

SPECIAL THIRD DIVISION

[G.R. No. 172602, April 16, 2009]

HENRY T. GO, PETITIONER, VS. THE FIFTH DIVISION, SANDIGANBAYAN AND THE OFFICE OF THE SPECIAL PROSECUTOR, OFFICE OF THE OMBUDSMAN, RESPONDENTS.

RESOLUTION

YNARES-SANTIAGO, J.:

In its *Motion for Reconsideration*, respondent Office of the Special Prosecutor argues, citing *Meneses v. People*,^[1] *Balmadrid v. Sandiganbayan*,^[2] *Domingo v. Sandiganbayan*,^[3] and *Singian v. Sandiganbayan*,^[4] that private persons when conspiring with public officers may be held liable for violation of Section 3(g) of Republic Act (R.A.) No. 3019.

The arguments presented by the Office of the Special Prosecutor convinced us to take a second look at the case. We maintain that to be indicted of the offense under Section 3(g) of R.A. No. 3019, the following elements must be present: (1) that the accused is a public officer; (2) that he entered into a contract or transaction on behalf of the government; and (3) that such contract or transaction is grossly and manifestly disadvantageous to the government. *However*, if there is an allegation of conspiracy, a private person may be held liable together with the public officer, in consonance with the avowed policy of the Anti-Graft and Corrupt Practices Act which is "to repress certain acts of public officers and private persons alike which may constitute graft or corrupt practices or which may lead thereto."

In the instant case, the Information charges Vicente C. Rivera, Jr., then Secretary of the Department of Transportation and Communications, with committing the offense under Section 3(g) of R.A. No. 3019 "in conspiracy with accused HENRY T. GO, Chairman and President of Philippine International Air Terminals, Co., Inc. (PIATCO) x x x."

Pursuant to our ruling in *Estrada v. Sandiganbayan*,^[5] said allegation of conspiracy is sufficient, thus:

The requirements on sufficiency of allegations are different when conspiracy is not charged as a crime in itself but only as the mode of committing the crime as in the case at bar. There is less necessity of reciting its particularities in the Information because conspiracy is not the gravamen of the offense charged. x x x

x x x x

[I]t is enough to allege conspiracy as a mode in the commission of an offense in either of the following manner: (1) by use of the word