

THIRD DIVISION

[G.R. No. 176546, September 25, 2009]

**FELICITAS P. ONG, PETITIONER, VS. THE PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

D E C I S I O N

YNARES-SANTIAGO, J.:

Assailed in this petition for review is the Decision^[1] of the Sandiganbayan dated November 13, 2006 in Criminal Case No. 24416, finding petitioner Felicitas P. Ong guilty beyond reasonable doubt of violation of Sec. 3 (e) of Republic Act No. 3019, otherwise known as the *Anti-Graft and Corrupt Practices Act*. Also assailed is the Resolution^[2] dated February 2, 2007 denying the motion for reconsideration.

On August 12, 1996 petitioner in her capacity as Mayor of Angadanan, Isabela, bought^[3] an Isuzu dump truck^[4] for P750,000.00 from Josephine Ching for the use of the municipality.

On March 26, 1997, a letter-complaint^[5] was filed against petitioner by her successor, Mayor Diosdado Siquian^[6] and several other Sangguniang Bayan members^[7] before the Office of the Ombudsman, accusing her of malversation of public funds and property in connection with several alleged irregularities committed during her term as Mayor of Angadanan, including the purchase of the dump truck for being grossly overpriced.

On August 14, 1997, Graft Investigation Officer I Germain G. Lim found no probable cause to hold petitioner liable for the charges. Upon reconsideration however, she was indicted for violation of Sec. 3 (e) of RA No. 3019, as amended, with respect to the acquisition of the dump truck.

The Information^[8] reads:

That on or about August 1996, or sometime prior or subsequent thereto in the Municipality of Angadanan, Isabela, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, Felicitas P. Ong, a public official, being the Municipal Mayor of Angadanan, Isabela, taking advantage of her official position and committing the offense in relation to her office, acting with manifest partiality, evident bad faith or gross inexcusable negligence, did then and there willfully, unlawfully and feloniously cause injury to the Municipality of Angadanan by causing and approving, without public bidding, the acquisition of an Isuzu dump truck with Plate Number T-BBB-206 from J.C. Trucking in the amount of SEVEN HUNDRED FIFTY THOUSAND PESOS (P750,000.00)

when the same or similar type of dump truck could have been bought at a much lower price of not more than FIVE HUNDRED THOUSAND PESOS (P500,000.00), to the damage and prejudice of the Municipality of Angadanan in the amount of TWO HUNDRED AND FIFTY THOUSAND PESOS (P250,000.00).

CONTRARY TO LAW.

On January 12, 1999, petitioner was arraigned and entered a plea of "Not guilty."^[9]

During trial, Ramon De Guzman Sevilla, Sales Manager of Christian Motor Sales in Cabanatuan City, Nueva Ecija, testified that the cost of a ten wheeler-front drive, military type Isuzu dump truck ranges from P190,000.00-P490,000.00.^[10]

Sangguniang Bayan members and complainants Ruben P. Lappay and Mirasol P. Lappay both testified that the dump truck was bought without conducting a public bidding or a resolution by the Sangguniang Bayan; that the truck was merely reconditioned and not brand new as can be seen from its deplorable condition, worn tires and old battery;^[11] and that a subsequent canvass of other suppliers showed that better quality dump trucks cost no more than P500,000.00.^[12]

In her defense, petitioner testified that in 1996, the municipality appropriated the amount of P1,000,000.00 for the purchase of a dump truck;^[13] that pursuant to said appropriation, the subject vehicle was purchased on August 12, 1996 for P750,000.00 through a negotiated purchase from Josephine Ching of J.C. Trucking; that the public bidding and prior Sangguniang Bayan resolution were dispensed with pursuant to Commission on Audit (COA) Resolution Nos. 95-244^[14] and 95-244-A^[15] which do not require the conduct of a public bidding on any negotiated purchase in amounts not exceeding P10,000,000.00;^[16] that the truck was not in disrepair as the same was inspected by the Regional Engineer from COA who declared it fit and in good running condition;^[17] and that the purchase was allowed by COA because it did not issue a notice of disallowance.^[18]

On November 13, 2006, the Sandiganbayan rendered its Decision finding petitioner guilty beyond reasonable doubt of violation of Sec. 3 (e) of RA No. 3019. The dispositive portion thereof reads:

WHEREFORE, the Court finds accused Felicitas P. Ong, GUILTY beyond reasonable doubt, for violation of Sec. 3 (e) of RA No. 3019, and is hereby sentenced to suffer the penalty of:

(A) Imprisonment of, after applying the Indeterminate Sentence Law, six years and one month as minimum, up to ten years, as maximum; and

(B) Perpetual disqualification from Public Office.

Accused is hereby ordered to RETURN to the Municipality of Angadanan the amount of P250,000.00.

SO ORDERED.^[19]

The Sandiganbayan found that as Mayor of Angadanan, there is no dispute that petitioner was a public officer discharging administrative and official functions; that there is no merit to petitioner's claim that the purchase of the dump truck without public bidding was justified by COA Resolution Nos. 95-244 and 95-244-A; and that the prosecution was able to prove that had petitioner observed the proper procurement procedure, the municipality could have acquired a dump truck similar to, if not better than that which she bought, for a much lesser price.

Hence, this appeal where petitioner contends that the Sandiganbayan erred in finding her guilty of violation of Section 3 (e) of RA No. 3019. In particular, petitioner denies causing injury or giving anybody any unwarranted benefits, advantage or preference in the discharge of her official or administrative functions, or that she is guilty of any manifest partiality, evident bad faith or gross negligence.

We are not persuaded.

It is a well-entrenched rule that factual findings of the Sandiganbayan are conclusive upon the Supreme Court except where: (1) the conclusion is a finding grounded entirely on speculation, surmise and conjectures; (2) the inference made is manifestly mistaken; (3) there is grave abuse of discretion; (4) the judgment is based on misapprehension of facts and the findings of fact of the Sandiganbayan are premised on the absence of evidence and are contradicted by evidence on record.

^[20] None of the above exceptions obtains in this case.

Section 3 (e) of RA No. 3019, as amended, provides:

Section 3. Corrupt practices of public officers.- *In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful*

x x x x

(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official, administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

The following essential elements must be present:

1. The accused must be a public officer discharging administrative, judicial or official functions;