

## FIRST DIVISION

**[ G.R. NO. 171144, November 24, 2006 ]**

**SANTOS L. NACAYTUNA, PETITIONER, VS. PEOPLE OF THE  
PHILIPPINES, RESPONDENT.**

### ***DECISION***

**YNARES-SANTIAGO, J.:**

This petition for review<sup>[1]</sup> under Rule 45 of the Rules of Court assails the October 4, 2005 Decision<sup>[2]</sup> of the Sandiganbayan in Criminal Case No. 27759 finding petitioner Santos L. Nacaytuna guilty beyond reasonable doubt of violating Sec. 3(e) of Republic Act (R.A.) No. 3019 otherwise known as the Anti-Graft and Corrupt Practices Act; and its January 4, 2006 Resolution<sup>[3]</sup> denying petitioner's motion for reconsideration.

On November 17, 1999, petitioner Santos L. Nacaytuna, who was then Municipal Mayor of San Miguel, Surigao del Sur appointed his wife, herein private complainant Marydole V. Nacaytuna as Municipal Health Officer.<sup>[4]</sup> In the course of her employment, Marydole drafted a letter of resignation dated April 7, 2000 which petitioner purportedly received on even date. In May 2001, Marydole left the conjugal home and lived separately from petitioner.<sup>[5]</sup> Sometime in April 2002, a certain Marly Prieto informed Marydole that petitioner has accepted her resignation effective at the end of April 2002.<sup>[6]</sup>

Marydole questioned the acceptance of her resignation before the Civil Service Commission (CSC) and the Office of the Ombudsman claiming that she never tendered the resignation letter.

The CSC declared the acceptance of Marydole's resignation illegal and ordered her reinstatement with full backwages. Meanwhile, upon recommendation by the Ombudsman, an information was filed against petitioner for violation of Sec. 3(e) of R.A. No. 3019, which reads:

That sometime during the period of April 2002 or shortly prior or subsequent thereto, in the Municipality of San Miguel, Surigao del Sur and within the jurisdiction of this Honorable Court, accused Santos L. Nacaytuna, a high ranking public officer, being the Municipal Mayor of San Miguel, Surigao del Sur, committing the offense while in the performance of his official functions, did there and then, willfully, unlawfully, feloniously, and thru evident bad faith, cause upon Dr. Marydole L. Nacaytuna undue injury by removing here from office as the Rural Health Officer of San Miguel, Surigao del Sur using the latter's supposed resignation letter dated 07 April 2000 and approving the same on 23 April 2002 despite the fact that said resignation letter has not been

officially tendered to the accused thereby depriving her not only of her office but also the salaries and other monetary benefits attached to it to her damage and prejudice.

CONTRARY TO LAW.<sup>[7]</sup>

Marydole testified that she drafted the resignation letter sometime in April 2000 but she never tendered the same to petitioner; that she continued working even after drafting the letter and after the same has been approved because she had no intention of resigning; that petitioner probably got the letter from among her belongings which she left behind in their conjugal abode.

Petitioner testified that the April 7, 2000 resignation letter was received by his private secretary on said date; that he kept the letter in his office until he accepted the resignation on April 23, 2002; that he did not immediately approve the letter because he was still assessing Marydole's performance; and that he consulted the CSC prior to approving the resignation.

On October 4, 2005, the Sandiganbayan rendered the assailed Decision, the dispositive portion of which states:

WHEREFORE, judgment is hereby rendered finding accused Santos L. Nacaytuna guilty beyond reasonable doubt of violating Sec. 3 (e) of R.A. 3019 as charged, and applying the Indeterminate Sentence Law, sentencing him to suffer imprisonment of six (6) years and one (1) month as minimum to ten (10) years as maximum, and perpetual disqualification to hold public office.

SO ORDERED.<sup>[8]</sup>

Petitioner filed a motion for reconsideration but was denied hence the instant petition raising the following errors:<sup>[9]</sup>

#### I

THAT THE HONORABLE SANDIGANBAYAN ERRED IN CONCLUDING THAT DR. MARYDOLE L. NACAYTUNA DID NOT TENDER HER RESIGNATION

#### II

THAT THE GUILT OF THE PETITIONER WAS NOT PROVED BEYOND REASONABLE DOUBT

#### III

THAT THE HONORABLE SANDIGANBAYAN ERRED IN DENYING THE MOTION FOR RECONSIDERATION

Petitioner contends that Marydole tendered her resignation on April 7, 2000, which he validly accepted in April 2002. He claims he is presumed to have regularly performed his official duties as Municipal Mayor; that his guilt was not proved beyond reasonable doubt; and that no undue injury was caused to Marydole because she was reinstated and given her backwages.

The sole issue for resolution is whether the prosecution sufficiently proved petitioner's guilt beyond reasonable doubt.

After a careful review of the evidence on record, we find that the Sandiganbayan correctly found petitioner guilty as charged. Section 3(e) of R.A. No. 3019 states:

SEC. 3. *Corrupt practices by 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.

Violation of Section 3(e) of R.A. No. 3019 requires proof of the following facts:

- 1.) The accused is a public officer discharging administrative or official functions or private persons charged in conspiracy with them;
- 2.) The public officer committed the prohibited act during the performance of his official duty or in relation to his public position;
- 3.) The public officer acted with manifest partiality, evident bad faith or gross, inexcusable negligence; and
- 4.) His action caused undue injury to the Government or any private party, or gave any party any unwarranted benefit, advantage or preference to such parties. <sup>[10]</sup>

All the foregoing facts were established beyond reasonable doubt. Petitioner, as Municipal Mayor, was a public officer. His acceptance of Marydole's resignation was done in the performance of his official duty. It was also proved that Marydole never tendered the resignation letter hence petitioner was evidently acting in bad faith when he made it appear that it was submitted. Worse, he accepted the same knowing that it was never tendered in the first place. Petitioner's actuations caused undue injury to Marydole because it resulted to her removal from office and the withholding of her salaries.

Resignation is the "act of giving up or the act of an officer by which he declines his office and renounces the further right to use it. It implies an expression of the incumbent in some form, express or implied, of the intention to surrender, renounce, and relinquish the office and its acceptance by competent and lawful authority."<sup>[11]</sup> To constitute a complete and operative resignation from public office, there must be: (a) an intention to relinquish a part of the term; (b) an act of