of the LIS-PPSC. From the task of selecting the site for RTS 9 to the dealings with the contractors for the project, this latter position signifies Coloma's task to oversee and administer the construction of RTS 9. His claims that he had no participation in the construction of the facilities do not, in any way, strip him of both his powers and duties related to the implementation of the project.

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<sup>8</sup> *Balderama v. People*, G.R. Nos. 147578-85 and G.R. Nos. 147598-605, January 28, 2008, 542 SCRA 423, 432.

As to the second element, Coloma's argument is basically a denial of bad faith on his part. He claims that his statements as to the completion of the project's land development; the 90% completion of the administration building's construction; and the commencement of the construction of the 50-capacity barracks were his personal factual observations, thereby negating the charge that he was guilty of misrepresentation in his official report.

This argument fails to persuade.

The second element of Section 3 (e) of R.A. No. 3019 may be committed in three ways, that is, through manifest partiality, evident bad faith or gross inexcusable negligence. Proof of *any* of these three in connection with the prohibited acts mentioned in Section 3(e) of R.A. No. 3019 is enough to convict.<sup>9</sup>

On the meaning of "partiality," "bad faith," and "gross negligence," the Court has elucidated:

"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 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 wilfully 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."<sup>10</sup>

Here, the results of the ocular inspection clearly belie Coloma's reports. While it may be conceded that there was no averment of the entire project's completion, and that "completion" may be susceptible of a subjective interpretation, it still perplexes the Court as to why Coloma, a responsible officer in the administration of the multi-million peso project, failed to provide a reliable and accurate description of the project's accomplishment. The discrepancy between the results of the ocular

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<sup>9</sup> *Sison v. People of the Philippines*, G.R. Nos. 170339, 170398-403, March 9, 2010, 614 SCRA 670, 679.

<sup>10</sup> *Fonacier v. Sandiganbayan*, G.R. No. 50691, December 5, 1994, 238 SCRA 655, 687.

inspection and Coloma's statements in his report was not a trivial matter that would merit disregard. The Court may not close its eyes from the ostensible manipulation of information stated by Coloma. From a person tasked to administer the project in terms of site selection and payment of suppliers, a just and authentic reporting was expected. After-mission reports are not inconsequential documents which merely partake of a formality or a mechanism for a smooth transition of duties. It is not an empty statement of accomplishments. A report on the progress and/or completion of a government infrastructure project serves not only as a descriptive account of the project, but more importantly, as a source of information on the faithful execution of a government objective financed by public funds.

At this juncture, it is pertinent to cite the results of the inspection: *inter alia*, the land development reported as 100% complete only refers to the exact site where the administration building and a one-unit classroom were erected; only the administrative building with one-unit classroom was built; the construction of the 50-capacity barracks which Coloma reported to have been started was nowhere to be found; the appropriate amount of the facilities constructed and the improvements made on the project was only valued at ₱3,150,000.00, more or less, opposed to the report of Coloma that it amounted to ₱5,722,278.29; and the value of the property per hectare was only ₱9,730.00 as per a provincial ordinance of Tawi-Tawi contrary to Coloma's report which pegged the value at ₱1,500,000.00. Again, the discrepancies are too obvious to ignore. These incongruities do not project plain bad judgment on Coloma's part. Uncontroverted as they were, the results of the inspection would lead to the conclusion that Coloma's statements in his report were distortions of facts. This is tantamount to moral obliquity and fraud which the law seeks to penalize.

Besides, the Sandiganbayan correctly considered the circumstance of Coloma being one of the signatories of the current accounts for the creditors of PPSC. Although its Fifth Division granted the prosecution's motion to withdraw the Information in SB-07-CRM-0022, this fact cannot exculpate him from the charge in the present case. By making himself a signatory to the accounts, Coloma cannot deny his participation in the implementation of the project. Simple logic would dictate that a person who has a direct hand in the payment of creditors is expected to keep abreast in the development of the project. Thus, there is really no reason for Coloma to give erroneous information unless he, mindful of the numerous irregularities in the implementation of the project, was ill-motivated in doing so. Here manifests Coloma's evident bad faith.

Notably, the offense defined under Section 3 (e) of R.A. No. 3019 may be committed even if bad faith is not attendant.<sup>11</sup> Thus, even assuming for the sake of argument that Coloma did not act in bad faith in rendering his report, his negligence under the circumstances was not only gross but also inexcusable. Again, it was clearly established that the degree of his involvement in the project may not excuse his ignorance of the realistic progress of RTS 9. He should have exercised care in his declaration in the report, especially because he had the duty to oversee the development of the project.

Anent the third element, the Sandiganbayan aptly explained:

By making himself a signatory to the current accounts and presenting a cost estimate significantly higher than that submitted by Engineer Vacnot, the accused also caused undue injury to the PPSC when the latter lost control of the funds for RTS 9, and only the authorized signatories could enter into transactions with regard to the project...In herein case, the Prosecution was able to prove the existence of undue injury by giving a detailed background of the estimate for facilities and materials for the construction of the project. The substantial difference between the cost estimate given by the accused and that of Engineer Vacnot caused injury to the government in the amount of approximately ₱2,500,00000 becomes more evident in light of the fact that the fifty capacity barracks have not been constructed.<sup>12</sup>

In a catena of cases, the Court has held that there are two ways by which a public official violates Section 3(e) of R.A. No. 3019 in the performance of his functions, namely: (1) by causing undue injury to any party, including the Government; or (2) by giving any private party any unwarranted benefit, advantage or preference. The accused may be charged under either mode or both. The disjunctive term “or” connotes that either act qualifies as a violation of Section 3(e) of R.A. No. 3019.<sup>13</sup> In other words, the presence of one would suffice for conviction. Further, the term “undue injury” in the context of Section 3(e) of the R.A. No. 3019 punishing the act of “causing undue injury to any party,” has a meaning akin to that civil law

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<sup>11</sup> *Cruz v. Sandiganbayan*, 504Phil. 321, 336 (2005).

<sup>12</sup> *Rollo*, pp. 71-72.

<sup>13</sup> *Braza v. Sandiganbayan*, G.R. No. 195032, February 20, 2013, 691 SCRA 471, citing *Velasco v. Sandiganbayan*, 492 Phil. 669, 677 (2005); *Constantino v. Sandiganbayan*, 559 Phil. 622, 638 (2007).

concept of “actual damage.” Actual damage, in the context of these definitions, is akin to that in civil law.<sup>14</sup>


As explained by the Sandiganbayan, the undue injury caused by Coloma to the government is based on two grounds: 1) as a co-signatory in the current accounts created for the payment of creditors,<sup>15</sup> Coloma reserved to himself control over the deposits to and withdrawals therefrom; and 2) the cost of the RTS 9 as declared by Coloma in his report was significantly higher than the actual cost computed after inspection.

The Court agrees.

The undue injury caused to the government is evident from Coloma’s statement of a cost of RTS 9 higher than that discovered upon inspection. It bears stressing that the Sandiganbayan accorded credence on Engr. Vacnot’s testimony that the cost of the facilities constructed in RTS 9 only cost ₱3,180,000.00, more or less, lower than what was reported by Coloma. Contrary to Coloma’s claim, this information was supported by detailed costings and was unequivocally testified on during trial. Despite the opportunity to cross-examine the witness, Coloma failed to controvert the evidence against him. This fact, taken together with the showing that no 50-capacity barracks was ever built on the site as opposed to Coloma’s reportage, established that the construction of RTS 9 was replete with irregularities. Otherwise stated, the public funds disbursed for the project were not utilized in strict accord to its purpose. Thus, the worth of public funds spent for the project does not match the meager benefit to be derived therefrom.

**WHEREFORE**, the petition is **DENIED**. The May 17, 2012 Decision and the January 11, 2013 Resolution of the Sandiganbayan in SB-07-CRM-0020, are **AFFIRMED**.

**SO ORDERED.**

  
**JOSE CATRAL MENDOZA**  
Associate Justice

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<sup>14</sup> Article 2199 of the Civil Code provides. “Except as provided by law or by stipulation, one is entitled to an adequate compensation only for such pecuniary loss suffered by him as he has duly proved. Such compensation is referred to as actual or compensatory damages.”

<sup>15</sup> Department of Budget and Management (DBM) Circular Letter No. 99-2 requires all national government agencies to open and maintain a Modified Disbursement System account.

**WE CONCUR:**



**ANTONIO T. CARPIO**

Associate Justice

Chairperson



**ARTURO D. BRION**

Associate Justice



**MARIANO C. DEL CASTILLO**

Associate Justice



**MARVIC M.V.F. LEONEN**

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.



**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 Decision 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