

## FIRST DIVISION

[ G.R. No. 169385, August 26, 2015 ]

**TEOFILO GIANGAN, SANTOS BONTIA (DECEASED), AND  
LIBERATO DUMAIL (DECEASED), PETITIONERS, VS. PEOPLE OF  
THE PHILIPPINES, RESPONDENT.**

### D E C I S I O N

**BERSAMIN, J.:**

The reversal of the decision rendered on July 15, 2005 by the Sandiganbayan,<sup>[1]</sup> and the consequent acquittal of petitioner Teofilo Giangan (as the only surviving accused) are being sought in this appeal by petition for review on *certiorari*. By the assailed decision, the Sandiganbayan affirmed the judgment of the Regional Trial Court (RTC), Branch 25, in Danao City in Criminal Case No. DNO-1799 finding the three named-accused, namely: Teofilo Giangan, Santos Bontia, and Liberato Dumail, guilty beyond reasonable doubt of the violation of Section 3(e) of Republic Act No. 3019 as charged.<sup>[2]</sup>

It is noted that this appeal now concerns only Giangan considering that the two other accused meanwhile died.

### Antecedents

In his capacity as the barangay chairman of Barangay Luyang in the Municipality of Carmen, Province of Cebu at the time material to this case, Giangan, along with his co-accused Dumail, a barangay councilor, and Bontia, the head of the barangay tanods, were charged with the violation of Section 3 (e) of R. A. No. 3019 under the following information:

x x x That on or about the 16th day of February 1996, at Barangay Luyang, Municipality of Carmen, Province of Cebu, Philippines, and within the jurisdiction of this Honorable Court, above-named accused, public officers, having been elected, appointed and qualified to such public positions above mentioned, taking advantage of their public positions and committing the offense in relation to office, conniving and confederating together and mutually helping with each other, with deliberate intent, with manifest partiality and evident bad faith, did then and there willfully, unlawfully and feloniously destroy the fence made of wooden posts and straight wires in an agricultural land situated at Luyang, Carmen, and owned by Aurelia F. Bernadas, without proper court order or authority of law, thus accused in the performance of their official functions had given unwarranted benefits, preference or advantage to themselves, to the damage, injury and prejudice to Aurelia F. Bernadas.<sup>[3]</sup>

### Version of the Prosecution

It appears that Aurelia Bernadas hired Delfm Buot to construct the wooden fence on her land; that the accused removed the fence; that Buot first learned of the removal of the fence from the residents of Barangay Luyang; that Buot further learned that Giangan and his co-accused removed the wooden fence; that Buot first directly inquired from Giangan why the latter had destroyed the fence, but he harshly told him to tell Bernadas to just file a case against him; that Buot then went home to call Bernadas about the incident; and that Buot accompanied Bernadas and her spouse to confront Giangan, who reiterated his dare for them to just file a case.<sup>[4]</sup>

Bernadas testified that she had caused the construction of the fence on her three properties in Barangay Luyang because the fruits of the coconut trees growing on her properties were frequently stolen, and also because the sand on the seashore within her properties was being excavated; that she reported the theft to Giangan, who did not take any action on her complaint; that she spent a total of P11,200.00 for labor and materials in the construction of the fence; that upon learning of the removal of the fence, she visited Giangan to inquire, but the latter shouted at her: "It is within my power as barangay captain to destroy the fence," and "Don't tell me what to do, you just file a case in court;" that many landowners put up fences on their properties in the area, but the fences were not removed; and that there was no established road right of way on her properties ever since she could remember.<sup>[5]</sup>

### **Version of the Defense**

Giangan stated that on February 17, 1996, he went to the Bantigue Port Area after receiving a report that the barangay road had been blocked by a fence; that the road, which was connected to Barangay Luyang,<sup>[6]</sup> had existed in that area for as long as he could remember; that he had then removed the three standing posts and six posts lying on the ground, and brought the posts to the police station; that as the barangay chairman of Luyang, he believed that the site of the fence was a road because the residents complained that they could no longer pass through especially during high tide; that such complaint was why he removed the fence; and that he simply told Bernadas and her husband that he was forced to remove the fence because of the complaint of the residents.<sup>[7]</sup>

Also presented was Gregorio Basan, the former barangay chairman of Luyang, who avowed that he was aware of the existence of the barangay road of Luyang along the coastline; and that the barangay road to Sitio Po-po<sup>[8]</sup> had existed for more than 40 years without any protest from the present owner during his tenure as the barangay chairman.<sup>[9]</sup>

Bontia recalled that Jaime Misa had reported to him that the Sto. Nino road traversing the Bernadas' properties, which had existed since he was 7 years of age and had never been blocked before, was closed; that the road was on the land owned by Aurelio Fernandez, the father of Bernadas; that they made an opening in the fence so that the residents could pass through; and that they brought the fence posts to the municipal hall of Carmen.<sup>[10]</sup>

Misa attested that he was on his way home at around midnight on February 16, 1996 after conveying passengers from Carmen, Cebu to Danao City; that he had to

stop because a fence erected on the property of Bernadas blocked the road; that he returned to Luyang to report the matter to the barangay chairman; that he also tried to see the Mayor but then headed home when he could not see the Mayor.<sup>[11]</sup>

### **Judgment of the RTC**

On November 5, 1999, the RTC Danao City rendered its judgment finding all of the accused guilty as charged, disposing:

WHEREFORE, facts and law considered, the Court finds accused TEOFILO GIANGAN, LIBERATO DOM AIL, JR., AND SANTOS BONTIA guilty beyond reasonable doubt as principals of violating the Anti-Graft and Corrupt Practices Act, and hereby sentences them to suffer an indeterminate penalty of EIGHT (8) YEARS and ONE (1) DAY to FIFTEEN (15) years imprisonment, with perpetual disqualification from public office pursuant to Section 9, Republic Act No. 3019, as amended. Dura Lex, Sed Lex. The law may be harsh, but the law is the law.

Accused are likewise ordered to pay jointly and solidarity unto private complainant the sum of P100,000.00 for moral damages, P11,000.00 for actual damages and P20,000.00 for attorney's fees.

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

### **Decision of the Sandiganbayan**

On July 15, 2005, the Sandiganbayan affirmed the judgment of conviction, to wit:

**WHEREFORE**, premises considered the judgment of conviction appealed from is hereby **AFFIRMED**, with the following modifications:

- 1) That the duration of the penalty of imprisonment imposed upon the accused be reduced to six years and one day to ten years;
- 2) That the award for actual damages be reduced to P6,200.00; and
- 3) That the award for moral damages be likewise reduced to P25,000.00

SO ORDERED.<sup>[13]</sup>

Explaining the affirmance, the Sandiganbayan observed as follows:

#### ***Element No. 1 that the accused are public officers***

The accused-appellants do not deny the respective positions that they held in Barangay Luyang, Carmen, Cebu, when the fence was demolished, namely, Teofilo Giangan as Barangay Chairman, Liberate Domail as Barangay Councilor and Santos Bontia as Barangay Tanod. What they do contest vehemently is the application to them of Section 3 (e) of R.A. No. 3019, as amended. They assert that the prohibited act mentioned in said subsection, of causing undue injury or granting unwarranted benefit to any party through manifest partiality, evident bad

faith or gross inexcusable negligence, applies exclusively to officers and employees of offices or government corporations charged with the grant of licenses of permits or other concessions, which they allegedly are not.

The argument clung to by the accused lacks merit. This issue had long been settled in the case of *Mejorada vs. Sandiganbayan* where the Honorable Supreme Court held that Section 3 (e) of RA 3019 is not only limited to government officials or public officers or government corporations who charged with the duty of granting licenses, permits or other concessions but also to other officials and employees in the government without any distinction.<sup>[14]</sup> x x x

x x x x

***Element No. 2 that the accused acted with manifest partiality and evident bad faith***

In determining the existence of this element, a preliminary discussion is entailed on the collateral issue of whether or not the portion of the complainant's land from which the fence was demolished could be considered a right of way over which the barangay has acquired a right through prescription. The lower court held that there was no easement of right of way in this case. The accused-appellants, however, contend that the lower court erred in refusing to appreciate that the barangay road in question is a property of the public dominion and not of private ownership. Pursuing further their assignment of error, they insist that the road, which has allegedly been used as a passageway of people coming from the seashore for more than 40 years, has acquired the status of an easement by virtue of prescription.

x x x x

We now come to the issue of whether or not the act of the accused-appellants in destroying the fence on the complainant's property was attended by manifest partiality and evident bad faith, and thus granted unwarranted benefit to themselves, to the damage and injury of complainant Aurelia Bernadas. The Information alleges that the demolition of the fence was made by the accused without any court order or authority of the law. This Court finds that the allegation is substantiated in the sense that no such court order or other authority was indeed presented by the accused-appellants by virtue of which they undertook the demolition of the fence. In fact, the demolition appeared to have been done clandestinely and without the knowledge of the owner who was thereby deprived of all possible opportunity to take remedial measures to protect her proprietary rights.

x x x x

The above discussion about the lack of authority of the accused-appellants to demolish the fence of the complainant, and the brazen challenge of accused Giangan for the complainant to file a case against him for his act, reinforces the finding of the lower court that the accused