

EN BANC

G.R. Nos. 224720-23 – RICHARD T. MARTEL, ALLAN C. PUTONG, ABEL A. GUIÑARES, VICTORIA G. MIER, AND EDGAR C. GAN, Petitioners, v. PEOPLE OF THE PHILIPPINES, Respondent;

G.R. Nos. 224765-68 – BENJAMIN P. BAUTISTA, JR., Petitioner, v. PEOPLE OF THE PHILIPPINES, Respondent.

Promulgated:

February 2, 2021

*June 24, 2021
L. H. Lopez - Jr.*

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CONCURRING OPINION

PERLAS-BERNABE, J.:

I concur. However, I take this opportunity to expound on the third element for a violation of Section 3 (e) of Republic Act No. (RA) 3019, in relation to its second element.

Section 3 (e) of RA 3019 states:

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 benefit, 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.

As may be gleaned above, the elements of violation of Section 3 (e) of RA 3019 are as follows: (a) that the accused must be a public officer discharging administrative, judicial, or official functions (or a private individual acting in conspiracy with such public officers); (b) that he acted with manifest partiality, evident bad faith, or inexcusable negligence; and (c) that his action caused any undue injury to any party, including the government, or giving any private party unwarranted benefits, advantage, or preference in the discharge of his functions.

The first element pertains to the status of the perpetrator (**public officer discharging administrative, judicial, or official functions or a private**

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individual acting in conspiracy with such public officers); the second element refers to the **mode of commission (with manifest partiality, evident bad faith, or inexcusable negligence)**; whereas the third element relates to the result of the infraction (**his action caused any undue injury to any party, including the government, or giving any private party unwarranted benefits, advantage, or preference in the discharge of his functions**). The status of the perpetrator, mode of commission and the result of the infraction, while conceptually distinct elements, must nonetheless all be proven in order to convict the accused under Section 3 (e) of RA 3019. Conversely, the failure of the prosecution to prove even one of these three elements would result into an acquittal. Jurisprudence describes the third element as follows:

The word “unwarranted” means lacking adequate or official support; unjustified; unauthorized or without justification or adequate reason. “Advantage” means a more favorable or improved position or condition; benefit, profit or gain of any kind; benefit from some course of action. “Preference” signifies priority or higher evaluation or desirability; choice or estimation above another.¹

While the *ponencia* is correct in stating that violations of RA 3019 (and necessarily all its elements) must be grounded on graft and corruption,² I deem it apt to elucidate on the distinction between the second and third elements so as not to confuse the two concepts with each other. Again, as I have stated, the second element pertains to the mode of commission, while the third element pertains to the result of the infraction.

In this case, there were “unwarranted benefits” in favor of the car dealers from whom the vehicles were purchased since they would not have expeditiously obtained the sales of their vehicles were it not for the violations committed by the petitioners, as members of the Bids and Awards Committee. While it is true that these violations were committed by petitioners **in good faith**, such disposition does not negate the fact that the dealers had gained unwarranted benefits since the proper procurement process was not observed. Case law states that “advantage means a more favorable or improved position or condition; benefit, profit or gain of any kind; benefit from some course of action”. In other words, the third element looks into the result, *i.e.*, that one would not have obtained some profit or gain of any kind were the laws and rules correctly followed.

Although the acts of petitioners resulted into unwarranted benefits (third element), I concur that the petitioners must be **acquitted** as the prosecution failed to prove the second element. Indeed, they should be acquitted because despite the result (*i.e.*, unwarranted benefits), it was not proven beyond reasonable doubt that the same was achieved through the

¹ *Rivera v. People*, 749 Phil. 124, 143 (2014).

² See *ponencia*, p. 29.

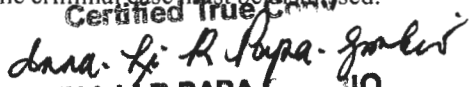
prescribed mode of commission (with manifest partiality, evident bad faith, or inexcusable negligence).

Overall, recognizing the proper spheres of application of the second and third elements, the existence of unwarranted benefits is not enough to convict herein petitioners under Section 3 (e) of RA 3019 if the same were not achieved through the public officer's acts committed with manifest partiality, evident bad faith, or gross negligence. The two elements are conceptually distinct; but nonetheless, both of them (including the first element) need to be present in order to be convicted for violation of Section 3 (e) of RA 3019.

ACCORDINGLY, petitioners Richard T. Martel, Allan C. Putong, Abel A. Guiñares, Victoria G. Mier, and Benjamin P. Bautista, Jr. should be **ACQUITTED**.³


ESTELA M. PERLAS-BERNABE
Senior Associate Justice

³ Meanwhile, in view of petitioner Edgar C. Gan's supervening death, the criminal case must be dismissed. See *id.* at 31-32.


ANNA-LI R. PAPA-GARCIA
Deputy Clerk of Court En Banc
OCC En Banc, Supreme Court