

FIRST DIVISION

[G.R. No. 233152, July 13, 2020]

DIONISIO B. COLOMA, JR., PETITIONER, VS. PEOPLE OF THE PHILIPPINES AND SANDIGANBAYAN (FOURTH DIVISION), RESPONDENTS.

DECISION

REYES, J. JR., J.:

On September 16, 2005, the Office of the Ombudsman (Ombudsman) found probable cause to charge petitioner Police Chief Superintendent (P/C Supt.) Dionisio B. Coloma, Jr. (Coloma) before the Sandiganbayan with three counts of violation of Section 3(e)^[1] of Republic Act No. (R.A.) 3019 otherwise known as the "*Anti-Graft and Corrupt Practices Act*"

The present Rule 45 Petition^[2] involves one of the said three counts thus filed. Specifically, the Amended Information^[3] dated August 9, 2007 docketed as SB-07-CRM-0021, which states:

That sometime between June 2001 to October 2001, or **sometime** prior to subsequent thereto, in Bongao, Tawi-Tawi, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, a high-ranking public official, **being then the** [P/C Supt.] **with** Salary Grade 27, of the [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 **Deputy** Director of the **Philippine National Training Institute (PNTI), Philippine Public Safety College (PPSC)**, tasked to implement and oversee the construction of **training school annex and facilities** at the **municipality of** Bongao, **province of** Tawi-Tawi, **gave unwarranted benefit, advantage, favor and/or privilege to private contractor Engr. Rolando Lim Yankee Espaldon of A.C. Lim Construction in Bongao, Tawi-tawi and his wife Albia J. Lim,** and caused undue injury to [PPSC], **by purchasing from said spouses Lim a property totaling 10,000 square meters** covered by Original Transfer Certificate No. P-260 Free Patent No. 322421 in the name of Juaini Bahad, located in Tubig Sillang, Sanga-Sanga, Bongao, Tawi-tawi, for the construction of training school and facilities, at the cost of One Million Five Hundred Thousand Pesos ([P]1,500,000.00) **and proceeding with the lot purchase using public funds despite the following, viz: (a) There was no prior authority from PPSC for the lot purchase; (b) There was neither a public bidding nor a survey conducted of other properties feasible for the project with the least cost and most benefit to the government; (c) There is no document to establish ownership by spouses Lim of the subject property; (d) There was no Deed of**

Sale prior to purchase and release of payment for said purchase; (e) The municipal government lot at Baranggay Tubig-Tanah, Bongao, Tawi-Tawi allocated to PPSC for the establishment of a training school was not considered prior to the purchase of the property in issue; and (f) The market value of P9,730 per hectare of land in Bongao, Tawi-Tawi was not considered prior to the purchase of the property in issue to the damage and prejudice of the [PPSC] in the amount of One Million Five Hundred Thousand Pesos ([P]1,500,000.00).

CONTRARY TO LAW.

When arraigned, Coloma pleaded not guilty; hence, the case proceeded to trial.^[4]

Version of the Prosecution

The version of the prosecution, as summarized by respondent People of the Philippines represented by the Office of the Special Prosecutor, is as follows:

In 1998, the Department of Budget and Management (DBM) issued a Special Allotment Release Order (SARO) authorizing the release of funds amounting to [P81,750,000.00] for the construction/completion of various training facilities of the Philippine Public Safety College (PPSC), Philippine National Training Institute (PNTI) in different parts of the country.

Among the training facilities benefited by the release of the DBM SARO was the Regional Training School (RTS-9) Annex School in Tawi-Tawi. Item F [in] the List of PPSC-Wide Construction Outlay ("construction plan") for calendar year 1998 indicated that the construction would consist of site development, perimeter fence, road net, main gate, water supply, electrical supply, drainage and gutter system, one administration building, two classroom buildings, fifty-capacity dormitory building, and fifty-capacity mess hall.

RTS-9 was designed to cater to the training needs of [the] policemen in Tawi-Tawi and Sulu islands. It was given a budget funding of [P6,000,000.00][taken] from the Community Development Fund (CDF) of Tawi-Tawi Congressman Nur Jaafar (Cong. Jaafar)[.]

The construction plan for the year 1998 revealed that there is no provision for the acquisition of land for the RTS-9.

It was reported that a Philippine National Police (PNP)-owned site was chosen for the construction of the RTS-9. With a site already available, the Pre-Qualification Bids and Awards Committee (PBAC) of PPSC proceeded to bid out the construction of RTS-9. However, the lowest bidder turned out to be a "black-listed" contractor. Hence, the PBAC awarded the project to the second lowest bidder - Jaya Builders Construction (Jaya Builders).

When the PBAC later learned that Jaya Builders is owned by the

supporter of the political opponent of Congressman Jaafar, it halted the award of the project. Thereafter, upon recommendation of Coloma[,], then Director of the Philippine National Police Academy (PNPA) and concurrently acting as Special Assistant to the PPSC President on Real Property Acquisition Projects[,], PPSC shifted the implementation of the project from "by-contract" to "by-administration". This means that the implementation of the project will be done by two separate entities, one each for materials and labor.

PPSC then negotiated with a contractor of Cong. Jaafar. The contract for the provision of material and labor for the construction of the [RTS-9]project was awarded to A.C. Lim Construction [(ACLC)] in the amount of [P5,760,00.00]

In the meantime, the PNP disapproved the use of the original PNP-owned site chosen by the PPSC as it decided to use the same in the future. On the other hand, the Municipality of Bongao, Tawi-Tawi allocated a lot to PPSC for the establishment of [RTS-9]

In a meeting held in May 2001, x x x Coloma x x x suggested to then PPSC President Ernesto B. Gimenez (Gimenez) that PPSC purchase a one[-]hectare (10,000 square meters) land situated in Sanga-Sanga, Bongao, Tawi-Tawi worth [P1,500,000.00]

Coloma further suggested that the transfer of the land should be made to appear to be in the form of [a] donation. However, the money for the payment of the acquisition of the land should be taken from the [P]5,760,000.00 budget allocated for the construction of RTS-9. This scheme was resorted to because [as previously stated] there is no provision in the budget for the xxx purchase of a land.

Incidentally, in the same [May 2001] meeting, PPSC President Gimenez informed the attendees therein that the budget allocated for Tawi-Tawi and Maguindanao projects will revert back to the National Treasury if the fund is not liquidated by 30 June 2001.

Thus, Coloma xxx suggested to x x x Gimenez to transfer the money to the bank account of the contractor - [ACLC].

Acting on Coloma's advice, Gimenez approved the transfer of the money to the bank account of the contractor on the condition that the same should be under [a] joint savings account between a representative of PPSC and the contractor. The project was also reported "as 100% complete" to the DBM despite the contrary fact.

Coloma thereafter instructed then Camp Engineer [(Engr.)] Dosmedo C. Tabrilla (Tabrilla) of PPSC to conduct a site inspection in Tawi-Tawi from 30 May to 06 June 2001. During the inspection, Tabrilla was accompanied by Coloma and Atty. Nympha Madagan. While in Tawi-Tawi, they stayed at [a] beach resort [owned by] Engr. Rolando Lim (Engr. Lim), the labor contractor for the [RTS-9]project.

Upon reaching the project site in Sanga-Sanga, Bongao, Tabrilla observed that the land is an open field planted with coconut trees, xxx The visit to the project site lasted less than an hour, and Tabrilla no longer conducted a layout of the site as Coloma had [Engr.] Lim do the project layout.

After the project site inspection, Coloma, together with Tabrilla and Engr. Lim proceeded to the Landbank of Tawi-Tawi where Coloma and Engr. Lim opened a checking account. Thereafter, Coloma issued a check in the amount of [P]500,000.00 to [Engr.] Lim as mobilization cost. Thus, from the time Coloma and Engr. Lim opened a joint account xxx, the PPSC lost control of its money as the same, by then, was in the name of the contractor Engr. Lim and Coloma. PPSC also subsequently lost control of the financial status of the [RTS-9]project since the check book for the said checking account remain[ed] in the possession of Coloma and was never turned-over to PPSC.

x x x x

In a Memorandum dated 16 April 2001 to the PPSC, Coloma cited the advantages of using the private land (subject of the inspection). Among other considerations, Coloma cited the willingness of the supposed land owner Albia Lim [(Mrs. Lim)] - who turns out to be the wife of Engr. Lim - to donate the private land at no cost to the government.

Coloma's Memorandum was allegedly approved by PPSC President Gimenez who signed the same in the presence of Coloma and Antonio Rodriguez.

Coloma prepared an After-Mission Report dated 10 October 2001. On page 2 [thereof], Coloma made the entries[:] "Lot purchase (10,000 sq.ms.)," and opposite it, the amount of "[P]1,500,000.00," can be noted. He explained that it was the labor contractor xxx who purchased the land from his wife, out of his own money, so the land could be donated to PPSC. The amount of [P]1,500,000.00 was an amount provided to him by Engr. Lim, who said it was the prevailing market price for such land. On paper, however, the donor who signed the Deed of Donation [was] Juaini Bahad (Bahad), because at the time, although the land was already purchased by Mrs. Lim from Bahad, the title over the land was not yet transferred [to] Mrs. Lim.

Meanwhile, in July 2001, the PPSC changed leadership. Gimenez was replaced by Ramsey Ocampo (Ocampo) as Acting President of PPSC.

Ocampo terminated the designation of Coloma as Special Assistant to the PPSC President on Real Property Acquisition Projects on 02 August 2001 reasoning that he found no need for an advisor on real estate acquisition as there is no capital outlay for land that is available in the budget.

Ocampo further instructed Tabrilla to give a status report on the RTS-9 project. Tabrilla complied by submitting [a] *Memorandum* dated 13 August 2001 which prompted the Legal Department of PPSC to conduct an investigation on the matter.

Gilbert Concepcion (Concepcion), the investigator appointed by Ocampo, issued his Investigation Report dated 04 July 2002 and made a contrary finding to the content of the After-Mission Report of Coloma. Concepcion found that the value of the property per hectare is only [P]9,730.00 and not [P]1,500,000.00. He also discovered from Mrs. Lim that the latter only paid [P10,000.00] for the property to Bahad.

It was also discovered during the investigation that on 14 June 1999, the Sangguniang Bayan of Bongao, Tawi-Tawi passed a resolution authorizing its mayor to enter into a memorandum of agreement with PPSC for the use of a parcel of land owned by the municipality for the establishment of the training school.

In December 2002, Concepcion proceeded to Bongao, Tawi-Tawi. He went to Engr. Lim's house to get a copy of the title of the property over which the RTS-9 facilities were constructed[.] Engr. Lim and Mrs. Lim [(Spouses Lim)] handed to him a prepared sworn statement (*Sinumpaang Salaysay*) which was signed by Mrs. Lim in the presence of Concepcion and duly notarized by Atty. Robert Lim, a relative of Engr. Lim.

In essence, the *Sinumpaang Salaysay* stated that Mrs. Lim bought a parcel of land from Bahad in x x x 1992. Thereafter, her husband and Coloma agreed that the land would be used for the construction of [the RTS-9 project]. She was then paid the sum of [P1,500,000.00], which was later contradicted in open court x x x by Engr. Lim where the latter testified that no consideration was given for the use of the land [by] PPSC.

Concepcion also investigated the joint bank account opened by Engr. Lim and Coloma and found out that said bank account [did] in fact exist and x x x has a balance of around [P200.00] at the time.

In the meantime, PPSC resident auditor Teresita De Castro (De Castro) was also tasked to conduct an audit of the project but was unable to fully conduct the required audit because she has not received any disbursement vouchers and other supporting documents on the supposed subject matter of the audit. This claim was corroborated by xxx Tabrilla who declared that upon his assumption of duty as Chief of the Installation Division and Acting Director of the Logistics and Installation Service (LIS), not a single document - like vouchers, ROA, contracts, purchase order, abstract of canvass and bids, notice of award, and notice to proceed work pertaining to the RTS-9 project - was turned over to him.

De Castro was given copies of the Advise to Debit Account (ADA). This ADA is the authority given by the agency (PPSC) to the servicing bank to pay the agency's creditors, but before the ADA can be issued, there must have been first valid disbursement voucher and supporting documents.

Based on the ADA dated 27 December 2000 given to De Castro, the project appears to have been paid in full; hence, the project must have