

FIRST DIVISION

[G.R. No. 230132, January 19, 2021]

**MANUEL A. TIO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES,
RESPONDENT.**

[G.R. No. 230252]

**LOLITA I. CADIZ, PETITIONER, VS. HONORABLE
SANDIGANBAYAN AND THE PEOPLE OF THE PHILIPPINES,
RESPONDENTS.**

D E C I S I O N

PERALTA, C.J.:

At bench are two appeals^[1] assailing the Decision^[2] dated November 29, 2016 and the Resolution^[3] dated February 27, 2017 of the Sandiganbayan in SB-13-CRM-0575. In the assailed decision, petitioners Manuel A. Tio (*Tio*) and Lolita I. Cadiz (*Cadiz*), who are both public officers, were convicted of violation of Section 3(e) of Republic Act (R.A.) No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act. On the other hand, the assailed Resolution, upheld that conviction.

The antecedents are not disputed.

1.

Tio and Cadiz used to be mayor and municipal accountant, respectively, of the Municipality of Luna (*Municipality*) - a component of the Province of Isabela (*Province*).

Sometime during the incumbency of Tio and Cadiz, or on January 23, 2008, the Municipality and the Province entered into a Memorandum of Agreement (MOA).^[4] Under this MOA, the Province undertook to provide funds in the amount of P5,000,000.00 for the construction of a one (1) kilometer concrete road traversing two *barangays*: Harana and Mambabanga, which are both in the said Municipality. On the other hand, the Municipality obligated itself to implement such road concreting project, by *administration*, in accordance with the same MOA.

Around two (2) months after the signing of the MOA between the Province and the Municipality, the road concreting project commenced.^[5]

On July 29, 2008, Tio approved and caused the issuance of Disbursement Voucher No. 400-2008-07-068.^[6] The Disbursement Voucher authorized the release of P2,500,000.00 in favor of Double A Gravel & Sand Corporation (*Double A*). In connection with the road concreting project, the amount was supposedly the partial

payment for the construction materials, and the construction equipment to which Double A supplied and rented, respectively, to the Municipality.^[7] The Disbursement Voucher also bore the signature of Cadiz, who certified that an allotment was obligated for the purpose indicated in the voucher, and that the documents supporting the issuance of the voucher were complete.

On even date, the Municipality drew Land Bank of the Philippines (*LBP*) Check No. LBP 0000370239^[8] in the amount of P2,500,000.00, in favor of Double A. Tio signed the check on behalf of the Municipality. Upon receiving the said check, Double A issued Official Receipt No. 1309.^[9]

The payment to Double A was thereafter audited by the Commission on Audit (*COA*).

On December 2, 2008, the *COA* issued *Notice of Suspensions* against the payment to Double A. The *Notice of Suspensions* pointed out that the said payment suffered from the following deficiencies: 1) the Value Added Tax (*VAT*) due from the payment did not appear to have been deducted; and 2) other than Double A's receipt, no documents were attached to the Disbursement Voucher. Thus, the *Notice of Suspensions* requested the Municipality for the submission of the bidding documents, inspection and acceptance report, MOA-equipment rental contract and *VAT* deduction documents in connection with the road project.

On February 23, 2009, the members of the Bids and Awards Committee (*BAC*) of the Municipality passed a Resolution^[10] declaring that they had been completely unaware of the road project and, thus, could not produce the documents to support the disbursement of the P2,500,000.00, in favor of Double A. They concluded this resolution by expressing their mass resignation from the *BAC*.

On December 16, 2008, the road concreting project was certified as 100% complete and accepted by the affected *barangays* within the Municipality.^[11] Subsequently, a technical evaluation conducted by the *COA* found that the road concreting project was properly implemented as to the plans and specifications and Program of Work.
^[12]

2.

On March 6, 2009, Atilano Perez (*Perez*), then vice mayor of the said Municipality, filed an Affidavit Complaint^[13] before the Office of the Ombudsman against Tio, Cadiz, and Eufemia G. Fernandez (*Fernandez*), the treasurer of the Municipality. This complaint eventually led the Ombudsman to file before the Sandiganbayan a criminal information against Tio and Cadiz for violation of Section 3(e) of R.A. No. 3019.

In the Information, Tio and Cadiz were accused of causing undue injury to the government and/or of giving unwarranted benefit to a private entity. They allegedly allowed the Municipality to purchase construction materials, and to rent construction equipment from Double A without prior public bidding, and caused the payment of P2,500,000.00.00 to Double A despite absence of the required supporting documents. The accusatory portion of the Information reads:

In the year 2008, or sometime prior or subsequent hereto (sic), in Luna, Isabela, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, [Tio] and [Cadiz], public officers being then the Municipal Mayor and Municipal Accountant, respectively of Luna, Isabela, while in the performance of their official functions and in abuse thereof, acting with manifest partiality, evident bad faith, or gross inexcusable negligence, conspiring and confederating with one another, did then and there willfully, unlawfully, and criminally cause undue injury to the government and give unwarranted benefit to [Double A] owned by a relative of [Tio], by awarding to the said [Double A] the project concreting of the One-Kilometer Barangay Harana-Mambabanga Road in Luna, Isabela without the required public bidding and causing the partial payment in the sum of Two Million Five Hundred Thousand Pesos (P2,500,000.00) to the said [Double A] sans the necessary documents, thereby depriving the Municipality of Luna, Isabela the opportunity to get the most advantageous offer for the said project to the damage and prejudice of the government.

CONTRARY TO LAW.^[14]

Tio and Cadiz entered separate pleas of "*Not Guilty*" to the above accusation. Trial ensued in due course.

On November 29, 2016, the Sandiganbayan rendered a Decision, finding both Tio and Cadiz guilty as charged and sentencing each to suffer an indeterminate prison term of six (6) years and one (1) month as minimum, to eight (8) years as maximum. Tio and Cadiz were also adjudged perpetually disqualified from holding public office. The dispositive portion of the Decision thus reads:

WHEREFORE, accused [Tio] and [Cadiz] are found GUILTY beyond reasonable doubt of violation of Sec. 3(e) of [RA] No. 3019, and are accordingly sentenced to suffer the indeterminate penalty of imprisonment of six (6) years and one month as minimum, to eight (8) years as maximum, with perpetual disqualification from holding public office.

SO ORDERED.^[15]

The Sandiganbayan predicated the convictions upon the following findings:

1. In connection with the road project, the Municipality indeed entered into a contract for the purchase of construction materials, and the rental of construction equipment with Double A. The Municipality, as partial payment for such contract, consequently issued and delivered a check worth P2,500,000.00 to Double A. In turn, this partial payment was authorized by a Disbursement Voucher signed by both Tio and Cadiz.^[16]
2. The contract with Double A was not preceded by a public bidding as required under R.A. No. 9184. The failure to conduct such a bidding is not justified as the contract does not appear to be a transaction exempted from the application of R.A. No. 9184.^[17]

In addition, the payment to Double A was irregular. The Disbursement Voucher authorizing that payment had been issued without the required supporting documents. Moreover, the Disbursement Voucher and check issued in favor of Double A actually did not bear the signature of the municipal treasurer.^[18]

3. As incumbent mayor, Tio may be considered to be responsible for the Municipality entering into a contract with Double A without prior public bidding. Tio is also accountable for the irregular payment to Double A because he approved the Disbursement Voucher for P2,500,000.00 in favor of Double A and then signed the corresponding check on behalf of the municipality. For awarding a contract to Double A without public bidding and for causing payment to Double A despite the existence of irregularities, Tio have thus exhibited manifest partiality, if not gross inexcusable negligence, in the performance of his official duties.

On the other hand, although municipal accountant Cadiz was not shown to be involved in the award of the anomalous contract, he is at fault for the irregular payment to Double A. Like Tio, Cadiz also signed the Disbursement Voucher to Double A under the same dubious circumstances. For such, Cadiz can be considered to have shown gross inexcusable negligence in the performance of his official functions.

4. The acts of Tio and Cadiz had given unwarranted benefit, advantage or preference to Double A. Hence, even if Double A fulfilled its contractual obligations to the municipality and the road project was eventually completed, Tio and Cadiz remain criminally liable under Section 3(e) of R.A. No. 3019.^[19]

Tio and Cadiz filed their separate motions for reconsideration, but the Sandiganbayan remained steadfast. Hence, the instant appeals.

3.

In his appeal, Tio essentially raised three arguments:

1. The Sandiganbayan erred when it found the contract between the Municipality and Double A to be subject to the requirement of a prior public bidding under R.A. No. 9184. The contract is exempted from the said requirement as the same was entered into by the Municipality relative to a road project that the latter is implementing "*by administration*."^[20]
2. Even assuming the contract to be anomalous, the Sandiganbayan still erred when it found him as the person responsible for awarding the said contract to Double A. According to Tio, such finding is not substantiated by any evidence on record and was merely inferred by the Sandiganbayan from his being a mayor. Tio points out that the prosecution never presented in evidence the actual document embodying the contract between the Municipality and Double A; hence, it cannot be concluded that it was him who granted such contract to Double A.^[21]
3. The Sandiganbayan likewise erred when it considered him to have acted with manifest partiality and/or gross inexcusable negligence when he signed the disbursement voucher in favor of Double A. Even assuming the existence of

red flags that makes the issuance of the Disbursement Voucher irregular, Tio maintains that he approved the said Disbursement Voucher in good faith-relying on the certification of Cadiz that all the documents necessary for the issuance of the Disbursement Voucher have been complete.^[22]

On the other hand in Cadiz's appeal,^[23] she questions the propriety of her conviction on the ground that the Municipality did not sustain any quantifiable damage as a consequence of her acts.^[24] Cadiz asks the Court to consider the fact that, as found by the COA, the road project undertaken by the Municipality has been completed and properly implemented as to the plans and specifications and Program of Work.^[25]

The Court's Ruling

The appeal is without merit.

Section 3 (e) of R.A. No. 3019 states:

SECTION 3. Corrupt practices of public officers. - In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

x x x x

(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 three elements of Section 3 (e) of R.A. No. 3019 are: (1) that the accused is a public officer discharging administrative, judicial, or official functions, or a private individual acting in conspiracy with such public officer; (2) that he acted with: (a) manifest partiality, (b) evident bad faith, or (c) gross inexcusable negligence; and (3) that his action caused (a) any undue injury to any party, including the government, or (b) gave any private party unwarranted benefits, advantage, or preference in the discharge of his functions.^[26]

For the first element, it is undisputed that at the time the crime was committed, both Tio and Cadiz were public officers acting in their official capacity as Municipal Mayor, and Municipal Accountant of the Municipality, respectively.

Section 444 of the Local Government Code provides for the powers and duties of a municipal mayor:

SEC. 444. The Chief Executive: Powers, Duties, Functions and Compensation. -

x x x x