

## THIRD DIVISION

[ G.R. No. 203382, September 18, 2019 ]

**PEDRO S. CUERPO, SALVADOR SIMBULAN AND FERNANDO H. ROÑO, PETITIONERS, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

### DECISION

**REYES, A., JR., J.:**

This is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the January 31, 2012 Decision<sup>[1]</sup> and September 7, 2012 Resolution<sup>[2]</sup> of the Sandiganbayan (SB) in Criminal Case No. SB-08-CRM-0019 which found Mayor Pedro S. Cuerpo (Mayor Cuerpo), Engr. Fernando Roño (Engr. Roño) and Barangay Captain Salvador Simbulan (Brgy. Capt. Simbulan) (petitioners) guilty of violating Section 3(e) of Republic Act (R.A.) No. 3019 or the Anti-Graft and Corrupt Practices Act.

### The Facts

The instant case emanated from an Information charging petitioners and accused Captain Renato Evasco (Capt. Evasco) of violation of Article 3 (e) of R.A. No. 3019, the accusatory portion of which states:

That during the period August 2002 to October 2003, or sometime prior or subsequent thereto, in Rodriguez, Rizal and within the jurisdiction of this Honorable Court, the above-named accused Pedro Cuerpo, Fernando H. Roño, Salvador Simbulan, Capt. Renato Evasco, all public officers, being Municipal Mayor, Municipal Engineer, Barangay Chairman of Barangay Burgos and Head of Demolition Team, respectively, all of Rodriguez, Rizal, taking advantage of their official positions and committing the offense in relation to their office, conspiring and confederating with each other and with John Does and acting with evident bad faith and manifest partiality did then and there willfully, unlawfully and criminally cause the demolition of the tents and other temporary shelters of private complainants Leticia B. Nanay, Nancy B. Barsubia, Gemma I. Bernal, Maria Victoria G. Ramirez, Crisanta S. Oxina and Adelaida H. Ebio which said private complainants temporarily erected on their land covered by TCT No. 436865, and deprive the said private complainants of the lawful use of their aforesaid land without due process of law and without any legal basis and court order, thereby causing undue injury to the said private complainants and the members of their families.

CONTRARY TO LAW.<sup>[3]</sup>

The factual and procedural antecedents, as culled from the records of the case, are as follows:

Leticia B. Nanay (Nanay), Nancy B. Barsubia (Barsubia), Gemma I. Bernal (Bernal), Maria Victoria G. Ramirez, Crisanta S. Oxina (Oxina) and Adelaida H. Ebio (Ebio) (private complainants) are among the ninety-three (93) families and members of "*Samahang Magkakapitbisig*" (*Samahan*), who used to occupy a parcel of land in Barangay (Brgy.) Valencia, Quezon City as informal settlers. In order to force them to vacate the property, a case was filed before the Metropolitan Trial Court (MeTC) of Quezon City, Branch 355 docketed as Civil (CV) Case No. 35-15452. But to reach a peaceful resolution of the case, the parties entered into a "Kasunduan" to the effect that all the 93 families would voluntarily vacate the property in exchange for P2,250,000.00 as financial assistance.<sup>[4]</sup>

The *Samahan* searched and was able to find an 8,250-square meter piece of land for their relocation in Brgy. Burgos, Rodriguez, Rizal. On August 30, 2002, several members of the *Samahan* went to Mayor Cuerpo to inform him about the impending relocation of the families. Mayor Cuerpo reacted negatively and told them they could not be accepted in the Municipality. He further informed them that before they could transfer, they should first apply for a development permit and develop the property thereafter which means that the *Samahan* first have to subdivide the lots, build roads, install water, and electrical facilities before they could move in.<sup>[5]</sup> When the *Samahan* members inquired for the list of requirements for the application for a development permit from the Municipal Zoning Office, they were provided with a list applicable for a low-cost housing subdivision to be developed by a real estate developer.<sup>[6]</sup>

On September 2, 2002, in view of the refusal of Mayor Cuerpo to allow the 93 families to relocate in Brgy. Burgos, Rodriguez, Rizal, because he does not want squatters in Montalban, private complainants instituted a petition docketed as Special Civil Action Case No. 091-02 for Prohibition, Mandamus, and Damages with Prayer for the Issuance of Temporary Restraining Order (TRO), and/or Writ of Preliminary Injunction before the Regional Trial Court (RTC) of San Mateo, Rizal, Branch 75.<sup>[7]</sup> On September 10, 2002 and October 28, 2002, the RTC of San Mateo, Rizal, Branch 77 denied the prayer for TRO and the families were ordered to apply for building permits in compliance with the National Building Code.<sup>[8]</sup>

On December 23, 2002, with the financial assistance given to them, the *Samahan* was able to purchase the piece of land located in Brgy. Burgos, Rodriguez, Rizal. The sale was registered with the Registry of Deeds of Marikina City and Transfer Certificate of Title (TCT) No. 436865 was issued<sup>[9]</sup> to the families. The lot was then subdivided among the 93 families.<sup>[10]</sup>

On August 11, 2003, the *Samahan*, including the private complainants, filed 93 separate applications for Building Permit with the Municipal Engineer. These applications were stamped "Received" by the Office of the Municipal Engineer but were returned by Engr. Roño, the municipal engineer, for lack of a development permit.<sup>[11]</sup>

On August 15, 2003, because of the refusal of Engr. Roño to process the application

for building permit, the applicants amended CV Case No. 091-02 impleading Engr. Roño and asked the trial court to compel him to accept and process the applications for building permits.<sup>[12]</sup>

On September 17, 2003, the petition was granted by the trial court and directed Mayor Cuerpo and Engr. Roño to accept and process the subject applications for building permits. However, these applications were again returned unprocessed.<sup>[13]</sup>

On September 22, 2003, because of the Fifth Alias Writ of Demolition issued by the MeTC of Quezon City, Branch 355, in CV Case No. 35-15452, the 93 families including private complainants were forced to leave Barangay Valencia, Quezon City; moved to their purchased lot and built temporary shelters made of lumber and tarpaulin despite the lack of building or development permit. On even date, Brgy. Capt. Simbulan, upon the order of Mayor Cuerpo, arrived and asked for their permit. When they told him they have none, Brgy. Capt. Simbulan informed them that there will be a demolition that afternoon. At around 1:30 p.m., a demolition team consisting of Special Weapons and Tactics and Police Officers led by Capt. Evasco arrived. The demolition team dismantled the makeshift homes and took away lumber, tarpaulin, plywood, and appliances. The demolition team returned the following day and confiscated the remaining lumber, leaving only their personal belongings. During the demolition conducted on October 28, 2003, accused Capt. Evasco handed them a Memorandum dated October 23, 2003 from petitioner Mayor Cuerpo showing that a demolition should have been conducted on October 24, 2003.<sup>[14]</sup>

Private complainants filed a complaint, claiming that these demolitions were committed with evident bad faith and manifest partiality, which deprived them of the lawful use of their land without due process of law or any legal basis or court order. Consequently, an Information was filed before the Office of the Ombudsman, where petitioners and Capt. Evasco were charged of violating Section 3(e) of R.A. No. 3019.

Upon arraignment, petitioners pleaded "not guilty."<sup>[15]</sup> During the pre-trial, the parties stipulated on the following facts:

1. At all times material to this case, the following [Petitioners] were then holding the positions opposite their names, to wit:
  - a. Pedro Cuerpo Mayor
  - b. Fernando Roño Municipal Engineer
  - c. Salvador Sirnbulan - Barangay Chairman of Barangay Burgos all of Rodriguez, Rizal.
2. On 11 August 2003 the six applicants mentioned in the Information went to the Office of the Municipal Engineer of Rodriguez, Rizal, to submit individual applications for Building Permits in line with their intention to build homes within their property.
3. On 19 September 2003, the Office of the Municipal Engineer accepted the letter dated September 18, 2003, the Order of the

RTC-Branch 75 of San Mateo Rizal, and a copy of Transfer Certificate of Title No. 436865.

4. On 22 September 2003, the families comprising "Samahan" were forced to transfer to their property in Barangay Burgos, Rodriguez, Rizal, due to the Order issued by Branch 35 of the [MeTC], Quezon City, directing the Sheriff to implement the fifth Alias Writ of Demolition against the homes of "Samahan's" members.
5. Upon arrival at their parcel of land in Barangay Burgos, Rodriguez, Rizal, on 22 September 2003, the families put up tents and tarps to serve as their temporary shelter.
6. On 22 and 23 September 2003, the temporary shelters put up by the families of "Samahan" members Leticia Nanay, Nancy Barsubia, Gemma Bernal, Maria Victoria Ramirez, Crisanta Oxina and Adelaida Ebio were demolished.
7. The private complainants in this case constructed their shanties or temporary shelters on the land they owned in Rodriguez, Rizal.
8. The shanties or temporary shelters in question owned by private complainants in this case were constructed on a strip of land described in Transfer Certificate Title No. 436865 issued by the Register of Deeds of Marikina City.<sup>[16]</sup>

By way of defense, petitioners did not dispute the demolitions that transpired on specified dates but justified that they were done because the families did not have the necessary permit to construct their houses in the subject property.<sup>[17]</sup>

### **The SB Ruling**

On January 31, 2012, the SB issued the assailed Decision.<sup>[18]</sup> It found that there was sufficient evidence to conclude the presence of conspiracy among the petitioners. It ruled that the requirement of a development permit by petitioner Engr. Roño and the subsequent order to develop private complainants' property before the issuance of a building permit was in concerted harmony with the instructions of petitioner Mayor Cuerpo not to allow private complainants, who were former informal settlers, to relocate to Burgos, Rodriguez.<sup>[19]</sup> In the case of, Brgy. Chairman Simbulan, the SB determined that he exceeded his authority in executing Mayor Cuerpo's demolition order. More than the demolition, he confiscated private complainants' appliances depriving them of their simple properties without due process.<sup>[20]</sup> To the SB, the petitioners' coordinated acts, starting from the instructions of Mayor Cuerpo to disallow private complainants to relocate in their property and the refusal of Engr. Roño to issue the requested building permits until the carrying out of the directive of Mayor Cuerpo addressed to Engr. Roño, Brgy. Chairman Simbulan and Capt. Evasco which harmoniously and jointly achieved the common purpose of summarily demolishing private complainants' structure constituted conspiracy.<sup>[20]</sup>

The SB likewise ruled that the prosecution was able to prove beyond reasonable doubt the concurrence of all the essential elements of the offense of Violation of Section 3(e) of R.A. No. 3019 and accordingly convicted the petitioners as charged, viz.:

**WHEREFORE**, in the light of all the foregoing, the Court finds [petitioners] Mayor **PEDRO S. CUERPO**, Municipal Engineer **FERNANDO ROÑO** and Barangay Chairman **SALVADOR SIMBULAN** **GUILTY** beyond reasonable doubt of Violation of Section 3 (e) of R.A. No. 3019, and after applying the Indeterminate Sentence Law, hereby imposes upon each of them the penalty of imprisonment ranging from six (6) years and one (1) month as minimum, to nine (9) years, one (1) month and one (1) day as maximum.

They are further perpetually disqualified from holding public office.

Considering that accused [Capt. Evasco] is still at large, let this case be archived with respect to him, and let an Alias Warrant of Arrest be issued against him.

**SO ORDERED.**<sup>[21]</sup> (Emphasis in the original)

Petitioners moved for reconsideration alleging that they merely acted in good faith and in compliance with the law. Presenting new arguments, petitioners claimed that there was no demolition that took place; they only prevented the private complainants from constructing their temporary shelters on the subject property. Petitioners also added that they were just exercising their duty to secure the safety of all residents by prohibiting construction on danger zones without the proper permits. They further averred that the structures built may be legally considered nuisance which must be prevented.<sup>[22]</sup> The SB found no merit in the motion for reconsideration, thus denied the same in a Resolution<sup>[23]</sup> dated September 7, 2012.

Hence, this recourse.

In the instant petition, petitioners assert that the SB erred in convicting them for the crime of violation of Section 3(e) of R.A. No. 3019. They claim that the prosecution failed to prove the elements of manifest partiality, evident bad faith, or gross inexcusable negligence and undue injury. Petitioners posit that they acted in good faith and in compliance with the law in preventing the 93 families from constructing their houses for lack of development permit, building permit, and location clearance.<sup>[25]</sup>

Moreover, petitioners impute serious and reversible legal error on the part of the SB in ruling that there was conspiracy among them.<sup>[26]</sup>

### **The Issue Before the Court**

For the Court's resolution is whether or not the SB correctly convicted petitioners for violation of Section 3(e) of R.A. No. 3019.

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