

EN BANC

[G.R. Nos. 233155-63, June 23, 2020]

JOSE TAPALES VILLAROSA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

DECISION

PERALTA, C.J.:

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court assailing the Decision^[1] of the Sandiganbayan (*SB*), promulgated on November 17, 2016, which found petitioner guilty beyond reasonable doubt of nine (9) counts of violation of Section 3(e) of Republic Act No. 3019 (*RA 3019*), otherwise known as the *Anti-Graft and Corrupt Practices Act*, and sentenced him, for each count, to an indeterminate penalty of imprisonment of six (6) years and one (1) month, as minimum, to ten (10) years, as maximum, with the accessory penalty of perpetual disqualification from holding public office. The petition also questions the *SB Resolution*^[2] dated March 6, 2017 which denied petitioner's Motion for Reconsideration.^[3]

The factual and procedural antecedents of the case are as follows:

Sometime in August to September 2010, the Designated Area Supervisor of the Provincial Environment and Natural Resources Office (*PENRO*) of the Province of Occidental Mindoro received several reports from their mining and quarry checkers that there are persons who are conducting quarry operations within the territorial jurisdiction of the Municipality of San Jose, in the same province, without the required Extraction Permits issued by the Provincial Government. Acting on these reports, the Designated Area Supervisor notified the quarry operators of their alleged violation, but upon being confronted by the former, the said quarry operators presented several documents, among which are Extraction Permits signed by herein petitioner who was then the Mayor of San Jose. Noting that the documents shown were not issued by the Provincial Governor's Office, Ruben P. Soledad (*Soledad*), the Provincial Environment and Natural Resources Officer of Occidental Mindoro issued Cease-and-Desist Orders (*CDOs*) against these quarry operators, notifying them that it is the Provincial Governor who has sole authority to issue extraction permits and reminding them of the penalties that may be imposed upon them under the applicable provisions of the governing Provincial Tax Ordinance.

After acquiring information of the issuance of the above *CDOs*, herein petitioner wrote a letter, dated May 23, 2011, addressed to Soledad explaining his position on the matter and stating that he [*Soledad*] is guilty of "mockery of the whole legislative process" in considering certain provisions of the existing and applicable Provincial Tax Ordinance as repealed, and in supposedly giving effect to a proposed amendment of the said Ordinance without the benefit of public hearing and

publication as required by law. As such, petitioner manifested that the Municipality of San Jose "shall not recognize [the] cease-and-desist order until such time that a proper legal process is adhered to by the Provincial Government." Petitioner also asked Soledad to "properly respect the inherent powers vested upon the Local Government Unit which was unmistakably and distinctly defined in the Local Government Code (LGC) of 1991 as a political subdivision" which "has substantial control of local affairs."^[4]

In a letter dated May 26, 2011, Soledad responded to petitioner by claiming that, pursuant to Provincial Tax Ordinance No. 2005-004 of Occidental Mindoro, as well as the Local Government Code of 1991, the authority to issue permits for the extraction of sand and gravel within the Province of Occidental Mindoro resides exclusively with the Provincial Governor. Soledad explained that the subject CDOs were issued for failure of the concerned quarry operators to present the legal permits because the ones they presented were issued by herein petitioner in his capacity as the Mayor of San Jose who is not authorized to do so. Soledad also insisted that the CDOs it issued were based on the strength of the provisions of the existing Provincial Tax Ordinance and not on the basis of any proposed amendments thereto.^[5]

On August 23, 2011, petitioner wrote a letter addressed to the Members of the *Sangguniang Panlalawigan* of Occidental Mindoro insisting that, under the LGC, the Municipal government is authorized to organize its Municipal Environment and Natural Resources and to enforce its own regulatory powers. Petitioner also manifested that he is not in conformity with the alleged amendment of Provincial Tax Ordinance No. 2005-004, and that he will just honor the provisions of the original version of the said Ordinance which supposedly authorizes the Municipal Treasurer to receive payments from applicants of extraction permits.^[6]

On October 4, 2011, Soledad filed, before the Office of the Ombudsman, a Complaint^[7] against petitioner for Usurpation of Authority, Violation of Section 138 of Republic Act No. 7160 (*RA 7160*), otherwise known as the *Local Government Code of 1991*, Grave Abuse of Authority in Office, Grave Misconduct, Dishonesty, Conduct Prejudicial to the Best Interest of the Service and Violation of Republic Act No. 6713 (*RA 6713*), otherwise known as the *Code of Conduct and Ethical Standards for Public Officials and Employees*. In his Complaint, Soledad alleged that despite petitioner's knowledge that he lacks the requisite authority to issue extraction permits to quarry operators, petitioner, nonetheless, proceeded to issue several permits to several operators who were conducting quarry operations in San Jose.

In its Resolution^[8] dated January 16, 2014, the Office of the Ombudsman for Luzon found probable cause to hold petitioner criminally liable for issuing the subject extraction permits and directed the filing of the corresponding Informations. Thus, on even date, separate Informations were filed with the SB against petitioner for ten (10) counts of violation of Section 3(e) of RA 3019, as amended. The Informations, which were similarly worded, except as to the dates of the commission of the offense and the recipients of the extraction permits, alleged as follows:

That on or about (24 August 2010), in San Jose, Occidental Mindoro, and within the jurisdiction of this Honorable Court, the abovenamed accused, JOSE T. VILLAROSA, a public officer, being then the Municipal Mayor of

San Jose, taking advantage of his official position and committing the crime in relation to his office, did then and there willfully, criminally and **with evident bad faith**, give unwarranted benefits, advantage or preference to private party, by unlawfully issuing an Extraction Permit to (Gem CHB Maker), contrary to the provisions of Section 138 of Republic Act No. 7160, which vests on the Provincial Governor the exclusive power to regulate and levy taxes on extraction activities conducted within the Province, thereby allowing said private party to benefit from and take advantage of the privilege to extract quarry resources without legal authority and official support.^[9]

The Informations were docketed as SB-14-CRIM. CASE Nos. 0347-0356.

On November 12, 2014, the prosecution filed a Manifestation with Motion to Withdraw Information^[10] praying for the withdrawal of the Information in SB-14-CRIM. CASE No. 0347 on the ground that the document attached in the Complaint was not an Extraction Permit as alleged in the Information but a Mayor's Permit to conduct business which was not illegally issued.

On February 23, 2015, petitioner was arraigned, and he entered a plea of not guilty in all ten cases.^[11]

However, in its Resolution^[12] dated February 24, 2015, the SB granted the prosecution's Motion to Withdraw the Information in SB-14-CRIM. CASE No. 0347 and deemed the said case dismissed.

Subsequently, trial ensued with respect to the nine (9) indictments against petitioner.

After trial, the SB rendered its November 17, 2016 questioned Decision finding petitioner, in all nine (9) cases (SB-14-CRIM. Case Nos. 0348-0356), guilty beyond reasonable doubt of violation of Section 3(e) of RA 3019 and imposing upon him, in each of the nine cases, the indeterminate penalty of imprisonment of six (6) years and one (1) month to ten (10) years, with the accessory penalty of perpetual disqualification to hold public office.

The SB held that all the elements of violation of Section 3(e) of RA 3019 are present in the instant case.

Petitioner filed a Motion for Reconsideration, but the SB denied it in its Resolution dated March 6, 2017.

Petitioner, then, filed a petition for review on *certiorari* with this Court. However, his petition was denied via a minute Resolution^[13] dated September 13, 2017 for failure to sufficiently show any reversible error in the assailed judgment of the SB to warrant the exercise by this Court of its discretionary appellate jurisdiction.

Aggrieved by such denial, he filed a motion for reconsideration, but this Court denied the motion with finality in a Resolution^[14] dated November 22, 2017, as no substantial argument was adduced to warrant the reconsideration sought.

Petitioner filed a second motion for reconsideration.

On July 17, 2018, this Court issued a Resolution^[15] which reinstated the instant petition. In the said Resolution, this Court noted that if an accused in a case decided by the SB, which completely disposes of the case, whether in the exercise of its original or appellate jurisdiction, chooses to question such decision of the SB, the legal recourse he/she has is to file a petition for review on *certiorari* with this Court under Rule 45 of the Rules of Court. However, this Court has observed that, in a number of cases, petitions for review of decisions of the SB were adjudicated via minute resolutions. While the disposition of cases through minute resolutions is an exercise of judicial discretion and constitutes sound and valid judicial practice under the Constitution,^[16] settled jurisprudence^[17] and the prevailing rules,^[18] this Court found it a better policy to limit the issuance of minute resolutions denying due course to a Rule 45 petition, which assails a decision of the SB, to cases decided by the said court in the exercise of its appellate jurisdiction. Thus, with respect to cases resolved by the SB in the exercise of its original jurisdiction, the mode of deciding the case is either through a decision or unsigned resolution.^[19] The reason behind this policy is because this Court is the first and last court which has the chance to review the factual findings and legal conclusions of the SB. Thus, by disposing of the case through a decision or unsigned resolution, this Court is required to take a "more than casual consideration" of the arguments raised by the appellant to support his cause as well as every circumstance which might prove his innocence.^[20] Moreover, by virtue of the unique nature of an appeal in a criminal case, such appeal throws the whole case open for review in all its aspects. An examination of the entire records of the case may be made for the purpose of arriving at a correct conclusion. In doing so, the Court is always mindful of the precept that the evidence for the prosecution must stand or fall on its own weight and cannot be allowed to draw strength from the weakness of the defense.

Hence, the present petition raising the following Issues:

- I. Whether the mere issuance of the Extraction Permits by herein Petitioner Villarosa as Municipal Mayor amounts to evident bad faith and giving of unwarranted benefits, advantage or preference to the Quarry Operators considering that: (i) Accused issued the Extraction Permits only upon recommendation of both the Municipal Environment and Resources Office and the Municipal Administrator; (ii) Taxes were collected and remitted to the Province, Municipality of San Jose, and the Barangay, and that the share of the Province even formed part of its general fund which was duly appropriated by the Province in its 2011 and 2012 Budget Ordinance; (iii) not one of the Quarry Operators[,] alleged of having received unwarranted benefits, advantage or preference were prosecuted; (iv) The Extraction Permits were issued without knowledge of the Cease-and-Desist Orders; and [v] the Cease and Desist Orders were issued only to the Quarry Operators.
- II. Whether Section 138 of the Local Government Code is not a self-executing provision such that Petitioner Villarosa cannot be held liable for violation of Section 3(e) of R.A. No. 3019, as amended, in the absence of proof of publication of both SP Resolution No. 11,

adopting and approving Provincial Tax Ordinance No. 2005-004, and
Provincial Tax Ordinance No. 2005-004.^[21]

The petition is meritorious.

The settled rule is that conviction in criminal actions demands proof beyond reasonable doubt.^[22] This rule places upon the prosecution the task of establishing the guilt of an accused, relying on the strength of its own evidence, and not banking on the weakness of the defense of an accused.^[23] Indeed, the burden is on the prosecution to prove guilt beyond reasonable doubt, not on the accused to prove his innocence.^[24] Requiring proof beyond reasonable doubt finds basis not only in the due process clause of the Constitution, but similarly, in the right of an accused to be "presumed innocent until the contrary is proved."^[25] Undoubtedly, it is the constitutional presumption of innocence that lays such burden upon the prosecution.

In the present case, petitioner is charged with violation of Section 3(e) of RA 3019 which provides:

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.

In order to hold a person liable under this provision, the following elements must concur, to wit:

- (1) the offender is a public officer;
- (2) the act was done in the discharge of the public officer's official, administrative or judicial functions;
- (3) the act was done through manifest partiality, evident bad faith, or gross inexcusable negligence; and
- (4) the public officer caused any undue injury to any party, including the Government, or gave any unwarranted benefits, advantage or preference.^[26]

The presence of the first and second elements are not disputed in the present case. Petitioner was the Mayor of the Municipality of San Jose, Occidental Mindoro at the time of the commission of the alleged offense and the acts complained of were done in the discharge of his official functions.

As to the third element, petitioner argues that the prosecution failed to prove that