

## SECOND DIVISION

[ G.R. No. 184092, February 22, 2017 ]

**AQUILINA B. GRANADA, CARLOS B. BAUTISTA, AND FELIPE PANCHO, PETITIONERS, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

[G.R. No. 186084]

**VENANCIO R. NAVA, PETITIONER, VS. THE HONORABLE JUSTICES MA. CRISTINA G. CORTEZ-ESTRADA, ROLAND B. JURADO, AND TERESITA V. DIAZ-BALDOS, AS MEMBERS OF THE SANDIGANBAYAN'S 5<sup>TH</sup> DIVISION, AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

[G.R. No. 186272]

**JESUSA DELA CRUZ, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

[G.R. No. 186488]

**AQUILINA B. GRANADA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

[G.R. No. 186570]

**SUSANA B. CABAUG, PETITIONER, VS. PEOPLE OF THE PHILIPPINES AND SANDIGANBAYAN, RESPONDENTS.**

### DECISION

**LEONEN, J.:**

The Commission on Audit is the guardian of public funds with the mandate to review and audit public spending.<sup>[1]</sup> The Court generally sustains the decisions of administrative authorities like the Commission on Audit in recognition of the doctrine of separation of powers and their presumed knowledge and expertise of the laws they have been tasked to uphold.<sup>[2]</sup>

This resolves the consolidated Petitions for Review on *Certiorari* and Petition for *Certiorari*, which assail the Decision<sup>[3]</sup> dated August 1, 2008 and the Resolution<sup>[4]</sup> dated January 12, 2009 of the Sandiganbayan in Criminal Case No. 23459, finding petitioners Venancio R. Nava (Nava), Susana B. Cabahug (Cabahug), Aquilina B. Granada (Granada), Carlos Bautista (Bautista), Felipe Pancho (Pancho), and Jesusa Dela Cruz (Dela Cruz) guilty of violation of Section 3(g) of Republic Act No. 3019,

otherwise known as the Anti-Graft and Corrupt Practices Act.<sup>[5]</sup>

On November 5, 1993, Teresita C. Lagmay (Lagmay), Eden Jane R. Intencion, and Mabini S. Reyes of the Commission on Audit, Region XI, Davao City, submitted a Joint-Affidavit<sup>[6]</sup> with an attached Special Audit Report<sup>[7]</sup> to the Commission on Audit Director, Region XI, Davao City.

The Special Audit Report disclosed that the various school forms and construction materials purchased by the Department of Education, Culture and Sports, now Department of Education, Division Office of Davao for the Elementary School Building Program were priced above the prevailing market prices, leading to a loss of P613,755.36 due to overpricing.<sup>[8]</sup> The auditors recommended the refund of the excess amount, and the filing of a criminal or administrative action against the public officials who participated in the transactions.<sup>[9]</sup>

On July 25, 1996, the Office of the Ombudsman, Mindanao, found that there was sufficient evidence to indict several Department of Education, Culture and Sports officials for violating Section 3(g) and (e) of Republic Act No. 3019.<sup>[10]</sup> The dispositive of the Ombudsman Resolution<sup>[11]</sup> reads:

WHEREFORE, finding sufficient evidence to hold that the offense of violation of Section 3 (g) and (e) of RA 3019 and falsification have been committed and that the hereunder list of persons are probably guilty thereof, let the following criminal Informations be filed with the following courts, namely:

- A) Violation of Section 3 (g) of RA 3019 relative to the overpricing of school supplies and forms with the Regional Trial Court of Davao City against:
1. Division Superintendent Luceria de Leon,
  2. Bids and Awards Committee (BAC) Chairman Edilberto Madria,
  3. Clerk and BAC Member Stephen Acosta,
  4. Clerk III and BAC Member Timoteo Fulguerinas,
  5. Fiscal Clerk II Lydia Cerdinia and
  6. Supply Officer Felipe Pancho
- B) Violation of Section 3 (g) of RA 3019 relative to the overpricing of construction materials with the Sandiganbayan against:
1. DECS Regional Director VENANCIO NAVA (with salary []),
  2. DECS Assistant Director SUSANA CABAUG,
  3. DECS Regional Administrative Officer AQUILINA B.

GRANADA,

4. DECS Finance Officer CARLOS BAUTISTA,
  5. DECS Division Superintendent LUCERIA M. DE LEON,
  6. DECS Division Administrative Officer EDILBERTO MADRIA,
  7. DECS Supply Officer FELIPE PANCHO, and
  8. GEOMICHE, Incorporated President JESUS A DELA CRUZ.
- C) Violation of Section 3 (e) of RA 3019 relative to the full payment of undelivered desks with the Regional Trial Court of Davao City against Division Superintendent Luceria de Leon, Edilberto Madrias and Fernando Gaddi, Jr.;
- D) Violation of Section 3 (e) of R.A. 3019 relative to the non-collection of liquidated damages from Romars with the Regional Trial Court of Davao City against Division Superintendent Luceria M. De Leon;
- E) Falsification of public document relative to the falsified Inspection Report with the Regional Trial Court of Davao City against Administrative Officer Edilberto Madria, Clerk Stephen Acosta and Clerk III Timoteo Fulguerinas the cases to prosecuted (sic) until their termination by the Honorable Antonio V.A. Tan, City Prosecutor of Davao City except Violation of Section 3 (g) of RA 3019 which will have to be prosecuted by the Honorable Leonardo P. Tamayo, Special Prosecutor.

FINDING insufficient evidence to hold the other respondents liable for the charge, let the instant case against them be dismissed.

SO RESOLVED.<sup>[12]</sup>

Petitioners Nava, Cabahug, Granada, and Dela Cruz were subsequently charged with Violation of Section 3(g) of Republic Act No. 3019 in an Information<sup>[13]</sup> filed on July 25, 1996. The accusatory portion of the Information reads:

That on or during the period comprising the calendar year 1991, in the City of Davao, Philippines and within the jurisdiction of this Honorable Court, the accused VENANCIO NAVA, SUSANA B. CABAHUG, AQUILINA B. GRANADA, CARLOS BAUTISTA, LUCERIA M. DE LEON, EDILBERTO MADRIA, FELIPE PANCHO, all public officers being then the Regional Director with salary grade of 27, Assistant Regional Director, Administrative Officer, Finance Officer, Division Superintendent, Administrative Officer, Supply Officer, respectively, of the Department of Education, Culture and Sports, Region XI, while in the performance of their duties, committing the offense in relation to their office, taking advantage of their official positions, conspiring, confederating with each other, and with Geomiche Incorporated President JESUSA DELA CRUZ, to

wit: 1. DECS Regional Director VENANCIO NAVA approved the disbursement voucher, purchase order and invitation to bid and signed the checks for payment; 2. DECS Assistant Director SUSANA CABAUG approved the disbursement voucher and the purchase order for and in behalf of Regional Director Nava; 3. DECS Regional Administrative Officer AQUILINA B. GRANADA signed two different sets of purchase order with exactly the same contents and the abstract of price quotations; 4. DECS Finance Officer CARLOS BAUTISTA signed Abstract of Quotations as canvassing member; 5. DECS Division Superintendent LUCERIA M. DE LEON approved the disbursement voucher, signed the checks, recommended the approval of two different sets of purchase order, directed the preparation of the voucher and as (sic) signed the Abstract of Quotations as Canvassing member; 6. DECS Division Administrative Officer EDILBERTO MADRIA signed the checks and the abstract of quotations and canvass; 7. DECS Supply Officer FELIPE PANCHO directed the preparation of the disbursement voucher; and 8. GEOMICHE, Incorporated President JESUSA DELA CRUZ supplied the aforementioned construction materials despite knowledge that the same were overpriced, which acts though seemingly separate and distinct yet parts of a grand conspiratorial design to defraud the government, did then and there, wilfully, unlawfully, criminally, purchase in behalf of the DECS Division Office of Davao City, form (sic) Geomiche Incorporated represented [by] Jesusa dela Cruz[,] construction materials at overpriced costs ranging from 6.09% to 695.45% thus enter into a contract grossly and manifestly disadvantageous to the government for it left the DECS short-changed by a hefty sum of P512,967.69 - the total amount of the overprice.

CONTRARY TO LAW.<sup>[14]</sup>

On March 3, 1997, the Sandiganbayan issued a hold departure order against petitioners and the other accused.<sup>[15]</sup>

Petitioners entered separate pleas of not guilty during their respective arraignments.<sup>[16]</sup>

On October 13, 1999, the parties admitted the following stipulations of facts and issues during pre-trial:<sup>[17]</sup>

1. That all the accused, except Cabahug and Pancho, admit their official positions as mentioned in the Information during the time relevant to this case. However, accused dela Cruz, who is not a public officer, admits her personal circumstances as mentioned in the information;

2. That accused Venancio Nava was not the Chairman nor a member of the Pre-Qualification Bids and Awards Committee (PBAC) at the time relevant to this case;

....

#### ISSUE

1. Whether or not the transactions entered into by the accused public

officials with the accused supplier for the purchase of construction materials and supplies in the amount of P2,072,318.25 were unreasonably overpriced, thus, causing undue injury to the government.  
[18]

Luceria De Leon (De Leon) died before final judgment was handed down, thus, the Sandiganbayan granted the motion to dismiss filed by her counsel.<sup>[19]</sup>

The prosecution presented the following witnesses: Araceli P. Geli (Geli), State Auditor for the Department of Education, Culture and Sports Division Office, and Lagmay, State Auditor III for the Commission on Audit.<sup>[20]</sup>

Geli was the state auditor stationed at Department of Education, Culture and Sports Division Office, Davao City. Part of her duty as state auditor was to review and audit the transactions of the Division Office.<sup>[21]</sup>

On March 6, 1992, Geli submitted her annual report<sup>[22]</sup> to the Commission on Audit where she disclosed the overpricing committed in the Elementary School Building Program.<sup>[23]</sup> Geli recommended the institution of the proper action against all Department of Education, Culture and Sports officials involved in the transaction, and the restitution of the overpricing in the amount of P512,967.89.<sup>[24]</sup>

Geli testified that she re-canvassed the price of each item ordered by the Division Office after she was informed that there was no public bidding undertaken prior to the purchase.<sup>[25]</sup> Geli stressed that only Director Venancio Nava, as the approving officer, signed the invitation to bid and that the invitation to bid had no signature or even initials of the members of the Prequalification, Bids and Awards Committee. After her re-canvass, Geli computed an excess payment of P512,967.69.<sup>[26]</sup>

Lagmay testified that she headed a special audit team sometime in 1992, pursuant to the August 5, 1992 Commission on Audit Assignment Order No. 92-2113 issued by Commission on Audit Regional Office No. XI.<sup>[27]</sup>

The audit covered the period of January 1, 1991 to August 31, 1992, with the special audit team examining the purchases of supplies and materials using the Maintenance and Operating Expenses Funds and the purchase of materials for the Elementary School Building Project and grader's desks. Lagmay testified that the special audit was prompted by Geli's findings.<sup>[28]</sup>

Lagmay identified the disbursement vouchers made to Geomiche Incorporated (Geomiche), a Manila-based supplier,<sup>[29]</sup> and the purchase orders that the special audit team examined during the audit. She testified that the audited transactions required public bidding but the documents submitted to them for audit did not show any indication that public bidding was conducted.<sup>[30]</sup>

The defense thereafter presented petitioners and the other accused as witnesses.

Nava was the Department of Education, Culture and Sports Regional Director for Davao City, Region XI from March 12, 1990 to August 1, 1993. He was transferred to Department of Education, Culture and Sports Region VIII, Eastern Visayas, and