



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

ANTONIO M. SUBA,

Petitioner,

G.R. No. 235418

Present:

- versus -

SANDIGANBAYAN FIRST  
DIVISION and PEOPLE OF THE  
PHILIPPINES,

Respondents.

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

Promulgated:

MAR 03 2021

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DECISION

PERALTA, C.J.:

Antonio M. Suba (*Suba*) is before the Court via a petition for review on *certiorari* asking for the reversal of the Decision<sup>1</sup> dated September 22, 2017 and the Resolution<sup>2</sup> dated November 2, 2017 of the Sandiganbayan, which found him guilty beyond reasonable doubt of violating Section 3(e) of Republic Act (R.A.) No. 3019, or the *Anti-Grant and Corrupt Practices Act*, and which sentenced him to imprisonment of six (6) years and one (1) month as minimum to ten (10) years as maximum, for attending a conference abroad using government funds without travel authority.

The Antecedents

<sup>1</sup> Penned by Associate Justice Geraldine Faith A. Econg and concurred in by Associate Justices Efren N. De La Cruz and Edgardo M. Caldoná; *rollo*, pp. 97-124.

<sup>2</sup> *Id.* at 154-159.

Petitioner Suba was the Acting Vice President for Maintenance, Repair, Overhaul Service (*MROS*) while Roberto R. Navida (*Navida*) was the President and Chief Executive Officer, from May 2006 to December 2007, of the Philippine Aerospace Development Corporation (*PADC*), an attached agency of the Department of Transportation and Communications (*DOTC*).

In a letter dated September 15, 2006, Navida requested then DOTC Secretary Leandro Mendoza for authority to travel, in connection with Navida and Suba's participation in the 4<sup>th</sup> Biennial International Aircraft Conversion and Maintenance Conference in Beijing, China, from October 10 to 14, 2006.<sup>3</sup>

In a letter dated September 19, 2006, DOTC Assistant Secretary,<sup>4</sup> Atty. Emmanuel Noel A. Cruz (*Asst. Sec. Cruz*), denied Navida's request citing Administrative Order No. 103, which holds that all foreign travels are suspended. He also noted that the letter-request lacked supporting papers.<sup>5</sup>

On October 6 and 9, 2006, Suba requested cash advances in the amounts of ₱217,000.00, ₱1,500.00 and US\$458.40, for their travel and incidental expenses, which Navida approved. Disbursement Vouchers (*DVs*) and checks were consequently prepared and issued in Suba's name.<sup>6</sup>

On October 10, 2006, Suba and Navida flew from Manila to Beijing and attended the conference. They returned on October 14, 2006.<sup>7</sup>

On June 29, 2007, Arsenio Rayos, Jr. (*Rayos*), State Auditor of the Commission on Audit (*COA*) issued a Notice of Suspension stating that there were deficiencies in Suba's cash advances.<sup>8</sup> Suba replied that while the cash advances were in his name, the decisions made were the direct responsibility of Navida.<sup>9</sup>

On March 17, 2008, Rayos issued a Notice of Disallowance (*ND*)<sup>10</sup> holding Navida, Suba and three (3) others<sup>11</sup> liable for the amount of

<sup>3</sup> *Id.* at 237.

<sup>4</sup> For Administrative and Legal Affairs.

<sup>5</sup> These are: Certification as to no pending administrative cases; certification as to no pending tasks and designation of officer-in-charge; itemized statement of expenditures, with justification as to the necessity of such item of expense, certifying their availability and identifying what funds it will be charged; service records; and, justifications as to the relevance of said travel and/or the participation of every member in case of delegation; *rollo*, p. 242.

<sup>6</sup> *Id.* at 243-254.

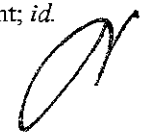
<sup>7</sup> *Id.* at 114, 263-265.

<sup>8</sup> *Id.* at 114.

<sup>9</sup> Through Memorandum dated January 22, 2008; *id.* at 115-116.

<sup>10</sup> No. 2008-001-(2006); *id.* at 117.

<sup>11</sup> Richard K. Lazaro, for signing Budget Utilization Slip of DV Nos. 01-06-10-018 & 024; Corazon T. Aguinaldo for signing the check and the LBP Foreign Currency Savings Account Withdrawal Slip; and Rolando B. Broas for being the representative to withdraw in the LBP Foreign Currency Saving Account; *id.* at 266.



₱241,478.68. Suba moved for reconsideration, but this was denied by COA Cluster Director Divinia M. Alagon.<sup>12</sup>

On February 2, 2010, Rayos issued a Notice of Finality of Decision, which he referred to the PADC President for appropriate action.<sup>13</sup>

On September 12, 2014, Suba paid PADC the ₱241,478.68 subject of the ND dated March 17, 2008.<sup>14</sup>

Meanwhile, a complaint was anonymously filed with the Office of the Ombudsman (*OMB*) on May 30, 2008 against Suba for his unliquidated cash advances.<sup>15</sup>

After investigation, the Field Investigation Office of the OMB filed a complaint on April 23, 2012 against Suba, Navida, Richard K. Lazaro, Rolando B. Broas and Corazon T. Aguinaldo for violation of Section 3(a) and (e) of R.A. No. 3019. The case was docketed as OMB-C-C-12-0171-D.<sup>16</sup>

The Preliminary Investigation Administrative Bureau-A of the OMB issued a Resolution finding probable cause against Navida and Suba. This was approved by Ombudsman Conchita Carpio Morales on July 15, 2013 who also denied the subsequent motions for reconsideration of the two.<sup>17</sup>

On September 4, 2013, an Information was filed charging Navida and Suba of violating Section 3(e) of R.A. No. 3019, as follows:

On 10 October 2006 or thereabouts, in Pasay City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused ROBERTO R. NAVIDA as Philippine Aerospace Development Corporation (PADC) President, and ANTONIO M. SUBA as Department Manager B of PADC, both public officials, committing the crime in relation to and in abuse of their office, conspiring and confederating with each other, acting with evident bad faith, manifest partiality and/or gross inexcusable negligence, did then and there willfully, unlawfully, and criminally request for, facilitate the processing of, and receive cash advances in the total amount of Two Hundred Forty-One Thousand, Four Hundred Seventy Eight Pesos and Sixty Eight Centavos (P241,478.68) for their trip to Beijing, China, and thereafter proceed with the said trip despite fully knowing the existence of a letter/order from the Department of Transportation and Communication denying their application for a travel authority to Beijing,

<sup>12</sup> *Id.* at 266-275.

<sup>13</sup> *Id.* at 284 – Feb. 24, 2010; *id.* at 288-290 – Feb. 22, 2010.

<sup>14</sup> *Id.* at 404-406.

<sup>15</sup> The letter was signed by “*Mga Concerned na manggagawa ng PADC*”; *id.* at 304.

<sup>16</sup> The Investigation was conducted by Ronald Allan D. Ramos, Team Leader, Team IV-B, General Investigation Bureau-C, Field Investigation Office, Office of the Ombudsman and Investigator Donabel D. Atienza; see *rollo*, Vol. 1, pp. 97-98, 306-314.

<sup>17</sup> *Id.* at 98.

China, thereby causing undue injury to the government in the aforesaid amount.

CONTRARY TO LAW.<sup>18</sup>

Suba pleaded “not guilty” while Navida refused to enter any plea thus the court entered a plea of “not guilty” in his behalf.<sup>19</sup>

Trial proceeded and the prosecution presented the testimonies of State Auditor Rayos and the OMB Graft Investigation and Prosecution Officer, Ronald Allan Ramos (*Atty. Ramos*).<sup>20</sup>

For the defense, Suba testified that he relied on Navida’s assurance that they already have an authority to travel issued by the DOTC Secretary. He learned of the denial of their request only after the travel was completed. He also alleged that he was not the one who prepared the vouchers and other papers but Navida’s staff. The PADC Board of Directors approved of their travel as well as the budget for foreign travels of PADC officials. Suba further argues that there was no injury to the government as the money was actually used for their attendance in the conference where they gained knowledge that is useful for PADC. He also already reimbursed PADC the full amount of the checks that were issued to him.<sup>21</sup>

On September 22, 2017 the Sandiganbayan ruled:

**ACCORDINGLY** and in view of the foregoing, this Court finds accused ANTONIO M. SUBA **guilty** beyond reasonable doubt for violation of Section 3(e), R.A. No. 3019 charged in SB-14-CRM-0330. He is sentenced to suffer an indeterminate sentence of Six Years and One Month as minimum to Ten Years as maximum and to suffer the accessory penalty of perpetual disqualification from holding public office.

SO ORDERED.<sup>22</sup> (Emphasis in the original)

The Sandiganbayan held that Suba’s justifications could not cure the defect that he and Navida travelled to Beijing without the required travel authority. It also did not believe that Suba was unaware of the lack of travel authority as there were several instances when he was presented with the opportunity to verify if a travel authority had been issued. The Sandiganbayan further held that Suba was granted unwarranted benefits when he travelled to Beijing and gained knowledge from the conference he attended, even though he was not authorized to do so.<sup>23</sup>

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<sup>18</sup> *Id.* at 168-169.

<sup>19</sup> *Id.* at 99.

<sup>20</sup> *Id.* at 102-108.

<sup>21</sup> *Id.* at 121, 123.

<sup>22</sup> *Id.* at 124.

<sup>23</sup> *Id.* at 122-124.

The case against Navida was dismissed through Resolution dated January 17, 2017 by reason of his death.<sup>24</sup>

Suba filed a motion for reconsideration which was denied by the Sandiganbayan on November 2, 2017.<sup>25</sup>

### **The Present Petition**

Suba is now before the Court arguing that: the elements of Section 3 (e) of R.A. No. 3019 were not sufficiently proven; the Information did not properly specify the charges against him; and his Constitutional rights as an accused were not protected.<sup>26</sup>

#### ***Petitioner's arguments***

Suba argues that there was no evidence that he knew of the lack of travel authority at the time he joined Navida in the Beijing conference.<sup>27</sup> There was also no bad faith, ill motive or fraud on his part because when he processed the cash advances, he was merely following the directive of his superior.<sup>28</sup> He and Navida actually attended the conference in Beijing on aircraft maintenance which was relevant to their posts in PADC.<sup>29</sup> The cash would not have been released by the Comptroller's Office if the transaction was irregular or unfunded. There was also prior approval by the PADC Board of all foreign travels of its officials.<sup>30</sup>

Suba further advances that he already settled the amount of ₱241,478.68, which negates the element of damage or injury to the government.<sup>31</sup> The Sandiganbayan also wrongfully convicted him for "giving any private party unwarranted benefits" when such element was not specified in the Information.<sup>32</sup> This, according to Suba, violated his right to be informed of the nature and cause of his accusation.<sup>33</sup>

#### ***Respondent's Arguments***

The Office of the Special Prosecutor of the OMB on the other hand maintains that all the elements of the crime were established beyond

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<sup>24</sup> *Id.* at 124, 422.

<sup>25</sup> *Id.* at 154-159.

<sup>26</sup> *Id.* at 19.

<sup>27</sup> *Id.* at 37, 68-69.

<sup>28</sup> *Id.* at 70-71.

<sup>29</sup> *Id.* at 35.

<sup>30</sup> *Id.* at 35-36.

<sup>31</sup> *Id.* at 21.

<sup>32</sup> *Id.* at 24-25.

<sup>33</sup> *Id.* at 30.

reasonable doubt. Suba's act of requesting, facilitating, and receiving cash advances for the trip, without the required travel authority, was committed through manifest partiality, evident bad faith or gross inexcusable negligence. As the travel was undertaken without the required travel authority, it ceased being official rendering the use of government funds to support the same as illegal. As Suba has not received or seen any actual written grant of travel authority but still pushed through with the travel and utilization of public funds, he was evidently in bad faith, or at the very least grossly and inexcusably negligent in the utilization of public funds. Suba himself narrated that he wrote on the immigration card for departing passengers that his occupation was "businessman" when he knew that he was a public officer on a supposed official travel. He was not deprived of his right to due process as the designation of the offense charged, the nature of the accusation and the acts and omissions constituting the offense were properly alleged in the Information. Also, the settlement or restitution does not extinguish criminal liability.<sup>34</sup>

### **The Issue**

Whether the Sandiganbayan correctly found petitioner guilty of violating Section 3(e) of R.A. No. 3019

### **The Court's Ruling**

The petition is impressed with merit.

Contrary to the ruling of the Sandiganbayan, we find no sufficient evidence to hold Suba criminally liable under Section 3(e) of R.A. No. 3019.

It is settled that the burden is on the prosecution to prove an accused's guilt beyond reasonable doubt. This is demanded by the due process clause of the Constitution, which protects an accused from conviction except upon proof beyond reasonable doubt of every fact necessary to constitute the crime with which he is charged. Unless the prosecution is able to discharge its burden, the accused need not even offer evidence in his/her behalf, and he/she would be entitled to an acquittal.<sup>35</sup>

Section 3(e) of R.A. No. 3019 reads:

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:

<sup>34</sup> *Rollo*, Vol. 2, pp. 915-922.

<sup>35</sup> *Jose Tapales Villarosa v. People of the Philippines*, G.R. Nos. 233155-63, June 23, 2020.

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.

To sustain a conviction under this provision, the prosecution must sufficiently establish that:

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, evidence 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>36</sup>

A review of the Information filed against Suba and Navida would readily show that they were charged for violating Section 3(e) of R.A. No. 3019 for “acting with evident bad faith, manifest partiality, and/or gross inexcusable negligence” for requesting, facilitating and receiving cash advances worth ₱241,478.68 for their trip to Beijing and proceed thereto “despite fully knowing the existence of a letter/order from the [DOTC] denying their application for a travel authority” thereby causing undue injury to the government in the said amount.<sup>37</sup>

In finding Suba guilty, the Sandiganbayan held that:

...“[the] acts manifest **bad faith** on the part of accused Suba when he received money from PADC and travelled to Beijing, China using the monies advanced without the required travel authority.”<sup>38</sup> (Emphasis supplied)

### ***Bad faith under the Anti-Graft Law***

Jurisprudence instructs that bad faith referred to under Section 3(e) of R.A. No. 3019 does not simply connote bad judgment or negligence but of having a palpably and patently fraudulent and dishonest purpose to do some moral obliquity or conscious wrongdoing for some perverse motive, or ill will. It connotes a state of mind affirmatively operating with furtive design

<sup>36</sup> *People of the Philippines v. Leonel Echavez Bacaltos*, G.R. No. 248701, July 28, 2020.

<sup>37</sup> *Rollo*, pp. 168-169.

<sup>38</sup> *Id.* at 123.

or with some motive or self-interest or ill will or for ulterior purposes.<sup>39</sup> It is a breach of sworn duty through some motive or intent or ill will and partakes of the nature of fraud.<sup>40</sup>

In *People v. Bacaltos*,<sup>41</sup> we explained that bad faith *per se* is not enough for one to be held criminally liable for violation of Section 3 (e) of R.A. No. 3019. Bad faith must be evident and must partake the nature of fraud. That is, it is a manifest deliberate intent on the part of the accused to do wrong or to cause damage.<sup>42</sup>

Here, it is undisputed that Suba and Navida attended an aviation conference on aircraft maintenance in Beijing, China, which was relevant to their functions as VP for Operations and President of PADC, respectively. The cash that was disbursed to Suba and Navida were actually used in connection with their attendance in said conference. Navida also assured Suba that they have a travel authority from the DOTC Secretary and that the PADC Board, where the DOTC Secretary sits as Chairman, had previously approved foreign travels of PADC officials. Subsequently, Suba restituted the subject amount, after the COA Notice of Disallowance became final and executory.

Given these circumstances, it cannot be said that Suba acted with a palpably and patently fraudulent and dishonest purpose or with some perverse or ill motive, that is tantamount to “evident bad faith” which the Anti-Graft Law seeks to punish. There was a legitimate purpose. There was a prior and general approval by the PADC Board. There was a verbal assurance from his superior and travel companion that they have the approval of the DOTC Secretary. Suba also returned the disallowed amount after his appeal was denied, which in some cases was deemed a badge of good faith.<sup>43</sup>

Since evident bad faith entails deliberate intent on the part of the accused to do wrong or to cause damage, it must be shown that the accused was spurred by corrupt motive.<sup>44</sup> Here, the circumstances established do not show beyond reasonable doubt that Suba was spurred by corrupt or ill motive.

### ***The prosecution’s burden***

The Information charged Suba and Navida of proceeding with the trip “*despite fully knowing the existence of a letter/order from the [DOTC] denying their application for a travel authority.*”

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<sup>39</sup> *Fuentes v. People*, 808 Phil. 586, 594 (2017).

<sup>40</sup> *Cedeño v. People, et al.*, 820 Phil. 575, 609 (2017).

<sup>41</sup> *Supra* note 36.

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Republic of the Philippines v. Hon. Desierto*, 516 Phil. 509, 516 (2006).



Suba has consistently denied however that he was aware of Asst. Sec. Cruz's letter of disapproval when they left for Beijing. A cursory reading of the said letter would readily show that the letter was addressed to "Roberto R. Navida" who was then the President of PADDC, and not to Suba. Atty. Ramos of the OMB who conducted the field investigation also admitted that they did not trace or find out if Navida actually received the said letter.<sup>45</sup> Similarly, there was no proof that herein petitioner, Suba, received the DOTC letter of disapproval.

The Sandiganbayan nevertheless still found Suba criminally liable on the ground that there were many opportunities where he could have verified if a travel authority had in fact been issued.<sup>46</sup>

It should be stressed at this point that there is no such thing as presumption of bad faith in cases involving violations of the Anti-Graft and Corrupt Practices Act. On the contrary, the law presumes the accused innocent, until proven guilty. Well entrenched in our jurisprudence is the rule that the conviction of the accused must rest, not on the weakness of the defense, but on the strength of the evidence for the prosecution. The burden is on the prosecution to prove the accused's guilt beyond reasonable doubt, not on the accused to prove his innocence.<sup>47</sup> The administration of justice is not a matter of guesswork. Since a person's liberty is at stake here, all measures must be taken to ensure the protection of his fundamental rights.<sup>48</sup>

Suba maintained that he merely obeyed his superior's orders and relied on Navida's assurance that their attendance in the Beijing conference was duly approved by the DOTC Secretary and allowed by the PADDC Board of Directors.<sup>49</sup>

While Suba clearly erred in pushing through with the foreign travel despite not having a written travel authority, errors or mistakes are not by themselves indicative of bad faith.<sup>50</sup> The prosecution must prove the existence of factual circumstances that point to fraudulent intent.<sup>51</sup> Mistakes committed by public officials, no matter how patently clear, are not actionable absent any clear showing that they were motivated by malice or gross negligence amounting to bad faith.<sup>52</sup>

<sup>45</sup> TSN, Atty. Ronald Allan D. Ramos, November 2, 2015, p. 38; *rollo*, Vol. 2, p. 795.

<sup>46</sup> *Rollo*, Vol. 1, p. 122.

<sup>47</sup> *Jose Tapales Villarosa v. People of the Philippines*, *supra* note 35.

<sup>48</sup> *Enrile v. People, et al.*, 766 Phil. 75, 133 (2015).

<sup>49</sup> TSN, January 30, 2017, pp. 9-10, 22-23, 27-28; *rollo*, Vol. 1; *rollo*, Vol. 2, pp. 842-843, 854-855; 859-860.

<sup>50</sup> *Escarez v. Commission on Audit*, G.R. Nos. 217818, 218334, 219979, 220201 & 222118 (Notice), May 31, 2016.

<sup>51</sup> *People v. Bacaltos*, Concurring Opinion of Justice Alfredo Benjamin S. Caguioa, *supra* note 36.

<sup>52</sup> *Collantes v. Marcelo*, 556 Phil. 794, 806 (2007).


The consistent teaching in our jurisprudence is that evidence adduced must be closely examined under the lens of judicial scrutiny and that conviction must flow only from the moral certainty that guilt has been established beyond reasonable doubt. The presumption of innocence of an accused is a basic constitutional principle fleshed out by procedural rules which place on the prosecution the burden of proving that an accused is guilty of the offense charged by proof beyond reasonable doubt. Conviction must rest no less than on hard evidence showing that the accused, with moral certainty, is guilty of the crime charged. Short of these constitutional mandate and statutory safeguard --- that a person is presumed innocent until the contrary is proved --- the Court is then left without discretion and is duty bound to render a judgment of acquittal.<sup>53</sup>

As the prosecution in this case failed to prove beyond reasonable doubt all the elements of Section 3(e) of R.A. No. 3019 under which petitioner was charged, he should be entitled to an acquittal.

**WHEREFORE**, the petition is **GRANTED**. The Decision dated September 22, 2017 and the Resolution dated November 2, 2017 of the Sandiganbayan in SB-14-CRM-0330 are **REVERSED and SET ASIDE**.

Petitioner **Antonio M. Suba** is **ACQUITTED** of violation of Section 3(e) of Republic Act No. 3019. Let the corresponding entry of final judgment be immediately issued.

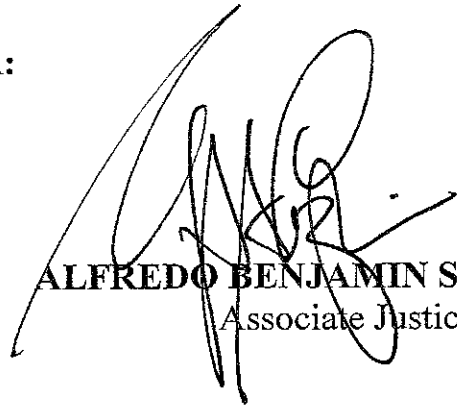
**SO ORDERED.**

  
**DIOSDADO M. PERALTA**  
Chief Justice

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<sup>53</sup> *Miranda v. Sandiganbayan, et al.*, 815 Phil. 123, 154 (2017).

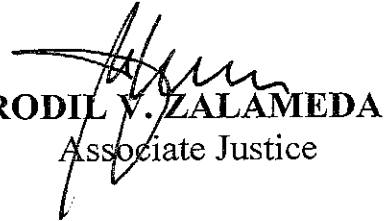
**WE CONCUR:**



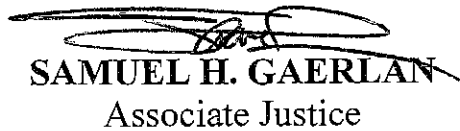
**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice



**ROSMARI D. CARANDANG**  
Associate Justice



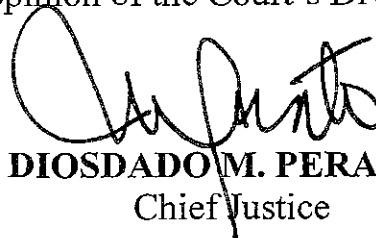
**RODIL V. ZALAMEDA**  
Associate Justice



**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