



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

EDMUNDO JOSE T. BUENCAMINO,  
Petitioner,

G.R. Nos. 216745-46

Present:

-versus-

PERALTA, C.J., Chairperson,  
CAGUIOA,  
CARANDANG,  
ZALAMEDA, and  
GAERLAN, JJ.

PEOPLE OF THE PHILIPPINES and  
SANDIGANBAYAN,  
Respondents.

Promulgated:

NOV 10 2020

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DECISION

CAGUIOA, J.:

The petition at bar presents the Court with the occasion to reiterate the fine-tuning of the elements required for a successful prosecution of crimes under Section 3(e)<sup>1</sup> of Republic Act No. (R.A.) 3019, otherwise known as the “Anti-Graft and Corrupt Practices Act” and the crucial import of non-variance

<sup>1</sup> Section 3(e) of R.A. 3019 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.

x x x x

of the mode of commission embodied in the accusatory portion of the information *vis-à-vis* that which the court finds as basis for it to convict. In consonance with the persuasion that our penal laws on graft and corruption are meant to enhance, instead of stifle, public service,<sup>2</sup> the Court here repeats, among others, that absent the decisive element of bad faith in charges of violation of Section 3(e), the prosecution cannot pass the test of moral certainty required to uphold a conviction, and the constitutionally afforded presumption of innocence of the petitioner must prevail.

At bench is a Petition<sup>3</sup> for Review on *Certiorari* under Rule 45 seeking to reverse and set aside the Decision<sup>4</sup> dated February 18, 2015 of the Sandiganbayan, Special Fifth Division (Sandiganbayan), in Criminal Case No. SB-06-CRM-0419-0420. Said Decision found Edmundo Jose T. Buencamino (petitioner) guilty beyond reasonable doubt<sup>5</sup> of two counts of violation of Section 3(e) of R.A. 3019.

### *The Facts*

In two separate Informations,<sup>6</sup> petitioner was charged with violation of Section 3(e) of R.A. 3019, the accusatory portions of which read:

In SB-06-CRM-0419

That on or about July 23, 2004, or sometime prior or subsequent thereto, in the Municipality of San Miguel, Province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, EDMUNDO JOSE T. BUENCAMINO, a public officer, being the Municipal Mayor of San Miguel, Bulacan, while in the performance of his official duties and committing the crime in relation to his office, did then and there, willfully, unlawfully and criminally, through evident bad faith, cause undue injury to Rosemoor Mining and Development Corporation by collecting “pass way” fees, through a certain Robert Tabarnero, in the amount of One Thousand Pesos (P1,000.00) per truck, on all the delivery trucks of the Rosemoor Mining and Development Corporation (a corporation duly awarded by the Department of Environment and Natural Resources (DENR) through the Mines and Geosciences Bureau, a permit to conduct mining operations) that pass within the territorial jurisdiction of San Miguel, Bulacan, said accused knowing fully well that the said collection was not legally sanctioned by any resolution or ordinance, the Kapasiyahan Blg. 89A-055/Kautusang Bayan 029 of San Miguel, Bulacan, having been declared by the Sangguniang Panlalawigan, Malolos, Bulacan, to be null and void, being an ultra vires act, to the damage and prejudice of the private complainant, Constantino A. Pascual, President and Chairman of the Board of Directors of the Rosemoor Mining and Development Corporation.

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<sup>2</sup> *Villarosa v. People*, G.R. Nos. 233155-63, June 23, 2020.

<sup>3</sup> *Rollo*, pp. 11-40.

<sup>4</sup> Id. at 45-71. Penned by Associate Justice Napoleon E. Inoturan and concurred in by Associate Justices Rolando B. Jurado and Alexander G. Gesmundo (now a Member this Court).

<sup>5</sup> Id. at 69.

<sup>6</sup> Id. at 72-73; 74-75.



**CONTRARY TO LAW.<sup>7</sup>**

In SB-06-CRM-0420

That on or about July 23, 2004, or sometime prior or subsequent thereto, in the Municipality of San Miguel, Province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, EDMUNDO JOSE T. BUENCAMINO, a public officer, being the Municipal Mayor of San Miguel, Bulacan, while in the performance of his official duties and committing the crime in relation to his office, did then and there, willfully, unlawfully, and criminally, through evident bad faith cause undue injury to Rosemoor Mining and Development Corporation by ordering the apprehension and impounding of the delivery trucks bearing plate numbers PSZ-706 and UEX-283 of the Rosemoor Mining and Development Corporation (a corporation duly awarded by the Department of Environment and Natural Resources (DENR) through the Mines and Geosciences Bureau, a permit to conduct mining operations) allegedly for failure to pay the "pass way fee" imposed by the accused on all the delivery trucks that pass within the territorial jurisdiction of San Miguel, Bulacan, said accused knowing fully well that the said collection was not legally sanctioned by any resolution or ordinance, the Kapasiyahan Blg. 89A-055/Kautusang Bayan 029 of San Miguel, Bulacan, having been declared by the Sangguniang Panlalawigan, Malolos, Bulacan, to be null and void, being an ultra vires act, to the damage and prejudice of the private complainant, Constantino A. Pascual, President and Chairman of the Board of Directors of the Rosemoor Mining and Development Corporation.

**CONTRARY TO LAW.<sup>8</sup>**

Upon arraignment, petitioner pleaded not guilty.<sup>9</sup> Thus, trial on the merits ensued.

*Evidence of the Prosecution*

During trial, the prosecution presented Engineer Constantino A. Pascual (Constantino), Zenaida P. Pascual (Zenaida), Marciano T. Cruz (Marciano), and Clarissa Pascual Fernando (Clarissa).

Constantino, the President of Rosemoor Mining & Development Corporation (RMDC), testified that sometime in 2004, he was called by petitioner to discuss the operation of the marble industry and the transport of its products.<sup>10</sup> Constantino narrated that petitioner straightforwardly asked him to pay ₱1,000.00 as "pass way fee" per truckload.<sup>11</sup> Constantino claimed that he tried to ask petitioner for any legal document that could serve as basis for said collection, considering that RMDC was not operating a quarry in San Miguel, Bulacan, but in Doña Remedios Trinidad, Bulacan, and only passed through the territorial jurisdiction of San Miguel during hauling. Petitioner

<sup>7</sup> Id. at 72.

<sup>8</sup> Id. at 74.

<sup>9</sup> Id. at 47.

<sup>10</sup> Id. at 96.

<sup>11</sup> Id. at 97.



said that temporary receipts would be issued by one Robert Tabernero<sup>12</sup> (Tabernero), who was later authorized by petitioner to receive said collections.<sup>13</sup> Subsequently, Tabernero collected from RMDC a pass way fee of ₱1,000.00 per delivery truck at Barangay Sibol, which was the first barangay through which the said trucks would traverse when transporting marble out of its quarries in Doña Remedios Trinidad.<sup>14</sup>

Constantino added that even prior to the issuance of the authorization in favor of Tabernero, petitioner had already ordered San Miguel Police Chief Prudencio Peña Legaspi to cause the apprehension and subsequent impounding<sup>15</sup> of the RMDC delivery trucks bearing plate numbers PSZ-706 and UEX-283,<sup>16</sup> through a Memorandum dated July 19, 2004.<sup>17</sup>

He added that when he later inquired with the Municipal Treasurer and from members of the *Sangguniang Bayan* if the collections of pass way fees were duly remitted to the municipal treasury, he was told that no existing ordinance covered such collections, and was advised to request from the *Sangguniang Panlalawigan* of Malolos, Bulacan a certification regarding a former resolution which previously covered the pass way fee collections which was later disapproved.<sup>18</sup>

With the assistance of his counsel, Constantino managed to obtain copies of a document issued by the *Sangguniang Panlalawigan* dated November 8, 2004, denominated as *Ikalawang Paglilipat* issued by the *Tanggapan ng Panlalawigang Manananggol* dated August 10, 1989 and *Kapasiyahan Blg. 504* dated September 11, 1989, which evidenced the disapproval of the resolution which previously covered the imposition of the pass way fees.

<sup>12</sup> "Tabernero" in some parts of the *rollo*.

<sup>13</sup> *Rollo*, p. 97.

<sup>14</sup> *Id.* at 98.

<sup>15</sup> *Id.* at 106; as evidenced by a Certificate of Blotter dated August 23, 2004.

<sup>16</sup> *Id.* at 108-109; the Memorandum dated July 19, 2004 to Senior Police Officer (SPO) 2 Mustala B. Indasan (SPO2 Indasan), SPO1 William S. Garcia (SPO1 Garcia), SPO1 Mario S. Duria (SPO1 Duria), Police Officer (PO) 3 Renato A. Centeno (PO3 Centeno) and PO2 Romulo P. Santos (PO2 Santos), entitled "Apprehension of Motor Vehicles" was relatedly offered in evidence as Exhibit "PP".

<sup>17</sup> *Id.* at 68; said Memorandum provides:

- "1. You are hereby directed to apprehend the following V-10 vehicles loaded with marble blocks for failure to pay the Municipal Regulatory Fee as per instruction of the Municipal Mayor Edmundo Jose. T. Buencamino.

Plate No.	Color:
UEX 283	WHITE STRIPE BLUE
WHN 936	GREEN
WAE 651	GREEN
TFV 428	ORANGE

2. If apprehended, place said vehicle into police custody and instruct x x x them to pay the corresponding regulatory fee.

3. For info & strict compliance." Emphasis in the original.

<sup>18</sup> *Id.* at 49.

Constantino then sought the assistance of the Department of Interior and Local Government (DILG) and requested an investigation on what appeared to be a case of illegal collection,<sup>19</sup> for which a Preliminary Report was issued on September 13, 2004.<sup>20</sup> He then proceeded to file an administrative case and a criminal case against petitioner before the Office of the Deputy Ombudsman for Luzon, for the illegal collection of the pass way fees, as well as the illegal impounding of RMDC's trucks.<sup>21</sup>

For her part, Zenaida testified that as the In-House Operations Manager of RMDC, she was in charge of overseeing the quarrying operations, including supervising the deliveries of marble blocks from the quarry sites, and monitoring the financial collections coming from quarrying operators.<sup>22</sup> She testified that the 30% royalty fee from quarrying operators formed part of RMDC's revenue,<sup>23</sup> and that the same was greatly prejudiced when its operator, one Nora Tan (Nora), failed to remit the 30% royalty fee to RMDC due to the fact that Nora already gave petitioner 20% thereof, allegedly per petitioner's order.<sup>24</sup> She likewise explained that the impounding of RMDC's delivery trucks disadvantaged RMDC because, as a result, it failed to meet its daily quota of seven blocks per day of delivery.<sup>25</sup> She finally detailed that the hauling of marble from RMDC's quarrying sites inevitably had to pass through the municipal roads of San Miguel, as the other routes were too difficult for its hauling trucks to ply.<sup>26</sup>

The prosecution also presented Marciano, who testified that he has been the Municipal Treasurer of San Miguel, Bulacan since 1998.<sup>27</sup> His testimony centered on the irregularity of the issuance of the official receipts which were issued to Constantino as proof of payments of the pass way fees, more specifically the dates indicated thereon, and the initials of the person who issued them.<sup>28</sup> He described how the dates for the issuance of the receipts reflected dates earlier than the dates of issuance of said receipt books by the Treasurer's office.<sup>29</sup> He identified the irregularity of issuance by further explaining that it was normally the Cash Clerk who issued official receipts to the collectors of the municipality, but in the case of the receipts for the pass way fees, the official receipts were issued by one Jannilyn Alfonso, San Miguel's Librarian Aide, as indicated by the initials on the stamps.<sup>30</sup>

Marciano however clarified that the amounts reflected in the said receipts were, in fact, remitted to the municipality's collection, albeit

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<sup>19</sup> Id. at 114.

<sup>20</sup> Id. at 360-363.

<sup>21</sup> Id. at 49; 114.

<sup>22</sup> Id. at 52; TSN, May 20, 2008, pp. 204-205.

<sup>23</sup> Id. at 206.

<sup>24</sup> Id. at 207-209.

<sup>25</sup> Id. at 216.

<sup>26</sup> TSN, May 21, 2008, p. 248.

<sup>27</sup> Id. at 263-264.

<sup>28</sup> Id. at 268-271.

<sup>29</sup> *Rollo*, pp. 53-54; id.

<sup>30</sup> Id. at 54.

belatedly, as evidenced by the Report of Collections and Deposits of the Municipality of San Miguel, Bulacan.<sup>31</sup> He explained that when Constantino inquired regarding the remittances of said fees, he replied that the pass way fees were not remitted to the Municipal Treasury because at that time, no remittances were made, as the same were received late. He likewise clarified that his office did not collect pass way fees for the transport of quarried marble.<sup>32</sup>

The prosecution presented Clarissa as its final witness, who testified that she is the Corporate Secretary of RMDC, as well as one of its mining operators.<sup>33</sup> She testified that she herself paid pass way fees to Tabernero, as evidenced by an official receipt.<sup>34</sup> She also clarified that although she was the registered owner of the impounded trucks, it was her father, Constantino, who bought them for RMDC.<sup>35</sup>

#### *Evidence of the Defense*

In his defense, petitioner testified that sometime in July 2004, Constantino went to his office,<sup>36</sup> with the purpose of asking permission for the passing through of RMDC's delivery trucks along San Miguel's municipal roads.<sup>37</sup> Petitioner, however, refused to grant said request, for the reason that the heavy load of the mining delivery trucks would most likely destroy the water table of San Miguel.<sup>38</sup> Petitioner said that Constantino countered by recounting that during previous administrations, the trucks of RMDC were allowed to pass through municipal roads in exchange for a certain amount of fees.<sup>39</sup> In an effort to verify Constantino's claim, petitioner asked Marciano who, in turn, replied that a certain amount of pass way fee was being collected, and that its basis was *Sangguniang Bayan Kapasiyahan Blg. 89A-055/Kautusang Bayan Blg. 029*, entitled "*Kautusang Bayan na Nag[-]aatas sa Lahat Nang Nagmimina ng Marble sa Nasasakupan ng San Miguel, Bulacan x x x Regulatory Fee*" (*Kapasiyahan 89A-055/Kautusang Bayan 029*).<sup>40</sup> He added that to further verify if the imposition of the pass way fee had legal basis, he called upon the *Sangguniang Bayan* Secretary Renato Magtalas and asked him if there was such a *Kautusan*, and the latter replied that it was in force at that time.<sup>41</sup>

Petitioner further denied any knowledge that *Kapasiyahan 89A-055/Kautusang Bayan 029* was subsequently declared void by the

<sup>31</sup> Id. at 54-55; TSN, May 21, 2008, pp. 272-273.

<sup>32</sup> Id. at 54; 292.

<sup>33</sup> Id. at 55-56; TSN, May 22, 2008, p. 301.

<sup>34</sup> Id. at 56; id. at 304.

<sup>35</sup> Id.; id. at 321.

<sup>36</sup> Id.; TSN, February 22, 2010, p. 416.

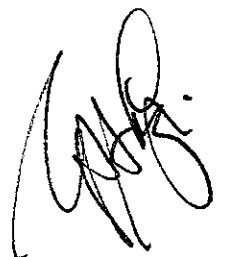
<sup>37</sup> Id.; Id. at 417.

<sup>38</sup> Id.

<sup>39</sup> Id.; TSN, February 22, 2010, p. 418.

<sup>40</sup> Id.

<sup>41</sup> Id. at 61; TSN, February 22, 2010, p. 419.



*Sangguniang Panlalawigan* of Bulacan.<sup>42</sup> He presented a certification issued by the Municipal Secretary dated February 11, 2005, and a certification issued by the Secretary of the *Sangguniang Panlalawigan* dated February 11, 2005, both of which provided that they have no record on file to indicate that the disapproval of *Kapasiyahan 89A-055/Kautusang Bayan 029* was ever transmitted to their offices.<sup>43</sup>

Petitioner added that all the proceeds from the pass way fees collected were remitted to the Treasurer's Office of the Municipality of San Miguel, as evidenced by official receipts.<sup>44</sup> He also denied giving the instructions for the impounding of RMDC's hauling trucks, and refuted any imputed knowledge on the actual apprehension of said trucks.<sup>45</sup>

### ***Ruling of the Sandiganbayan***

After trial on the merits, the Sandiganbayan found evident bad faith attributable to petitioner, and found such bad faith as the direct and proximate cause of RMDC and Constantino's undue injury.<sup>46</sup> Accordingly, it convicted petitioner of two counts of the crime charge in its Decision dated February 18, 2015, the dispositive portion of which reads:

**WHEREFORE**, judgment is hereby rendered convicting accused EDMUNDO JOSE T. BUENCAMINO of the crimes charged in both Criminal Cases Nos. SB-06-CRM-0419 and SB-06-CRM-0420, his guilt having been proven beyond reasonable doubt. Accordingly, in Criminal Case No. 0419, Edmundo Jose T. Buencamino is hereby sentenced to suffer an indeterminate penalty of SIX (6) YEARS and ONE (1) MONTH as minimum, to EIGHT (8) YEARS as maximum, and to suffer perpetual disqualification from public office. In Criminal Case No. 0420, Edmundo Jose T. Buencamino is hereby sentenced to suffer an indeterminate penalty of SIX (6) YEARS and ONE (1) MONTH, as minimum, to EIGHT (8) YEARS, as maximum, and to suffer perpetual disqualification from public office.

**SO ORDERED.**<sup>47</sup>

In finding petitioner guilty, the Sandiganbayan found that all the elements of unlawful acts penalized under Section 3(e) were proven by the prosecution, and held that petitioner did cause undue injury to Constantino, RMDC, and the government, through acts that were attended by evident bad faith and gross inexcusable negligence.

For the first count pertaining to the illegal imposition of the pass way fees, the Sandiganbayan found petitioner guilty beyond reasonable doubt. With

<sup>42</sup> Id.; id. at 418.

<sup>43</sup> Id. at 61-62; id. at 419-420.

<sup>44</sup> Id. at 59; id. at 421.

<sup>45</sup> Id.; id. at 422-423.

<sup>46</sup> Id. at 69.

<sup>47</sup> Id. Emphasis in the original.

specific reference to the element of evident bad faith, it appreciated the same in petitioner's act of imposing and collecting the pass way fees knowing fully well that he was without authority to do so.<sup>48</sup> Bad faith was also ruled as shown in petitioner's act of making it appear that he relied on the assurance of Marciano that the pass way fee collections were covered by *Kapasiyahan 89A-055/Kautusang Bayan 029*, when Marciano himself, in his own testimony, belied this by testifying that his office has never collected pass way fees before.<sup>49</sup>

The Sandiganbayan also ruled that petitioner's inexcusable negligence was manifest in his act of authorizing Tabernero, a former barangay captain and then private person, to implement the collection of the pass way fees, in direct violation of Section 130(c) of the Local Government Code which proscribed any private person from the collection of local taxes, fees, charges and other impositions.<sup>50</sup> The Sandiganbayan explained:

Thus, we are persuaded from a study of the evidence that accused was actuated by a dishonest purpose or ill-will partaking of some furtive design or ulterior purpose to do wrong and cause damage. Accused acted recklessly or in utter disregard of consequences so as to suggest some degree of intent to cause injury. Notably, the DILG had already questioned accused's act of collecting [pass way] fee and impounding RMDC trucks, yet he continued to have the questioned acts implemented and enforced.<sup>51</sup>

It was further observed by the Sandiganbayan that *Kapasiyahan 89A-055/Kautusang Bayan 029*, upon which petitioner relied for the legitimacy of the pass way fees, showed that petitioner exceeded the properly computed estimate of the regulatory fees imposable, and therefore imposed said fees in a manner that was "excessive and confiscatory."<sup>52</sup> It dismissed petitioner's defense that he relied erroneously on the existence of a voided resolution, having found that even if such reliance was true, it was nevertheless suspect for being arbitrarily applied, to wit:

Accused's defense that [*Kapasiyahan Blg. 504*] of the [*Sangguniang Panlalawigan*] disapproving the [*Kapasiyahan Blg. 029*] of the [*Sangguniang Bayan*] of San Miguel was not transmitted to the Municipality of San Miguel,

<sup>48</sup> Id. at 63.

<sup>49</sup> Id.

<sup>50</sup> Id. at 63; Section 130(c), LOCAL GOVERNMENT CODE provides:

**SECTION 130. Fundamental Principles.** - The following fundamental principles shall govern the exercise of the taxing and other revenue-raising powers of local government units:

x x x x

(c) The collection of local taxes, fees, charges and other impositions shall in no case be let to any private person;

x x x x

<sup>51</sup> Id. at 64.

<sup>52</sup> Id.; The Sandiganbayan ruled:

x x x Said ordinance mandates the charge of Fifty Pesos ([P]50.00) per cubic meter as the base in computing the pass[ ]way or regulatory fee. However, evidence shows that accused demanded and collected [P]1,000.00 per truck per delivery, an amount clearly beyond what is allowed in said resolution. Pascual testified that the maximum in cubic meters extracted and carried by each truck is only 6 cubic meters. Using the [P]50.00 as base multiplied by 6 cubic meters only [P]300.00 should have been assessed and been paid by RMDC. Thus, the imposition and collection of [P]1,000.00 is excessive and confiscatory, even if the same was based on the assailed resolution.



is of no moment because his act of imposing and collecting the [pass way] fee is not in accordance with the mandate of the defunct municipal resolution, but on his own whims and caprices.<sup>53</sup>

With respect to the third element of undue injury, the Sandiganbayan found that the injury suffered by RMDC, Constantino, and the government were directly attributable to petitioner's assailed acts which were demonstrative of bad faith and gross negligence. It found that Constantino and RMDC were injured by the very collection of the pass way fees, which RMDC financially had to be burdened with without legal cause.<sup>54</sup>

With respect to damage to the government, the Sandiganbayan held that the same was inflicted when petitioner designated Tabernero to collect the pass way fees without official receipts, which allowed for said fees to be imposed without the government being able to fully account for the collection. The Sandiganbayan also found that the proceeds from the fees were belatedly and not fully remitted, to the injury of the municipality.<sup>55</sup>

With reference to the second count which pertained to the act of impounding two of RMDC's trucks, the Sandiganbayan likewise found bad faith evident in petitioner's act of giving instructions for the impounding of RMDC's trucks for failure to pay the regulatory fees even before he executed an authorization in favor of Tabernero to enable the latter to collect and receive said fees.<sup>56</sup> It also noted that petitioner still proceeded with the impounding of RMDC's trucks and the collection of the pass way fees even after the DILG questioned their propriety.<sup>57</sup>

Hence, the instant petition.

*Criminal Case No. SB-06-CRM-0419*

Petitioner now seeks the reversal of his conviction on the following errors: (1) he was convicted based on documentary evidence which were mere photocopies despite petitioner's objection; (2) his conviction infringed upon the fundamental rule that the prosecution must prove the accused's guilt beyond reasonable doubt; and (3) he was convicted of a manner of commission of Section 3(e) of R.A. 3019 which was not alleged in the Informations, in violation of his right to be informed of the nature of the accusation against him.<sup>58</sup>

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<sup>53</sup> Id. at 65.

<sup>54</sup> Id.

<sup>55</sup> Id. at 66.

<sup>56</sup> Id. at 68; the Sandiganbayan held that:

"The evident bad faith of the accused is clearly shown in issuing aforementioned memorandum. The memo is dated July 19, 2004. However, he authorized Robert Tabernero to collect the [pass way] fee only on July 23, 2004."

<sup>57</sup> Id. at 67.

<sup>58</sup> Id. at 11.



Petitioner here claims that the prosecution failed to prove his guilt beyond reasonable doubt because it presented documentary evidence<sup>59</sup> which were mere photocopies and were therefore inadmissible for being hearsay. He also faults the presentation and admission of the DILG Preliminary Report since what was presented was a mere photocopy of the said report, which he timely objected to for being inadmissible.<sup>60</sup> He likewise imputes error on the Sandiganbayan's appreciation of the same, arguing instead that said preliminary report did not question the collection of the pass way fees because it found that (1) as to the allegation that there was no existing ordinance which covered the pass way fees, the DILG obtained a copy of *Kapasiyahan 89A-055/Kautusang Bayan 029* which did cover such regulatory fee and (2) contrary to the Sandiganbayan's observation that the collection of the fees continued despite said DILG Preliminary Report, the report itself provided that the pass way fee collection was discontinued when the investigation pertaining to it commenced.<sup>61</sup>

Petitioner further faults the Sandiganbayan for disregarding the facts which tended to support his primary defense that he was not aware that the municipal resolution he was relying on had already been voided by the *Sangguniang Panlalawigan* of Bulacan, and therefore he could not be found to have acted in evident bad faith.<sup>62</sup> He insists that there was no record of *Kapasiyahan Blg. 504* of *Sangguniang Panlalawigan* of Bulacan dated September 11, 1989, which contained its disapproval of *Kapasiyahan 89A-055/Kautusang Bayan 029*, ever being transmitted to the Municipality of San Miguel, and therefore he could not be faulted for believing that said municipal resolution subsisted and validly covered the collection of the pass way fees.<sup>63</sup> He reiterates that the Sandiganbayan erred in attributing his belief of the validity of the pass way fees on the representation of Marciano, the Municipal Treasurer, and asserts instead that he did not rely simply on the word of Marciano but on the existence of *Kapasiyahan 89A-055/Kautusang Bayan 029*. He added that even Marciano himself did not testify to the effect that said municipal resolution was already ineffective, and so his testimony did not negate petitioner's defense.<sup>64</sup>

He also questions the appreciation of evident bad faith against him, and argues instead that the evidence failed to show that he deliberately intended to cause RMDC damage.<sup>65</sup> He specifically directs the Court's attention to the

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<sup>59</sup> Id. at 21. Petitioner specifically objected to the following documentary evidence for being hearsay:

- photocopy of a certified photocopy of *Kapasiyahan Blg. 504* of *Sangguniang Panlalawigan ng Bulacan* dated September 11, 1989;
- photocopy of a certified photocopy of the Second Indorsement dated August 10, 1989 from the Office of the Provincial Attorney; and
- photocopy of a letter dated November 8, 2004 addressed to Atty. Glenn B. Palubon (Atty. Palubon) from the Secretary of the *Sangguniang Panlalawigan* of Bulacan.

<sup>60</sup> Id. at 22.

<sup>61</sup> Id. at 22-23.

<sup>62</sup> Id. at 25-26.

<sup>63</sup> Id. at 25.

<sup>64</sup> Id.

<sup>65</sup> Id. at 27.

fact that when the collection of pass way fees was first brought to his attention, he exerted several efforts to verify if the same was indeed covered by a resolution or other issuance, by way of conferring with Marciano, the Municipal Treasurer and the *Sangguniang Bayan* Secretary, who both informed him that the said fee was indeed covered by *Kapasiyahan 89A-055/Kautusang Bayan 029*.<sup>66</sup>

Petitioner next challenges the Sandiganbayan's finding of gross and inexcusable negligence against him, and claims instead that inexcusable negligence was not the manner of violating Section 3(e) that he was charged with under the Informations,<sup>67</sup> and this variance violates his constitutional right to be informed of the nature of the accusation against him.

The present petition also justifies that his act of hiring Tabernero was not inexcusable negligence since the appointment of collectors does not require the confirmation of the *Sangguniang Bayan* Secretary or the Municipal Treasurer, and that he was well within his power when he made such authorization.<sup>68</sup> He also adds that with respect to the amount of ₱1,000.00 per truckload, it was Constantino who volunteered such amount, as validated by the fact that none of the payments were made under protest.<sup>69</sup>

Petitioner adds that the element of actual injury to RMDC was not established because the pieces of documentary evidence do not show on their face that the pass way fees were in fact paid by RMDC, as the same were paid by the mining operators themselves, with personalities that are distinct and separate from RMDC.<sup>70</sup>

Finally, in defense, petitioner invokes the applicability of the equipoise rule because the inculpatory facts and circumstances are capable of two or more explanations, and the evidence shown do not support with moral certainty a conviction.<sup>71</sup>

*Criminal Case No. SB-06-CRM-0420*

<sup>66</sup> Id.

<sup>67</sup> Id. at 28.

<sup>68</sup> Id. at 30, citing Section 444(b)(v), LOCAL GOVERNMENT CODE, which provides:

**Section 444. The Chief Executive: Powers, Duties, Functions and Compensation. -**

x x x x

(b) For efficient, effective and economical governance the purpose of which is the general welfare of the municipality and its inhabitants pursuant to Section 16 of this Code, the municipal mayor shall:

x x x x

(v) Appoint all officials and employees whose salaries and wages are wholly or mainly paid out of municipal funds and whose appointments are not otherwise provided for in this Code, as well as those he may be authorized by law to appoint[.]

x x x x

<sup>69</sup> Id.

<sup>70</sup> Id. at 31.

<sup>71</sup> Id. at 32.

With respect to his conviction for the second count, petitioner similarly assails the admission and appreciation of the Certification of Blotter dated August 23, 2004,<sup>72</sup> which he says should not have been given weight for being hearsay, since the information contained therein was reported by a certain Dominador Aguilan and entered by PO2 Gary de Guzman, neither of whom were presented by the prosecution.<sup>73</sup> Petitioner further cites jurisprudence to the effect that entries in a police blotter are not evidence of the truth value of the contents therein, but merely prove the fact they were caused to be recorded.<sup>74</sup> He questions the Sandiganbayan's reliance on the Memorandum dated July 19, 2014 which attributed to petitioner the instruction that the RMDC trucks be impounded. On the contrary, petitioner asserts that his signature did not appear anywhere on said document, and he likewise straightforwardly denied having issued any such instruction during his testimony.<sup>75</sup>

He also argues that the third element of injury or damage to RMDC was not proven, since the prosecution failed to show RMDC's ownership over said impounded trucks.<sup>76</sup>

In its Comment<sup>77</sup> dated September 28, 2015, the Office of the Ombudsman, through the Office of the Special Prosecutor (OSP) maintained that (1) petitioner's challenge of the factual findings of the Sandiganbayan is improper and unavailing;<sup>78</sup> and that (2) petitioner was correctly proven guilty beyond reasonable doubt.<sup>79</sup> The OSP preliminarily submits that petitioner raises questions of fact which are beyond the parameters of a proper petition for review under Rule 45.<sup>80</sup> The OSP counters that the Sandiganbayan's appreciation of the facts that led to petitioner's conviction did not solely rely on the documentary evidence, the admissibility of some the latter questions, but instead was based on the entire evidence on record, most specially the collective testimonies of the prosecution's witnesses.<sup>81</sup> It adds that the assailed pieces of documentary evidence were all presented in relation to the testimonial evidence of the witnesses.<sup>82</sup> Finally, with respect to the variance of the mode of commission of the violations of Section 3(e) as alleged in the Informations *vis-à-vis* those for which petitioner was convicted, the OSP submits that petitioner was not convicted on the basis of gross inexcusable negligence. Instead, the discussion of gross negligence on his part was only

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<sup>72</sup> Id. at 33.

<sup>73</sup> Id.

<sup>74</sup> Id. at 34, citing *People v. Dacibar*, G.R. No. 111286, February 17, 2000, 325 SCRA 725; *People v. Geral*, G.R. No. 122283, June 15, 2000, 333 SCRA 453; and *People v. Cabrera, Jr.*, G.R. No. 138266, April 30, 2003, 402 SCRA 299.

<sup>75</sup> Id. at 34-35.

<sup>76</sup> Id. at 36.

<sup>77</sup> Id. at 509-533.

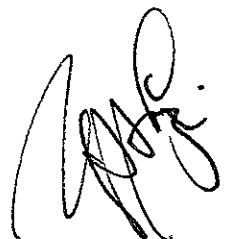
<sup>78</sup> Id. at 518.

<sup>79</sup> Id. at 526.

<sup>80</sup> Id. at 525.

<sup>81</sup> Id. at 518.

<sup>82</sup> Id. at 522.



for purposes of showing how a grossly negligent act could evolve into one which is considered attended by evident bad faith.<sup>83</sup>

It also argues that the Sandiganbayan correctly dismissed petitioner's testimony and defense since they were correctly found to be self-serving, unsubstantiated, and replete with inconsistencies.<sup>84</sup> It added that petitioner's lack of credibility was duly shown by his evasiveness and general lack of candor, and his defense merely consisted of naked denials that were not corroborated by clear and convincing evidence.<sup>85</sup> It submits that evident bad faith was duly proven for purposes of convicting petitioner for violation of Section 3(e) in Criminal Case No. SB-06-CRM-0419.

Petitioner, through his Reply dated November 11, 2015, countered, among others, that photocopies were not presented in relation to the testimonies of the prosecution witnesses, but were themselves offered as documentary evidence intending to prove the contents thereof, citing the prosecution's own Formal Offer of Evidence.<sup>86</sup> Petitioner likewise maintains that his constitutional right to be informed of the nature of the accusation against him was violated because he was convicted for a manner of committing the offense charged which is different from the one contained in the Informations.<sup>87</sup>

### *Issue*

The sole issue for the Court's resolution is whether the Sandiganbayan erred in convicting petitioner of two counts of violation of Section 3(e) of R.A. 3019.

### *The Court's Ruling*

The petition is impressed with merit and the Court acquits.

In all criminal cases, the prosecution is burdened with the duty of establishing with proof beyond reasonable doubt the guilt of an accused. The determination of whether the prosecution has fulfilled such a heavy burden is left to the trial court, which, in turn, must be satisfied with moral certainty that an accused has indeed committed the crime on the basis of facts and circumstances to warrant a judgment of conviction.<sup>88</sup> Otherwise, where there is reasonable doubt, acquittal must then follow,<sup>89</sup> for all accused are presumed innocent until the contrary is proved.<sup>90</sup>

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<sup>83</sup> Id. at 529.

<sup>84</sup> Id. at 522.

<sup>85</sup> Id. at 524.

<sup>86</sup> Id. at 544.

<sup>87</sup> Id. at 547.

<sup>88</sup> *Valencerina v. People*, G.R. No. 206162, December 10, 2014, 744 SCRA 579, 598.

<sup>89</sup> *People v. Maraorao*, G.R. No. 174369, June 20, 2012, 674 SCRA 151, 160.

<sup>90</sup> 1987 CONSTITUTION, Article III, Section 14(2).



Petitioner here is charged with violation of Section 3(e) of R.A. 3019 which 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.

x x x x

In order to hold a person liable under this provision, the following elements must concur, to wit:

- (1) the offender is a public officer;
- (2) the act was done in the discharge of the public officer's official, administrative or judicial functions;
- (3) the act was done through manifest partiality, evident bad faith, or gross inexcusable negligence; and
- (4) the public officer caused any undue injury to any party, including the Government, or gave any unwarranted benefits, advantage or preference.<sup>91</sup>

The presence of the first and second elements are not disputed. Petitioner was the Mayor of the Municipality of San Miguel, Bulacan at the time of the commission of the alleged offense, and the acts complained of were done in the exercise of his official functions.

The dispute lies in whether the third element was proven, particularly whether his act of collecting the pass way fees was done in evident bad faith and resulted in giving RMDC or the government undue injury. The Court here finds that the prosecution failed to establish beyond doubt the third element of evident bad faith as charged under the Informations levelled against petitioner.

The case the prosecution built fails on two fatal points.

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<sup>91</sup> *Villarosa v. People*, supra note 2; *Valencerina v. People*, supra note 88, at 599.



First, the Court agrees with petitioner's observation that a variance does exist between the mode of commission petitioner was charged with (*i.e.*, evident bad faith) *vis-à-vis* the one he was convicted with (gross inexcusable negligence).

Second, and even granting *in arguendo* the prosecution's claim that the gross inexcusable negligence was discussed by the Sandiganbayan merely to flesh out the element of evident bad faith, and that no variance as to the mode of commission existed, the Court finds, after a careful contemplation of the entire body of evidence, that the prosecution failed to prove that petitioner's assailed acts were attended by evident bad faith. The Court here agrees with petitioner's objection to the admissibility of several pieces of documentary evidence offered by the prosecution on the ground of them being hearsay evidence. And still, even if the Court admits the entire body of documentary evidence as submitted by the prosecution, it is compelled to find that what it only managed to show is that petitioner's acts stemmed not from ill will or evident bad faith, but from an honest albeit erroneous reliance on a defunct legal authority.

### ***Variance on Mode of Commission***

It must first be considered that there are three modes by which the offense for violation of Section 3(e) may be committed:

1. Through evident bad faith;
2. Through manifest partiality;
3. Through gross inexcusable negligence.<sup>92</sup>

To recall, the Informations alleged that petitioner committed two counts of violation of Section 3(e) through evident bad faith, as worded in the accusatory portions thereof:

#### *Criminal Case No. SB-06-CRM-0419*

x x x [T]he above-named accused, EDMUNDO JOSE T. BUENCAMINO, a public officer, being the Municipal Mayor of San Miguel, Bulacan, while in the performance of his official duties and committing the crime in relation to his office, did then and there, willfully, unlawfully and criminally, **through evident bad faith**, cause undue injury to Rosemoor Mining and Development Corporation by collecting "pass way" fees, through a certain Robert Tabarnero, in the amount of One Thousand Pesos (P1,000.00) per truck x x x.<sup>93</sup>

#### *Criminal Case No. SB-06-CRM-0420*

<sup>92</sup> *Albert v. Sandiganbayan*, G.R. No. 164015, February 26, 2009, 580 SCRA 279, 285-286.

<sup>93</sup> *Rollo*, p. 72. Emphasis supplied.



x x x [T]he above-named accused, EDMUNDO JOSE T. BUENCAMINO, a public officer, being the Municipal Mayor of San Miguel, Bulacan, while in the performance of his official duties and committing the crime in relation to his office, did then and there, willfully, unlawfully, and criminally, **through evident bad faith** cause undue injury to Rosemoor Mining and Development Corporation by ordering the apprehension and impounding of the delivery trucks bearing plate numbers PSZ-706 and UEX-283 of the Rosemoor Mining and Development Corporation x x x.<sup>94</sup>

The plain language of both Informations indicate that petitioner was charged with violating Section 3(e) of R.A. 3019 through the modality of evident bad faith. Against and inconsistent with this singular modality as charged, however, the Sandiganbayan's conviction of petitioner significantly grounded its finding of fault on the discussion of petitioner's gross negligence, to wit:

The accused imposed and collected payment for pass way fee knowing fully well that he is without authority of law, decree, ordinance or resolution to do so.

x x x x

Also, Buencamino's **inexcusable negligence** is manifest in his act of allowing an ex-Barangay Captain, not an employee of the municipality and not even a bonded person, to implement the collection of the [pass way] fee. He should have acted with much caution considering that he had just assumed the mayoralty on June 30, 2004, or just a few days prior the collection of [pass way] fee. Under the Local Government Code, the collection of local taxes, fees, charges and other impositions shall in no case be let to any private person. Thus, Tabernero's designation to collect the [pass way] fees, made without the knowledge of the Sangguniang Bayan and the Municipal Treasurer, is highly irregular. Buencamino's acts and omissions are **grossly negligent**. **Gross negligence** is the pursuit of a course of conduct which would naturally and reasonably result in injury. It is an utter disregard of or conscious indifference to consequences.

Thus, we are persuaded from a study of the evidence that accused was actuated by a dishonest purpose or ill-will partaking of some furtive design or ulterior purpose to do wrong and cause damage. **Accused acted recklessly or in utter disregard of consequence so as to suggest some degree of intent to cause injury.** x x x<sup>95</sup>

What is clear to the Court from the foregoing disquisition of the Sandiganbayan is that it convicted petitioner on the modality of gross inexcusable negligence, which is separate and distinct from the modality of evident bad faith petitioner was charged with in the Informations. This stark variance, as correctly pleaded by petitioner, is violative of his constitutional right to due process, specifically his right to be informed of the nature of the accusation against him.

<sup>94</sup> Id. at 74. Emphasis supplied.

<sup>95</sup> Id. at 63-64. Emphasis supplied.



The recently decided *en banc* case of *Villarosa v. People*<sup>96</sup> is acutely instructive:

Yet, even as petitioner's actions were clearly not proven to be tinged with evident bad faith, there are still those that opine that an acquittal should not logically follow. The dissent advances the view that petitioner could still be convicted for violation of Section [3(e) of R.A.] 3019 because the latter's actions may be considered to fall under the rubric of *gross inexcusable negligence* regardless. The dissent further points out that such a conviction would be justified — even if the Informations against petitioner do not contain any allegation of gross inexcusable negligence — following the case of *Sistoza v. Desierto*. This is plain error.

Contrary to the dissent's view, it would be highly improper, *nay* unconstitutional, to convict petitioner on the basis of gross inexcusable negligence. It must be emphasized that the Informations filed against petitioner all accuse the latter of violating Section [3(e) of R.A.] 3019] through the modality of evident bad faith *only*. Not one Information accused petitioner of violating the same provision through gross inexcusable negligence. **As can be derived from our earlier discussions, evident bad faith and gross inexcusable negligence are two of the three modalities of committing violations of Section 3 (e) of RA 3019. Also, by our previous discussion, we were able to establish that each modality of violating Section 3 (e) of RA 3019 is actually distinct from the others.** Hence, while all three modalities may be alleged simultaneously in a single information for violation of Section [3(e) of R.A.] 3019, **an allegation of only one modality without mention of the others necessarily means the exclusion of those not mentioned.** Verily, an accusation for a violation of Section 3 (e) of RA 3019 committed through evident bad faith *only*, cannot be considered as synonymous to, or includes an accusation of violation of Section 3 (e) of RA 3019 committed through gross inexcusable negligence.

x x x x

x x x Convicting petitioner of violation of Section 3 (e) of [R.A.] 3019 on the basis of gross inexcusable negligence, when he was but charged of committing the violation by means of evident bad faith only, would be highly unfair as it effectively deprives the petitioner of the opportunity to defend himself against a novel accusation. This outcome simply cannot be countenanced.

x x x x

Alas, even assuming for the sake of argument that petitioner may be held accountable for the issuance of the subject extraction permits, such is not for the offense charged in the present Informations, as the acts being complained of do not constitute the elements of the crime presently charged.  
x x x<sup>97</sup>

The Office of the Ombudsman, through its Comment, reasons that the discussion on gross inexcusable negligence was only made to “paint the grand

<sup>96</sup> Supra note 2.

<sup>97</sup> Id. Emphasis supplied.

extent” of how an act of gross negligence can be considered evident bad faith.<sup>98</sup>

The Court is not persuaded.

Section 3(e) of R.A. 3019 may be committed either by *dolo*, as when the accused acted with evident bad faith or manifest partiality, or by *culpa*, as when the accused committed gross inexcusable negligence.<sup>99</sup> The two modalities of violating Section 3(e) are distinct in their nature of commission: “evident bad faith” entails the willfulness to do something wrong, whereas “gross inexcusable negligence” entails failure to exercise the required diligence that either results in a wrong or in the failure to prevent the occurrence of a wrongdoing. Thus, “gross inexcusable negligence” and “evident bad faith” are separate and distinct modalities,<sup>100</sup> and a charge of one in an Information may not be considered extendible to a conviction for the other. Petitioner here, therefore, may not be convicted on the basis of gross inexcusable negligence, since the said modality was not included in the charge levelled against him on both counts.

***Element of Evident Bad Faith Not Proven or is otherwise Absent***

Even without the glaring variance between the modality of commission which petitioner was charged with and the one he was convicted with, the Court remains unconvinced that petitioner’s conviction is in order. The prosecution alleges that petitioner is guilty of evident bad faith. However, the Court agrees with petitioner and finds that there is no sufficient evidence to prove the element of evident bad faith on either count.

The failure on the prosecution’s collective evidence is two-tiered: (1) admissibility and (2) probative value. Admissibility refers to the question of whether certain pieces of evidence are to be considered at all, while probative value refers to the question of whether the admitted evidence proves an issue.<sup>101</sup> The prosecution’s pieces of documentary evidence failed on both, in that even if they hurdled the requirement of admissibility, they still would fail when tested in the crucible of probative worth.

*First*, even before proceeding to the probative merit of the prosecution’s evidence, the Court holds that several documentary evidence upon which the prosecution relied for establishing petitioner’s guilt were correctly objectionable for being hearsay evidence, and are therefore inadmissible.

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<sup>98</sup> *Rollo*, p. 529.

<sup>99</sup> *People v. Atienza*, G.R. No. 171671, June 18, 2012, 673 SCRA 470, 480.

<sup>100</sup> *Villarosa v. People*, supra note 2.

<sup>101</sup> *Heirs of Lourdes Saez Sabanpan v. Comorposa*, G.R. No. 152807, August 12, 2003, 408 SCRA 692, 700.

Petitioner specifically objected to the following documentary evidence for being hearsay:

- (a) photocopy of a certified photocopy of *Kapasiyahan Blg. 504 of Sangguniang Panlalawigan ng Bulacan* dated September 11, 1989;
- (b) photocopy of a certified photocopy of the Second Indorsement dated August 10, 1989 from the Office of the Provincial Attorney; and
- (c) photocopy of a letter dated November 8, 2004 addressed to Atty. Palubon from the Secretary of the *Sangguniang Panlalawigan* of Bulacan;<sup>102</sup> and
- (d) photocopy of the DILG Preliminary Report dated issued on September 13, 2004.<sup>103</sup>

The Best Evidence Rule requires that the original document be produced whenever its contents are the subject of inquiry,<sup>104</sup> except in certain limited cases laid down in Section 3 of Rule 130<sup>105</sup> of the Revised Rules of Evidence. As such, mere photocopies of documents are inadmissible. Nevertheless, evidence not objected to is deemed admitted and may be validly considered by the court in arriving at its judgment, and courts are not precluded to accept in evidence a mere photocopy of a document when no objection was raised when it was formally offered.<sup>106</sup> In the case at bar, petitioner made timely objections to each challenged documentary evidence, and they are therefore fittingly excluded.

The OSP's argument that the Best Evidence Rule under Section 3, Rule 129 of the Revised Rules of Evidence does not apply when a party uses a

<sup>102</sup> *Rollo*, p. 21.

<sup>103</sup> *Id.* at 22.

<sup>104</sup> *Tapayan v. Martinez*, G.R. No. 207786, January 30, 2017, 816 SCRA 178, 189.

<sup>105</sup> Section 3, Rule 130 provides:

SECTION 3. *Original document must be produced; exceptions.* — When the subject of inquiry is the contents of a document, no evidence shall be admissible other than the original document itself, except in the following cases:

(a) When the original has been lost or destroyed, or cannot be produced in court, without bad faith on the part of the offeror;

(b) When the original is in the custody or under the control of the party against whom the evidence is offered, and the latter fails to produce it after reasonable notice;

(c) When the original consists of numerous accounts or other documents which cannot be examined in court without great loss of time and the fact sought to be established from them is only the general result of the whole; and

(d) When the original is a public record in the custody of a public officer or is recorded in a public office. (2a) *Revised Rules on Evidence* (Rules 128-134), Bar Matter No. 411, July 1, 1989.

<sup>106</sup> *Lorenzana v. Lelina*, G.R. No. 187850, August 17, 2016, 800 SCRA 570, 580-581 citing *Caraan v. Court of Appeals*, G.R. No. 140752, November 11, 2005, 474 SCRA 543 and *Decaleng v. Bishop of the Missionary District of the Philippine Islands of Protestant Episcopal Church in the United States of America*, G.R. No. 171209 & UDK-13672, June 27, 2012, 675 SCRA 145.

document to prove the existence of an independent fact, as to which the writing is merely collateral or incident,<sup>107</sup> is clearly misplaced. There is no gainsaying here that in the case at bar, the photocopies, which were submitted as documentary evidence, were offered not to prove an independent fact in relation to which the document's content is considered merely incidental or collateral. On the contrary, the questioned documentary evidence were offered to prove precisely the truth of the contents therein. As cited in the prosecution's own Formal Offer of Evidence,<sup>108</sup> the documents sought to prove the truth of their written content:

- (1) *Kapasiyahan Blg. 504 of the Sangguniang Panlalawigan of Bulacan dated September 11, 1989, which disapproved Kapasiyahan 89A-055/Kautusang Bayan 029, was offered precisely "to prove that accused imposed and collected pass way fee or regulatory fee without any legal basis";*<sup>109</sup>
- (2) The Second Indorsement dated August 10, 1989 from the Office of the Provincial Attorney was offered for the purpose of proving that "the Municipal Resolution No. 055/089-A could not be a valid for the imposition and collection of regulatory fee;" and that it was also offered to "prove the evident bad faith of the accused in his imposition and collection of regulatory fee or pass way fee without any legal basis";<sup>110</sup>
- (3) The letter dated November 8, 2004 addressed to Atty. Palubon from the Secretary of the *Sangguniang Panlalawigan* of Bulacan was submitted "to prove that the accused imposed the pass way or regulatory fee without any legal basis; [and was also] offered as part of the testimony of Prosecution witness Constantino Pascual";<sup>111</sup>
- (4) The DILG Preliminary Report was offered and appreciated to have shown that despite the DILG's questioning of the propriety of the imposition of the pass way fees, petitioner nevertheless continued the collection of the same, which allegedly evidenced bad faith.

Clearly belying the OSP's submission, these photocopied documents were offered as proof of the facts of their contents, and not for any other independent fact. More, the probative purposes of these documents go into the heart of the accusation against petitioner, *i.e.*, that he knowingly imposed the pass way fees fully aware of the absence of any legal authority for the same,

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<sup>107</sup> *Rollo*, p. 522.

<sup>108</sup> *Id.* at 57; 544.

<sup>109</sup> *Id.*

<sup>110</sup> *Id.*

<sup>111</sup> *Id.*



and hence did so in evident bad faith. Therefore, since these documents, offered for the truth value of their contents, were mere photocopies, these documents are inadmissible for being hearsay and for failing to comply with the Best Evidence Rule.

At this juncture, the Court would be remiss in its duty if it did not call out this failure on the part of the Sandiganbayan to capture this patent inadmissibility. It does not help that the assailed Decision did not make any reference to or otherwise rule on petitioner's objections to the admissibility of the photocopy documentary evidence. The Sandiganbayan should have ruled on the objections over said documentary evidence immediately at that time, and already excluded them for being inadmissible under Section 3, Rule 129 of the Revised Rules of Evidence. Had such a finding of inadmissibility been made, the case could have been dismissed at that point. Such a ruling on admissibility would have then spared everyone concerned the nearly six additional years and the sizeable cost of further litigation that the case took — all the way to this Court.

*Second*, even if the Court accords admissibility to the prosecution's core documentary evidence, the Court finds that they nevertheless fall short of persuading that petitioner's act of imposing the pass way fees was attended by evident bad faith.

"Evident bad faith" does not only mean bad judgment but a palpably and patently fraudulent and dishonest purpose to do moral obliquity or conscious wrongdoing for some perverse motive or ill will. It contemplates a state of mind that is positively motivated by some furtive design or with some motive or self-interest or ill will or for ulterior purposes.<sup>112</sup>

To recap, the Sandiganbayan found evident bad faith on the first count in petitioner's acts of (1) imposing the pass way fees even though he knew "fully well" that he had no authority to do so,<sup>113</sup> (2) authorizing Tabernero to collect the pass way fees in behalf of the Municipal Treasurer,<sup>114</sup> and (3) imposing the pass way fees in a confiscatory and excessive manner for having gone beyond the usually estimated amount per cubic meter cost under the defunct resolution.<sup>115</sup>

For the second count, evident bad faith was similarly appreciated in petitioner's act of instructing the impounding of RMDC's trucks for the latter's failure to pay the pass way fees even before he authorized Tabernero to receive said fees.<sup>116</sup>

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<sup>112</sup> *Albert v. Sandiganbayan*, supra note 101, at 290.

<sup>113</sup> *Rollo*, p. 63.

<sup>114</sup> *Id.*

<sup>115</sup> *Id.* at 64.

<sup>116</sup> *Id.* at 68.

After careful consideration, the Court here finds there was insufficient evidence to persuade a finding of evident bad faith in the contemplation of Section 3(e) of R.A. 3019. Still conversely, the Court here finds a considerable number of factual instances that *negate* evident bad faith and convince that petitioner here clearly erred not pursuant to a surreptitious design, but out of an honest but misplaced reliance on an inoperative resolution.

*First*, contrary to the summary finding that petitioner knew that *Kapasiyahan 89A-055/Kautusang Bayan 029* had been earlier revoked, and nevertheless persisted in imposing the pass way fees said resolution imposed, petitioner was consistent and unwavering in his denial that at the time he allowed the imposition of said fees, he was under the assured information from both the Municipal Treasurer and the *Sangguniang Bayan* Secretary that said resolution subsisted and was in force. Both on direct and cross examination, petitioner's testimony maintained that he was not aware of the revocation, as the same was never transmitted:

[ATTY. MENDOZA:] Now, according to the testimony also of prosecution witness Mr. Constantino Pascual[,] this [*Kapasiyahan Blg. 89A-055*] or [*Kautusang Bayan 029*] which you just mentioned was already declared void by the provincial board of Bulacan, what do you say to this statement?

[MR. BUENCAMINO:] I have no prior knowledge of that allegation of Mr. Pascual, sir. [In fact], as I have mentioned earlier[,] I was only informed by the municipal treasurer that there was an existing Kautusan and that the municipal treasurer's office was collecting the fees from Mr. Pascual, sir.

Q To your knowledge was there any record of the decision of the provincial board of Bulacan voiding the [*Kapasiyahan Blg. 89A-055*] in the record of your municipality?

A No, sir. **There is no existing record of the disapproval from the [*Sangguniang Panlalawigan*].** [In fact] if I may add, I also called the [*Sangguniang*] Secretary at that moment because I wanted to be doubly sure that we were collecting a legal fee and so the [*Sangguniang*] Secretary also confirmed to me that there is no record of any disapproval and we also confirmed that the said [*Kautusan*] was enforced, sir.

x x x x

A Yes, sir. **The [*Sangguniang*] Secretary issued a certification to the effect that**



**there exist no record of any disapproval or transmittal of any communication whatsoever from the [Sangguniang Panlalawigan], sir.**

X X X X

A I have the **certification from the Secretary of the [Sangguniang Panlalawigan] stating that they have also no record on file that they have ever transmitted the disapproval of the [Kautusan] as passed by the [Sangguniang Bayan].**<sup>117</sup>

But even if one believes that the revocation of the *Kautusan* had, in point of fact, been actually transmitted, petitioner's testimony reveals, if anything, that as a new local government head who has only assumed the mayoralty, he perhaps even conducted himself with the extra caution that was required in his efforts to first verify that such pass way fees were legally covered by a resolution or other issuance, before he authorized Tabernero to collect the same.

*Second*, with respect to the Sandiganbayan's finding that petitioner acted in gross negligence amounting to bad faith when he authorized Tabernero to act in behalf of the Municipal Treasurer in collecting the pass way fees from RMDC, petitioner in his testimony was, on the contrary, able to fully explain the reason for the same. Petitioner amply testified that Tabernero, although not an official of the Municipal Hall, was nevertheless employed by the local government of San Miguel under a job order arrangement, and that he was the one who manned the Municipality's Sibul Springs Resort, which was where RMDC's trucks would pass. Petitioner explained that Tabernero out of an accommodation for Constantino, since his trucks would pass by the roads during hauling at night, and for convenience, it was Tabernero who was authorized to collect the pass way fees so that RMDC's trucks need not go all the way to the Municipal Hall to pay the fees there.

The pertinent portion of petitioner's testimony on cross-examination informs:

[PROSECUTOR LABOG:] And, you also authorized Mr. Tabarnero knowing fully well that he is an ex-barangay captain, am I right?

[MR. BUENCAMINO:] I do not see the connection, sir.

Q That at that time you authorized Mr. Tabarnero he was not an employee of the Municipality of San Miguel?

<sup>117</sup> Id. at 418-420. TSN, February 22, 2010. Emphasis supplied.

A **He was a job order employee sir, receiving full salary from the municipal government, sir.**

Q What is the specific job description of Mr. Tabarnero at that time?

A **The specific job at that time sir, was that he was in-charge of the Sibul Springs Resort, sir.**

Q You will also admit that you authorized Tabarnero even if you know that he is not an official of the municipality?

A No sir. If I may explain the word authorized is actually misleading. All of this authorization is actually **just an accommodation on the request of Mr. Pascual that he be allowed to pay the pass way fee at his end in Sibul Spring because the trucks are supposed to pass during the night and so if the trucks are passing through the night, there is no way that they can pay through the municipal office as there is no one who must be in the office during the evening.** So, he asked at that particular moment whether he could possibly just leave the money with Mr. Tabarnero who resides in Sibul Spring and who is in charge of the Sibul Spring Resort anyway and that for Mr. Tabarnero to just remit the money to the treasurer[']s office. [In fact] sir, we maintained a collection clerk in Sibul Spring, actually for that sole job of collecting entrance fees from the Sibul Spring Resort. x x x And, so I said okay, if that is the request and so I'll ask the Municipal Treasurer if that is okay and the Municipal Treasurer said, yes, it can be done provided that Mr. Tabarnero does not issue an official receipt, because Mr. Tabarnero is not a bonded employee.<sup>118</sup>

*Third*, the Sandiganbayan found that even if *Kapasiyahan 89A-055/Kautusang Bayan 029* were still valid, petitioner imposed the pass way fees in a manner that was excessive and confiscatory. But this finding is completely belied by petitioner who testified that the computation of the total pass way fee per truck, based on a per-cubic meter cost, was not one which was within his tasks, and therefore could not be properly attributed to him. Still on cross examination, petitioner reasoned:

[PROSECUTOR LABOG:] And, you admit before this Court that you implemented that *Kapasiyahan Bilang 89*

<sup>118</sup> Id. at 434-435. Emphasis supplied.



which was approved on June of 1989 using computation at that time in the year of 2004?

[MR. BUENCAMINO:]

Sir, the matter of computation is not within my competence. I am not an Engineer, I am not in the field. **Whatever is to be collected is not determined by me, sir. As per my understanding, my responsibility is to see to it that any [Kautusan] is followed and implemented.** How it is implemented and followed would actually rely upon the responsibility of the implementing party.<sup>119</sup>

*Finally*, with respect to the evident bad faith appreciated in petitioner's act of giving instructions for the impounding of the trucks before he even authorized Tabernero to receive the pass way fees, the Court is unpersuaded that this factual ruling holds in the face of petitioner's vehement denial that he ordered said impounding, as supported by the fact that the memorandum the prosecution submitted to prove the same did not bear any signature that would trace authorship of the same to petitioner.

On cross-examination, petitioner explained:

[PROSECUTOR LABOG:]

And in this memorandum addressed to the following: SPO2 Indasan, SPO1 Garcia, SPO1 Doria, PO3 Centeno and PO2 Santos, he mentioned here about and I quote:

"You are hereby directed to apprehend the following V-10 vehicles loaded with marble blocks for failure to pay the municipal regulatory fee as per instruction of the Municipal Mayor Edmundo Jose T. Buencamino." What can you say to this?

[MR. BUENCAMINO:]

I have no specific instruction regarding that memo, sir.<sup>120</sup>

The Court further rules that the Certificate of Blotter dated August 23, 2004, which is the prosecution's main evidence to establish that petitioner ordered the impounding of RMDC's hauling trucks, failed to prove the same. As the Court has held before, entries in a police blotter, though regularly done in the course of the performance of official duty, are not conclusive proof of the truth of such entries for they are often incomplete and inaccurate. Certificates of blotter, therefore, should not be given undue significance or probative value as to the facts stated therein, for they only stand as *prima facie* proofs of the facts stated therein.<sup>121</sup> Absent any other corroborative evidence, the certificate of blotter here may not be considered as sufficient

<sup>119</sup> Id. at 439-440. Emphasis supplied.

<sup>120</sup> Id. at 429.

<sup>121</sup> *People v. Sorongon*, G.R. No. 142416, February 11, 2003, 397 SCRA 264, 268.

proof to trace the authorship of the impounding of RMDC's trucks to petitioner.

It is also worth noting that it was not disputed that the proceeds of the collection of pass way fees during petitioner's term were, in fact, remitted to the Municipal Treasury and deposited to the municipality's bank accounts, as attested to by petitioner<sup>122</sup> and Marciano,<sup>123</sup> and that there was no color of allegation that the proceeds were in any way misappropriated or otherwise diverted to petitioner's personal account.

In all, the Court finds that the prosecution failed to support a prayer of conviction. Reasonable doubt has been cast on the culpability of petitioner for the crime charged. The prosecution was unable to present sufficient evidence to prove that petitioner, in imposing the pass way fees, was moved by a clear, notorious, evident bad faith to consciously inflict injury on RMDC. Further, since there can be no presumption of bad faith, including cases involving violations of the Anti-Graft and Corrupt Practices Act, failure to adequately impute evident bad faith as required by its Section 3(e) must result in finding petitioner innocent as he is constitutionally presumed.

On these premises, the Court finds sufficient counterweight for petitioner's acquittal.

#### *A Final Note*

The Court takes this opportunity to now enjoin all courts to rule on the admissibility of each and every piece of evidence brought before them as soon as they are offered and objected to, and to refrain from deferring the resolution on admissibility at a later stage, *i.e.*, during the drafting of the decision. The Court is not unaware of, and is in fact deeply concerned about, the proclivity of a number of courts to delay ruling on the admissibility of evidence until such time that the decision is rendered. Worse, the Court has likewise observed the penchant of a number of courts to admit evidence that are not otherwise admissible for the reason often used by these courts of "for whatever they are worth". As well, the Court has come to know that some courts have justified this admission of inadmissible evidence on the reason that "admissibility" is different from "probative value" — totally and illogically against the simple legal truism that inadmissible evidence cannot have any probative value at all. These practices can no longer be countenanced, as they are counterproductive, and result in a total waste of the time and effort of the appellate courts. These practices betray incompetence or indolence, or both. Certainly, these practices reek of grave abuse of discretion.

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<sup>122</sup> *Rollo*, pp. 421-422.

<sup>123</sup> *Id.* at 282-284.

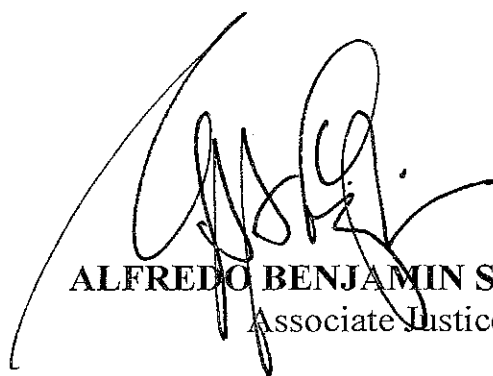
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To be sure, the Court is acutely cognizant of the increasing volume of cases which constantly strains the courts' mental and temporal resources. It is precisely in light of this challenge that courts are now reminded that ruling on the admissibility of evidence upon offer and objection gives the court the earliest opportunity to assess whether a case further deserves the court's scarce time and attention, or otherwise warrants dismissal for lack of merit. For all cases brought before the courts are only as viable as their evidence can substantiate them, which is, in turn, finely woven with whether or not the evidence is admissible, to begin with. All prayers before the court, however impassioned or believed, must still be held up by the fibers of evidence, and it is the court's duty to make the earliest determination if the evidence are mere gossamer threads.

Lest it be forgotten, nipping an untenable case as soon as its baselessness is discernible is a crucial dimension of dispensing justice that courts cannot neglect without cost. For it not only frees up the court's resource, but perhaps, and more significantly, affords the parties to the case with the dignity of knowing better than to devote their own finite years, money, and energy to a futile exercise of a failed cause.


**WHEREFORE**, the instant petition is **GRANTED**. The assailed February 18, 2015 Decision of the Sandiganbayan in Criminal Case Nos. SB-06-CRM-0419-0420 finding petitioner Edmundo Jose T. Buencamino guilty beyond reasonable doubt of two (2) counts of violation of Section 3(e) of Republic Act No. 3019, is **REVERSED** and **SET ASIDE**. Consequently, petitioner is **ACQUITTED** of the crime charged.


**SO ORDERED.**

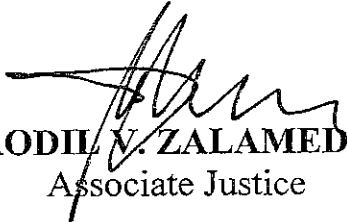


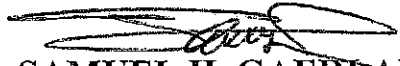
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice

WE CONCUR:

  
**DIOSDADO M. PERALTA**  
Chief Justice  
Chairperson

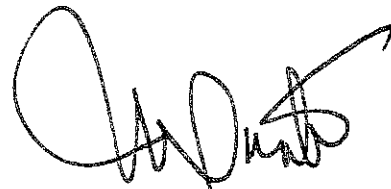
  
**ROSMARIB. CARANBANG**  
Associate Justice

  
**RODIL N. ZALAMEDA**  
Associate Justice

  
**SAMUEL H. GAERLAN**  
Associate Justice

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**DIOSDADO M. PERALTA**  
Chief Justice

