Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

TAHIRA S. ISMAEL AND AIDA U. AJIJON, Petitioners,	**G.R. Nos. 234435-36** Present:
- versus -	LEONEN, *S.A.J., Chairperson,* LAZARO-JAVIER, LOPEZ, M., LOPEZ, J., and KHO, JR., *JJ.*
PEOPLE OF THE PHILIPPINES, Respondent.	Promulgated: FEB 06 2023

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D E C I S I O N

LOPEZ, M., *J.*:

Before us is a Verified Petition for Review on *Certiorari*[1] under Rule 45 of the Revised Rules of Court assailing the Decision[2] dated August 2, 2017 and the Resolution[3] dated September 19, 2017 of the Sandiganbayan in Criminal Case Nos. 28278 and 28279, which convicted then Lantawan, Basilan Municipal Mayor Tahira S. Ismael (Ismael) and Municipal Treasurer Aida U. Ajijon (Ajijon, collectively, petitioners) under Section 3(e) of Republic Act (RA) No. 3019,[4] as amended, and Section 3.3.1, in relation to Section 17.2.3 of the Implementing Rules and Regulations (IRR) of RA No.

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1 *Rollo*, pp. 62–99.

2 *Id.* at 31–60. Penned by Associate Justice Reynaldo P. Cruz, with the concurrence of Associate Justices Alex L. Quiroz and Geraldine Faith A. Econg.

3 See Minutes of the Proceedings; *id.* at 8–9. Approved by Associate Justices Alex L. Quiroz, Reynaldo P. Cruz, and Geraldine Faith A. Econg.

4 Entitled "ANTI-GRAFT AND CORRUPT PRACTICES ACT," approved on August 17, 1960.

8291,[5] for non-remittance of contributions to the Government Service Insurance System (GSIS).

Facts

Since 1997, the Municipality of Lantawan in Basilan was distressed with arrearages on unremitted GSIS premiums. When Ismael assumed office in 2001, the outstanding balance inflated due to accumulated penalties.[6] Collection letters corresponding to arrears from January 1999 to June 2001 and July 2001 to February 2003 were sent to the mayor's office, but the obligation remained unsettled. The failure of the municipality to remit its GSIS contributions also resulted in the suspension of the members' loan privileges.[7] This prompted then Vice Mayor Felix B. Dalugdugan, along with other municipality officials and employees, to lodge a complaint for malversation of public funds against petitioners before the Ombudsman on June 28, 2004.[8] The Ombudsman, however, charged petitioners before the Sandiganbayan with violation of Section 3(e) of RA No. 3019 and violations of Sections 3.3.1 and 3.4, Rule III of the IRR of RA No. 8291,[9] *viz.*:

Criminal Case No. 28278

> That sometime in July 2001 to February 2003 or prior or subsequent thereto, in the municipality of Lantawan, Basilan Province, Philippines, and within the jurisdiction of this Honorable Court, above-named accused, **TAHIRA S. ISMAEL** and **AIDA V. AJIJON** (sic), Municipal Mayor and Municipal Treasurer, respectively, of the Municipality of Lantawan, Basilan Province, conspiring and confederating with each other, and committing the offense herein charged in relation to their offices, taking advantage of their official position, through evident bad faith, did then and there willfully, unlawfully and criminally cause undue injury to the officials and employees of the Municipal Government of Lantawan by then and there failing, refusing, withholding and delaying the turnover and remittance of the GSIS premiums and contributions/amortizations in the aggregate amount of. **THREE MILLION ONE HUNDRED EIGHTEEN THOUSAND FIVE PESOS and 07/100 ([PHP] 3,118,005.07),** deducted and withheld every month from the monthly compensation of all the officials and employees of the Municipal Government of Lantawan, Basilan Province, thereby resulting to the suspension of their loan privileges to the damage and prejudice of the said officials and employees and the government.
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> **CONTRARY TO LAW.**[10] (Emphasis in the original)

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5 Entitled "AN ACT AMENDING PRESIDENTIAL DECREE NO. 1146, AS AMENDED, EXPANDING AND INCREASING THE COVERAGE AND BENEFITS OF THE GOVERNMENT SERVICE INSURANCE SYSTEM, INSTITUTING REFORMS THEREIN AND FOR OTHER PURPOSES," approved on May 30, 1997.

6 *Rollo*, pp. 42–43.

7 *Id.* at 36.

8 *Id.* at 34–35.

9 *Id.* at 46–47.

10 *Id.* at 32.

Criminal Case No. 28279

That sometime in July 2001 to February 2003 or prior or subsequent thereto, in the Municipality of Lantawan, Basilan Province, Philippines, and within the jurisdiction of this Honorable Court, above-named accused, **TAHIRA S. ISMAEL AND AIDA U. AJIJON**, Municipal Mayor and Municipal Treasurer, respectively, of the Municipality of Lantawan, Basilan Province, conspiring and confederating with each other, while in the performance of their functions, taking advantage of their official position, did then and there willfully, unlawfully and feloniously, FAIL, REFUSE, WITHHOLD and DELAY the turnover or remittance of the GSIS contributions in the aggregate amount of **THREE MILLION ONE HUNDRED EIGHTEEN THOUSAND FIVE PESOS and 07/100 ([₱]3,118,005.07),** deducted and withheld each month from the monthly compensation of all the officials and employees of the Municipal Government of Lantawan, Basilan Province.

CONTRARY TO LAW.[11] (Emphasis in the original)

On August 2, 2017, the Sandiganbayan rendered the assailed Decision,[12] convicting petitioners as follows:

1. In **Criminal Case No. 28278**, [Ismael] and [Ajijon] are found **GUILTY** beyond reasonable doubt of violation Section 3 (e) of [RA] No. 3019 and, pursuant to Section 9 thereof, are hereby sentenced to suffer an indeterminate penalty of imprisonment of six (6) years and one (1) month[,] as minimum[,] up to ten (10) years[,] as maximum, with perpetual disqualification from holding public office.

2. In **Criminal Case No. 28279**, [Ismael] and [Ajijon] are found **GUILTY** beyond reasonable doubt of violation of Section 3.3.1 of the IRR of [RA] No. 8291 and, pursuant to Section 17.2.3 thereof, are hereby sentenced to suffer an indeterminate penalty of imprisonment from two (2) years[,] as minimum[,] up to four (4) years[,] as maximum, and a fine of Three Thousand Pesos ([PHP] 3,000.00), with absolute perpetual disqualification from holding public office and from practicing any profession or calling licensed by the government.

SO ORDERED.[13] (Emphasis in the original)

Petitioners' Motion for Reconsideration[14] was denied in a Resolution[15] dated September 19, 2017. Hence, this appeal on *certiorari*,[16] which ultimately seeks dismissal of the criminal cases. Petitioners attack the validity of the Informations as they alleged conspiracy, but failed to implead the municipal accountant and budget officer, who are indispensable in

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11 *Id.* at 32–33.
12 *Id.* at 31–60.
13 *Id.* at 58–59.
14 Dated August 16, 2017. *Id.* at 10–26.
15 See Minutes of the Proceedings; *id.* at 8–9.
16 See Verified Petition for Review on *Certiorari*; *id.* at 62–99.

consummating the offenses charged. Petitioners submit that they cannot be expected to discharge their respective duties in the remittance of the GSIS contributions without the issuance of the certificate of availability of funds and remittance vouchers by the municipal accountant and budget officer. Hence, for petitioners, such incomplete allegation in the Informations violated their constitutional right to be informed of the nature and cause of the accusations against them.[17]

Additionally, petitioners argue that their right to speedy disposition of cases was also violated since the Informations were filed on June 5, 2005, but resolved only on August 2, 2017.[18] They mentioned in particular the length of time that it took the Sandiganbayan to resolve their Motion for Transfer of Markings[19] and their formal offer of evidence.[20]

On the merits, petitioners fault the Sandiganbayan in failing to consider the lack of intent on their part to perpetrate the act upon which the criminal charges were hinged, *i.e.*, the non-remittance of the municipality's GSIS contributions. Specifically, petitioners maintain that their failure to remit was due to several factors beyond their control, such as the terrorism activities in the area which disparaged their municipality for years, the arrearages left by the previous administration which inflated due to penalties, and the limited resources of the municipality to meet its fiscal demands. For petitioners, these circumstances warrant their exemption from liability in failing to settle the municipality's GSIS obligation.[21]

Issues

I.

Whether petitioners' right to be informed of the nature and cause of the accusations against them was violated;

II.

Whether petitioners' right to the speedy disposition of cases was violated; and

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17 *Id.* at 82–90.
18 *Id.* at 79–82.
19 Dated August 9, 2008. *Id.* at 264–266.
20 Dated July 14, 2014. *Id.* 273–279.
21 *Id.* at 90–97.

III.

Whether the Sandiganbayan correctly convicted petitioners of: (a) violation of Section 3.3.1, in relation to Section 17.2.3 of the IRR of RA No. 8291; and (b) violation of Section 3(e) of RA No. 3019.

Ruling

Along with the legal questions on the violation of constitutional rights, underlying issues requiring the scrutiny of the evidence on record are also presented, which generally are not within the scope of a review under Rule 45 of the Rules of Court. However, as discussed below, the Sandiganbayan has decided a question of substance — it convicted petitioners of corrupt practices — which is not supported by the evidence on record[22] and not in accord with law and the applicable decisions of the Court,[23] which must be rectified. Besides, at present, "appeal to the Supreme Court in criminal cases decided by the Sandiganbayan in the exercise of its original jurisdiction shall be by notice of appeal"[24] which throws the entire case wide open for review and confers the appellate court full jurisdiction over the case to examine records, modify, or even reverse the judgment appealed from, and cite appropriate provisions of the law.[25] We, thus, find no hindrance to proceed with this review.

Non-inclusion of other conspirators in the indictment, by itself, is not violative of the right to be fully informed of the nature and cause of accusation against the accused

A mandatory component of due process in criminal prosecutions is a sufficient information. As their cherished liberty is at stake, the accused should not be left in the dark about the accusations against them.[26] Section 14(2), Article III of the 1987 Constitution mandates that the accused be "informed of the nature and cause of the accusation against [them]." Its primary purpose is to provide the accused with fair notice of the accusations made against them to enable them to make an intelligent plea and prepare a proper defense.

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22 See *Saguin v. People*, 773 Phil. 614, 623 (2015) [Per J. Mendoza, Second Division].

23 See Section 6(a), Rule 45 of the Rules of Court.

24 See Section 1, Rule XI of A.M. No. 13-7-05-SB, entitled "2018 REVISED INTERNAL RULES OF THE SANDIGANBAYAN," approved on October 9, 2018.

25 See *Ramos v. People*, 803 Phil. 775, 783 (2017) [Per J. Perlas-Bernabe, First Division]; *People v. Comboy*, 782 Phil. 187, 196 (2016) [Per J. Perlas-Bernabe, First Division]; and *People v. Dahil*, 750 Phil. 212, 225 (2015) [Per J. Mendoza, Second Division].

26 *Villarba v. CA*, G.R. No. 227777, June 15, 2020, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66301> [Per J. Leonen, Third Division].

Petitioners claim that the Informations filed against them were insufficient as they alleged conspiracy in the non-remittance of GSIS contributions, but some conspirators were not impleaded nor their participation in the alleged conspiracy stated. Specifically, petitioners argue that their failure to remit GSIS contributions was due to the failure of the municipal accountant and budget officer to first issue remittance vouchers and certificates of availability of funds; hence, their participation in the alleged conspiracy is indispensable and must be clearly stated in the Information. Since the Informations did not contain such significant allegations, petitioners posit that their constitutional right to be informed of the nature of the accusations against them was violated.[27]

Petitioners are mistaken.

The right to be informed of the nature and cause of the accusation is not violated if the complaint or information sufficiently alleges the facts and circumstances constituting the offense.[28] Section 6, Rule 110 of the Rules of Court provides the necessary allegations to a criminal information, namely: (1) the accused's name; (2) the statute's designation of the offense; (3) the acts or omissions complained of that constitute the offense; (4) the offended party's name; (5) the approximate date of the offense's commission; and (6) the place where the offense was committed.[29] Relatedly, Section 9 of the same Rule merely requires that the acts or omissions complained of as constituting the offense be stated in an ordinary and a concise language to enable a person of common understanding to know what offense is being charged and for the court to pronounce judgment.

The two Informations against petitioners clearly and sufficiently stated that they were being charged for their failure to perform their duties as mayor and treasurer to ensure full and timely remittance of the municipality's GSIS contributions. The indictment of the purported conspirators, as well as a statement of their part in the alleged conspiracy, is not necessary to sustain the sufficiency of the Informations. It has long been settled that, "[a] conspiracy indictment need not x x x aver all the components of conspiracy or allege all the details thereof, like the part that each of the parties therein have performed, the evidence proving the common design or the facts connecting all the accused with one another in the web of conspiracy."[30] So long as the criminal information clearly alleges the acts constituting the offense specifically imputed against the accused for them to properly prepare their defense, the constitutional right to be informed of the nature and cause of accusation is not

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27 *Rollo*, pp. 84–85.

28 *People v. Manansala*, 708 Phil. 66, 68 (2013) [Per J. Bersamin, First Division].

29 *Villarba v. CA*, G.R. No. 227777, June 15, 2020, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66301> [Per J. Leonen, Third Division].

30 *Inocencio v. People*, 772 Phil. 422, 435 (2015) [Per J. Reyes, Third Division], citing *Lazarte, Jr. v. Sandiganbayan*, 600 Phil. 475, 494 (2009) [Per J. Tinga, *En Banc*].

transgressed.[31] In *Tan, Jr. v. Sandiganbayan*,[32] the Court was emphatic in ruling that "an information alleging conspiracy can stand even if only one person is charged except that the court cannot pass verdict on the co-conspirators who were not charged in the information."[33]

Besides, the discretion on who to prosecute depends on the prosecution's sound assessment whether the evidence before it can justify a reasonable belief that a person has committed an offense. Notably, prosecuting officers enjoy the presumption that they regularly performed their duties, and this can only be overcome by proof to the contrary,[34] which is not present in this case.

Therefore, non-inclusion of the municipal accountant and budget officer in the indictment is not violative of petitioners' right to be informed of the nature and cause of accusation against them.

Mere delay in the proceedings is not tantamount to a violation of the right to speedy disposition of cases or speedy trial

Likewise paramount in the administration of justice is the resolution of cases with dispatch. This lends credence to the truism that justice delayed is justice denied.[35] Section 16, Article III of the 1987 Constitution unequivocally guarantees "[a]ll persons x x x the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies." Courts and administrative bodies are constitutionally-mandated to resolve matters before them with speed and efficiency.[36] The expeditious resolution of controversies is even more required in criminal cases because an accused is guaranteed the right to have a speedy trial under Section 14(2), Article III of the 1987 Constitution.

Equally important as these rights, however, is the State's duty and interest in prosecuting charges. In view of this, the rights to speedy disposition of cases and speedy trial, albeit regarded as sacrosanct, are not elixirs that guarantee reprieve upon invocation without qualification. Hence, when a case calls for the determination of whether these rights are violated, the Court is duty-bound to carefully cast a pragmatic balance between these fundamental interests. To that end, certain principles have been adopted and developed over

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31 *Inocencio v. People*, *id.*; and *People v. Mancansala*, 708 Phil. 66, 68 (2013) [Per J. Bersamin, First Division].

32 354 Phil. 463 (1998) [Per J. Martinez, Second Division].

33 *Id.* at 471.

34 *People v. Dumlao*, 599 Phil. 565, 588 (2009) [Per J. Chico-Nazario, Third Division].

35 *Central Cement Corporation (now Union Cement Corporation) v. Mines Adjudication Board*, 566 Phil. 275, 287–288 (2008) [Per J. R. Reyes, Third Division].

36 *Id.* at 287.

time to aid the Court in the intricate task of harmonizing such significant societal concerns.

In the earlier case of *Martin v. Ver*,[37] we first adopted the "balancing test" in determining whether a defendant's right to a speedy trial and/or speedy disposition of cases has been violated based on the landmark ruling of *Barker v. Wingo*.[38] The test compels an *ad hoc* approach, wherein the conduct of both the prosecution and the defense are assessed in light of the four-fold factors, to wit: (1) length of delay; (2) reason for the delay; (3) defendant's assertion or non-assertion of the right; and (4) prejudice to the defendant resulting from the delay. In *Remulla v. Sandiganbayan*,[39] we noted that "[n]one of these elements x x x is either a necessary or sufficient condition [on their own as] they are related and must be considered together with other relevant circumstances."[40]

In the more recent case of *Cagang v. Sandiganbayan*,[41] we laid down definitive guidelines in resolving issues involving the rights to speedy trial and speedy disposition of cases, synthesized as follows:

> [I]nordinate delay in the resolution and termination of a preliminary investigation violates the accused's right to due process and the speedy disposition of cases, and **may** result in the dismissal of the case against the accused. The burden of proving delay depends on whether delay is alleged within the periods provided by law or procedural rules. If the delay is alleged to have occurred during the given periods, the burden is on the respondent or the accused to prove that the delay was inordinate. If the delay is alleged to have occurred beyond the given periods, the burden shifts to the prosecution to prove that the delay was reasonable under the circumstances and that no prejudice was suffered by the accused as a result of the delay.
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> **The determination of whether the delay was inordinate is not through mere mathematical reckoning but through the examination of the facts and circumstances surrounding the case.** Courts should appraise a reasonable period from the point of view of how much time a competent and independent public officer would need in relation to the complexity of a given case. If there has been delay, the prosecution must be able to satisfactorily explain the reasons for such delay and that no prejudice was suffered by the accused as a result. The timely invocation of the accused's constitutional rights must also be examined on a case-to-case basis.[42] (Emphasis supplied)

Thus, a finding of delay in the proceedings does not necessarily evince a violation of the right to speedy disposition of a case or speedy trial to warrant

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37 208 Phil. 658 (1983) [Per J. Plana, *En Banc*].
38 407 U.S. 514 (1972) [Per J. Powell].
39 808 Phil. 739 (2017) [Per J. Mendoza, Second Division].
40 *Id.* at 748.
41 837 Phil. 815 (2018) [Per J. Leonen, *En Banc*].
42 *Id.* at 876–877.

the outright dismissal of the case. Essentially, these rights are relative and flexible concepts, which require particular regard of the facts and circumstances peculiar to each case. Invocation of these rights must be consistent with reasonable delay as they are deemed violated only when there is inordinate delay, such as in proceedings attended by vexatious, capricious, and oppressive delays; those unjustifiably postponed; or when, without cause or justifiable motive, a long period of time is allowed to elapse without the party having their case tried.[43] As well, it should be noted that, like any other right, the rights to speedy disposition of cases and speedy trial may be waived. Hence, if proven through established jurisprudential standards that the accused acquiesced to the delay, the constitutional right can no longer be invoked.[44]

Here, the Court is mindful of the length of time that it took the Sandiganbayan to dispose of the criminal cases. But records also show that petitioners were not blameless for the protracted proceedings. The Informations were filed before the Sandiganbayan on **June 5, 2005**, and as a matter of course, arraignment, pre-trial, and trial ensued. Petitioners completed their presentation of evidence on **July 3, 2008**, and were then given 30 days to file its written formal offer of exhibits, while the prosecution was given 20 days from receipt of the defense's formal offer to file its comment/objection, and thereafter, the case will be deemed submitted for resolution.[45] **However, instead of filing their formal offer of evidence, petitioners filed a Motion for Transfer of Markings[46] on August 9, 2008, requesting for Exhibits "7",[47] "8",[48] and "11"[49] to be formally marked since these documents were only provisionally marked during trial for being mere photocopies. On August 14, 2008, petitioners also filed a Supplemental Motion (to the Motion for Transfer of Markings), asking for an additional 15 days to file their formal offer of evidence after the marking.** Admittedly, more than five years have elapsed before the Sandiganbayan acted on the motions. In a Resolution[50] dated **June 13, 2014**, the Sandiganbayan allowed the marking for Exhibit "8", but Exhibits "7" and "11" were disallowed because **the new copies submitted remained unverifiable**. The witness who testified on the denied exhibits was, nevertheless, allowed to be recalled. **The defense, thus, recalled Ajijon to the witness stand on June 30, 2014**. The Sandiganbayan then issued an

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43 *Republic v. Sandiganbayan (Special Second Division)*, G.R. No. 231144, February 19, 2020, 933 SCRA 173, 192 [Per J. Leonen, Third Division]. See also *Cojuangco, Jr. v. Sandiganbayan*, G.R. No. 247982, April 28, 2021, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67381> [Per J. Delos Santos, *En Banc*].

44 *Republic v. Sandiganbayan, id.* at 197–199, citing *Cagang v. Sandiganbayan*, 837 Phil. 815, 873 (2018) [Per J. Leonen, *En Banc*].

45 See Order dated July 3, 2008; *rollo*, pp. 262–263. Penned by Associate Justices Gregory S. Ong, Jose R. Hernandez, and Roland B. Jurado.

46 *Id.* at 264–266.

47 *Id.* at 218.

48 *Id.* at 239.

49 Department of Budget and Management Circular Letters; see *id.* at 264.

50 See Minutes of the Proceedings; *id.* at 270–271. Approved by Associate Justices Gregory S. Ong, Jose R. Hernandez, and Maria Cristina J. Cornejo.

Order[51] **on even date**, directing the defense to file its written formal offer of exhibits within 20 days, and the prosecution 20 days from receipt of the defense's formal offer to file its comment/objection. Petitioners complied and filed their Formal Offer of Documentary Exhibits[52] on **July 15, 2014**. On **December 16, 2016**, or two years later, the Sandiganbayan acted upon the formal offer of evidence, and directed the parties to submit their memoranda within 10 days from notice.[53] **Notably, petitioners still asked for additional time to submit their formal offer of evidence**, which was granted. On **January 16, 2017**, petitioners finally filed their Memorandum.[54] On the other hand, the prosecution also moved for extension[55] to file its Memorandum,[56] which it filed on **March 7, 2017**. On **August 2, 2017**, the Sandiganbayan rendered the assailed Decision.

Undeniably, petitioners contributed to the delay in the proceedings in more ways than the prosecution and the Sandiganbayan did. In as early as July 2008, the case was ready to be submitted for resolution upon petitioners' compliance with the formal offer of evidence. But petitioners were not ready to file their formal offer of evidence, and instead, they moved for the formal marking of documents that they presented during trial in mere photocopies. Clearly, the proximal cause of the delay was petitioners' failure to present and submit competent copies of their evidence. Petitioners then had the opportunity to complete their evidence, but still, they were not able to fully submit the evidence they wanted to present as the documents they submitted remained unverifiable. What is more, despite the fact that the Sandiganbayan's action on the motions were concededly late for years, the defense still asked for additional time to comply with those delayed orders. The sense of urgency that petitioners advocate before this Court is evidently wanting in the proceedings below.

Inasmuch as the delay is mainly attributable to the defense's actions, we have basis to conclude that such delay did not cause significant prejudice to petitioners' cause to warrant the outright dismissal of the cases. Prejudice, in reference to the violation of the right to speedy disposition of cases or speedy trial, is assessed based on the interest of the accused sought to be protected by such rights, *i.e.*, to prevent oppressive pre-trial incarceration, minimize anxiety and concern of the accused, and limit the possibility that their defense will be impaired.[57] Here, there was no allegation or proof that such interests were compromised by the delay, except for the extended period of anxiety and embarrassment. Such prolonged agony, however, is not a

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51 *Id.* at 272. Penned by Associate Justices Gregory S. Ong, Jose R. Hernandez, and Maria Cristina J. Cornejo.

52 Dated July 14, 2014. *Id.* at 273–279.

53 See Minutes of the Proceedings; *id.* at 281.

54 Dated January 13, 2017. *Id.* at 282–311.

55 See Urgent Ex-Parte Motion for Extension of Time to File Memorandum dated January 10, 2017 (*id.* at 312–313); and Second Urgent Ex-Parte Motion for Extension of Time to File Memorandum dated February 1, 2017 (*id.* at 314–316).

56 Dated March 7, 2017. *Id.* at 317–327.

57 *People v. Sandiganbayan*, G.R. Nos. 233557-67, June 19, 2019, 905 SCRA 427, 448–449 [Per J. A. Reyes, Third Division].

veritable ground to tilt the scales of justice in petitioners' favor.[58] Petitioners are reasonably expected to endure such predicaments of the protracted criminal prosecution since their course of action engendered it. Moreover, "not every claim of anxiety [or embarrassment] affords the accused a ground to decry a violation of the rights to speedy disposition of cases and to speedy trial"[59] since such emotional and social difficulties are typical consequences of criminal indictments. In *People v. Sandiganbayan*,[60] we required that the anxiety be shown to be of such "nature and degree that it becomes oppressive, unnecessary[,] and notoriously disproportionate to the nature of the criminal charge."[61] There is no such showing in this case. Truth be told, instead of impairing petitioners' cause, the delay actually afforded the defense opportunities to complete its evidence.

Too, petitioners were fully aware of the delay in the resolution of their motions, but they remained passive and exerted no meaningful efforts to protect their rights to speedy disposition of cases and/or speedy trial that they are invoking before this Court for the first time. In this regard, the Court is not unaware that the silence of the accused during the period of delay cannot be easily construed as a waiver or surrender of the right to speedy disposition of cases or speedy trial.[62] Indeed, the actual intention to relinquish the right must be shown.[63] But here, not only did petitioners show no remonstration, they in fact actively participated in the proceedings by complying with the delayed resolutions/orders without raising any constitutional infraction against the Sandiganbayan, indicating their acquiescence to the delay. Petitioners' renunciation of the right is further demonstrated when they asked for more time to comply with the Sandiganbayan Order despite it being presently argued as already behind time. In other words, petitioners were well aware of the delay in the proceedings, but their indifference with the passage of time is clearly manifested by their actions.

Considering that the delay was mainly attributable to petitioners, their overt acts positively demonstrated their renunciation of the rights to speedy disposition of case and speedy trial. More importantly, the delay did not result in any significant prejudice to petitioners, hence, we find that the delay was not arbitrary, vexatious, or oppressive and seasonably objected to. Therefore, we cannot grant the "radical relief"[64] of dismissing the criminal cases outright on the ground of inordinate delay. *Apropos* is our pronouncement in *Republic v. Sandiganbayan*,[65] *viz.*:

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58 *Id.*
59 *Id.*
60 *Id.*
61 *Id.* at 450.
62 *People v. Bodoso*, 446 Phil. 838, 851 (2003) [Per J. Bellosillo, *En Banc*].
63 *Figueroa v. Sandiganbayan*, G.R. Nos. 235965-66, February 15, 2022, <https://sc.judiciary.gov.ph/235965-66-rene-c-figueroa-vs-sandiganbayan-special-third-division-office-of-the-ombudsman-represented-by-the-office-of-special-prosecutor-and-philippine-amusement-and-gaming-corporation/> [Per J. M. Lopez, First Division] at 8; and *De Garcia v. Locsin*, 65 Phil. 689, 694–695 (1938) [Per J. Laurel, *En Banc*].
64 *Dela Peña v. Sandiganbayan*, 412 Phil. 921, 933 (2001) [Per C.J. Davide, Jr., *En Banc*].
65 *Republic v. Sandiganbayan*, G.R. No. 231144, February 19, 2020, 933 SCRA 173 [Per J. Leonen, Third Division].

> While the Constitution guarantees the right of the accused to speedy disposition of cases, this constitutional right is not a magical invocation which can be cunningly used by the accused for his or her advantage. This right is not a last line of remedy when accused find themselves on the losing end of the proceedings. **The State's duty to prosecute cases is just as equally important and cannot be disregarded at the whim of the accused, especially when it appears that the contention was raised as a mere afterthought.**[66] (Emphasis supplied)

We, thus, proceed to the substantive matters.

Petitioners are not liable under Section 3(e) of RA No. 3019

The Court finds no basis to hold petitioners guilty of corrupt practices under Section 3(e) of RA No. 3019, which 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:
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> x x x x
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> (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.

Parsed from the provision, to convict the accused for violation of Section 3(e) of RA No. 3019, the following elements must be proved beyond reasonable doubt:

> (1) the accused must be a public officer discharging administrative, judicial, or official functions;
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> (2) he [or she] must have acted with manifest partiality, or evident bad faith, or gross inexcusable negligence; and

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66 *Id.* at 176–177.

(3) his [or her] action caused undue injury to any party, including the Government, or gave any private party unwarranted benefits, advantage, or preference in the discharge of his functions.[67]

Discussion on the second element is particularly pertinent to this case. In convicting petitioners, the Sandiganbayan found that petitioners acted with evident bad faith solely because they failed to discharge their duty to remit contributions under RA No. 8291, *viz.*:

> **In this case, accused Ismael and Ajijon acted with evident bad faith because they were in breach of their respective sworn duties.** In effect, the proximate cause of the non-remittance of the GSIS contributions can be traced from the failure of accused Ismael, as the Municipal Mayor, to exercise her power of general supervision and control over all activities of the municipality — particularly, her duty to ensure that Municipal Accountant Ladja was performing his functions faithfully. Hence, the Court cannot accept accused Ismael's act of shifting the blame to Municipal Accountant Ladja for not preparing the vouchers for the remittances of the GSIS contributions.
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> Accused Ismael cannot feign ignorance about the unremitted GSIS contributions x x x. And, despite her knowledge of the problem, she ignored the advice given to her and chose not to remit the GSIS contributions. Verily, her failure to act demonstrates her conscious disregard of her duty to enforce the GSIS law as part of the governance of the municipality, and affirms her omission to comply with her obligations prescribed therein.
>
> x x x x
>
> In the same vein, accused Ajijon is not blameless. As the Municipal Treasurer, she is duty-bound to advice the Municipal Mayor about the disbursement of local funds and matters relating to public finance. Thus, she evaded her duty when she chose to keep mum about the unremitted GSIS contributions. x x x
>
> x x x x
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> All told, it is the correlative breach of sworn duties consciously committed by both accused Ismael and Ajijon which paved the way for the municipality to fail to remit the contributions due to the GSIS.[68] (Emphasis supplied)

We disagree.

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67 *Martel v. People*, G.R. No. 224720-23, February 2, 2021, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67194> [Per J. Caguioa, *En Banc*].

68 *Rollo*, pp. 50–55.

Sheer failure to discharge a statutory duty does not automatically serve as basis for conviction under Section 3(e) of RA No. 3019. As an element of the offense, the prosecution must present proof beyond reasonable doubt that the officer's act or omission is accompanied with the elements of manifest partiality, evident bad faith, or gross inexcusable negligence to justify the conviction. We are reminded of the consistent teaching in our jurisprudence that errors or omissions committed by public officials, no matter how evident, are not actionable absent any clear showing that they were motivated by malice or gross negligence amounting to bad faith.[69] Bad faith is never presumed,[70] especially in criminal cases which have its existence as an element. Despite apparent non-feasance, the accused enjoys the presumption of innocence and shall remain so until all the elements of the crime charged are proven beyond reasonable doubt.[71]

More specifically, we have consistently held that bad faith is not simple "bad judgment or negligence."[72] "It is not enough that the accused violated a provision of law,"[73] it must be shown that the accused acted with a malicious motive or ill will.[74] It "contemplates a state of mind affirmatively operating with furtive design or with some motive or self-interest or ill will or for ulterior purposes."[75] Jurisprudence even characterized bad faith as having a "palpably and patently fraudulent and dishonest purpose to do moral obliquity or conscious wrongdoing for some perverse motive or ill will."[76] Gross inexcusable negligence, on the other hand, "does not signify mere omission of duties nor plainly the exercise of less than the standard degree of prudence."[77] The imputed negligence must be "characterized by the want of even the slightest care, acting or omitting to act in a situation where[in] there is a duty to act, not inadvertently but willfully and intentionally, with conscious indifference to consequences insofar as other persons may be affected."[78] "[I]n cases involving public officials[,] it takes place only when [the] breach of duty is flagrant and devious."[79] Additionally, bad faith or negligence *per se* are not enough for one to be held liable under the law since the act of bad faith or the negligence must in the first place be evident or gross and inexcusable.[80]

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69 *Suba v. Sandiganbayan*, G.R. No. 235418, March 3, 2021, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66943> [Per C.J. Peralta, First Division].

70 *Mahilum v. Spouses Ilano*, 761 Phil. 334, 353 (2015) [Per J. Del Castillo, Second Division].

71 *Martel v. People*, G.R. No. 224720-23, February 2, 2021, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67194> [Per J. Caguioa, *En Banc*].

72 *Martel v. People*, *id.*; and *Fonacier v. Sandiganbayan*, 308 Phil. 660, 693 (1994) [Per J. Vitug, *En Banc*].

73 *Martel v. People*, *id.*

74 *Id.*; *Sistoza v. Desierto*, 437 Phil. 117, 132 (2002) [Per J. Bellosillo, Second Division]; and *Fonacier v. Sandiganbayan*, 308 Phil. 660, 693 (1994) [Per J. Vitug, *En Banc*].

75 *Martel v. People*, *id.*

76 *Id.*

77 *Sistoza v. Desierto*, 437 Phil. 117, 132 (2002) [Per J. Bellosillo, Second Division].

78 *Id.*

79 *Id.*

80 *Martel v. People*, G.R. No. 224720-23, February 2, 2021, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67194> [Per J. Caguioa, *En Banc*]; and *Sistoza v. Desierto*, *id.* at 130.

Here, no evidence supports the conclusion that evident bad faith or even gross inexcusable negligence attended such failure. The Sandiganbayan gravely erred in equating petitioners' failure to discharge their duties under RA No. 8291 to evident bad faith. Neither can such failure be deemed as gross and inexcusable as contemplated under RA No. 3019. As we have emphasized in *Martel v. People*,[81] violations of RA No. 3019, as its title implies, must be grounded on graft and corruption, which entails dishonest or fraudulent actions for acquisition of gains. Absent a showing of bad faith, gross negligence, or acts of dishonesty and fraud, petitioners cannot be held liable under Section 3(e) of RA No. 3019.

Petitioners are liable under RA No. 8291

The importance of the GSIS fund cannot be emphasized enough. Aside from ensuring the social security and insurance benefits of government employees, the GSIS fund was created "to serve as a filing reward for dedicated public service."[82] Hence, it is a declared policy of the State that the actuarial solvency of the GSIS funds be preserved and maintained at all times[83] to guarantee government employees all the benefits due them and their dependents. To this end, the law expressly condemns the non-remittance of fund contributions, which come from both members and employers. In fact, to ensure prompt collection and remittance of contributions, RA No. 8291 and its IRR penalizes specific persons who fail, refuse or delay to remit contributions. Section 52(d) and (g) of RA No. 8291 provide:

> (d) The **treasurer**, finance officer, disbursing officer, budget officer or other official or employee who fails to include in the annual budget the amount corresponding to the employer and employee contributions, or **who fails or refuses or delays by more than thirty (30) days from the time such amount becomes due and demandable**, x x x shall, upon conviction by final judgment, suffer the penalties of imprisonment from six (6) months and one (1) day to six (6) years, and a fine of not less than [t]hree thousand pesos ([PHP] 3,000.00) but not more than [s]ix thousand pesos ([PHP] 6,000.00), and in addition shall suffer absolute perpetual disqualification from holding public office and from practicing any profession or calling licensed by the government.
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> x x x x

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81 *Martel v. People, id.*

82 See Presidential Decree No. 1146, entitled "AMENDING, EXPANDING, INCREASING AND INTEGRATING THE SOCIAL SECURITY AND INSURANCE BENEFITS OF GOVERNMENT EMPLOYEES AND FACILITATING THE PAYMENT THEREOF UNDER COMMONWEALTH ACT NO. 186, AS AMENDED, AND FOR OTHER PURPOSES," approved on May 31, 1977.

83 See Section 39 of RA No. 8291, which provides:

> Section 39. *Exemption from Tax, Legal Process and Lien.* — It is hereby declared to be the policy of the State that the actuarial solvency of the funds of the GSIS shall be preserved and maintained at all times[.]

(g) The **heads of the offices of** the national government, its **political subdivisions**, branches, agencies and instrumentalities, including government-owned or controlled corporations and government financial institutions, and **the personnel of such offices who are involved in the collection of premium contributions**, loan amortization and other accounts due the GSIS **who shall fail, refuse or delay the payment, turnover, remittance or delivery of such accounts to the GSIS** within thirty (30) days from the time that the same shall have been due and demandable shall, upon conviction by final judgment, suffer the penalties of imprisonment of not less than one (1) year nor more than five years and a fine of not less than [t]en thousand pesos ([PHP] 10,000.00) nor more than [t]wenty thousand pesos ([PHP] 20,000.00), and in addition shall suffer absolute disqualification from holding public office and from practicing any profession or calling licensed by the government. (Emphases supplied)

The corresponding provisions in its IRR, on the other hand, state:

Section 17.2.3.The **Heads of Offices, Treasurer**, Finance Officer, Cashier, Disbursing Officer, Budget Officer or other official or employee who fails to include in the annual budget the amount corresponding to the employer and employee contribution; or **who fails or refuses to remit or delays remittances by more than thirty (30) days from the time such amount becomes due and demandable**; x x x shall, upon conviction by final judgment, suffer the penalties of imprisonment from six (6) months and one (1) day to six (6) years, and a fine of not less than [t]hree thousand pesos ([PHP] 3,000[.00]) but not more than [s]ix thousand pesos ([PHP] 6,000[.00]), and in addition shall suffer absolute perpetual disqualification from holding public office and from practicing any profession or calling licensed by the government.

x x x x

Section 17.2.6. The **heads of the offices of** the national government, its **political subdivisions**, branches, agencies and instrumentalities, including government-owned or controlled corporations and government financial institutions, and the personnel of such offices who are involved in the preparation of payroll reflecting deductions and remittance of the same to GSIS, collection of premium contributions, loan amortization and other accounts due the GSIS **who shall fail, refuse or delay the payment, turnover, remittance or delivery of such accounts to the GSIS within thirty (30) days from the time that these become due and demandable, shall**, upon conviction by final judgment, suffer the penalties of imprisonment of not less than [o]ne (1) year nor more than [f]ive (5) years and a fine of not less than [t]en thousand pesos ([PHP] 10,000[.00]) nor more than [t]wenty thousand pesos ([PHP] 20,000[.00]), and in addition shall suffer absolute perpetual disqualification from holding public office and from practicing any profession or calling licensed by the government. (Emphasis supplied)

The provision punishes the *failure, refusal,* or *delay* without lawful or justifiable cause to fully and timely remit the required contributions. These acts are recognized as *mala prohibita*, and as such, their commission as defined under the special law, not the character or its effect, determines

whether the provision has been violated. They may not be considered as inherently wrong by the society, but because of the harm that it inflicts on the community, it can be outlawed in the exercise of the State's police power. In other words, criminal intent or the intent to perpetrate the crime is not necessary when the acts are prohibited for reasons of public policy. Nonetheless, it must be shown that there was an intent to perpetrate the act or that the prohibited act was done freely and consciously.[84] Our pronouncements in the recent case of *People v. Talaue*[85] (*Talaue*), is edifying in this regard, *viz.*:

> [*F*]*ailure* x x x is an omission of an expected action, occurrence or performance. *Refusal*, on the other hand, is the denial or rejection or something offered or demanded. *Delay* is defined as the act of postponing or slowing.
>
> While **intent to perpetrate the act** may be more easily discernible in cases of *refusal* or *delay*, considering that these usually involve a positive act, such intention **is not readily apparent in cases of *failure* and must be determined from the circumstances of each case**, for the intent to fail cannot be immediately inferred from the mere occurrence of a failure to remit or pay.[86] (Emphasis supplied)

Here, petitioners do not dispute their responsibilities as mayor and treasurer in ensuring the full and timely remittance of contributions to the GSIS funds. Their failure to discharge such duty during their term of office is also admitted. They, however, interpose the defense that there was neither criminal intent nor intent on their part to perpetrate such prohibited act, arguing that certain factors beyond their control caused such failure despite efforts to settle the municipality's obligation.[87]

For one, petitioners point out that the unsettled obligation already existed and inflated due to accumulated interests even before petitioners assumed office,[88] which made it more difficult to settle during their time.[89] They also insist that it was not possible for Ajijon to prepare and issue checks to pay the GSIS contributions, and there was no disbursement for Ismael to approve[90] since the municipal accountant failed to issue remittance vouchers and the budget officer failed to issue a certificate of availability of funds.[91] Such failure to issue vouchers and certificate of availability of funds, in turn, was due to a shortage of funds caused by: the increase of government share from 9.5% to 12% under RA No. 8291; the shift in the responsibility of appropriating and paying government share from the Department of Budget

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84 *People v. Talaue*, G.R. No. 248652, January 12, 2021, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66777> [Per C.J. Peralta, First Division].
85 *Id.*
86 *Id.*
87 *Rollo*, pp. 42–45
88 *Id.* at 42–43.
89 *Id.* at 47.
90 *Id.* at 42–43 and 47.
91 *Id.* at 43 and 47.

and Management to the municipality; and the years of restoration and rehabilitation of areas devastated by the lingering terrorist activities since the 1990's, which depleted the municipality coffer.[92]

Petitioners further bank on their efforts to settle the municipality's obligation despite the challenges to absolve them from liability. They aver that Ismael immediately called a meeting regarding the status of the GSIS accounts upon being apprised of the arrears. Ismael also instructed her financial consultant, as well as the municipal accountant, budget officer, Ajijon as treasurer, and the human resource management officer to reconcile the municipality's records with the GSIS, assess the situation, and prepare the remittance vouchers.[93] Ismael also personally coordinated with the GSIS in 2003 to reconcile records for the proper settlement of the obligation.[94] Through such efforts, the municipality and the GSIS forged a Memorandum of Agreement (MOA)[95] in 2006, wherein it was agreed that: (1) GSIS shall condone 20% of the interest; (2) the municipality shall pay PHP 2,000,000.00 as down payment upon signing of the MOA, while the balance shall be paid in installments; (3) GSIS shall lift the suspension of the members' loan privileges also upon signing; and (4) the municipality shall remit current GSIS contributions regularly.

For petitioners, the foregoing circumstances reveal not only the lack of criminal intent, but also their lack of intent to perpetrate the prohibited act. Essentially, they argue that insuperable causes prevented them from performing their duty to ensure remittance of contributions under the GSIS Law, warranting their exemption from liability.[96]

The Court is not convinced.

We emphasize that petitioners admittedly failed to fully and timely remit GSIS contributions, albeit they attempted to justify their failure to perform their statutory duty.[97] However, instead of establishing absolutory causes, petitioners' evidence merely disclosed their reactive and belated efforts in performing their duty under the law, and proves no more than a string of blame-shifting.[98]

Foremost, the existence of arrearages before their assumption of office cannot excuse them with ease from performing their duty under the GSIS Law. It is noteworthy that Ismael assumed mayorship in 2001, but their evidence

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92 *Id.* at 40–45 and 221–225.

93 *Id.* at 42–45.

94 See letter dated April 10, 2003; *id.* at 248.

95 See Memorandum of Agreement; *id.* at 256–260.

96 *Id.* at 97.

97 See *People v. Lumikid*, G.R. No. 242695, June 23, 2020, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66284> [Per C.J. Peralta, First Division].

98 See *People v. Tulaue*, G.R. No. 248652, January 12, 2021, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66777> [Per C.J. Peralta, First Division].

shows that it was only in 2003 when she called for a meeting with the concerned municipal officers to tackle their GSIS predicament.[99] It was also only in 2003 when Ismael actively coordinated with the GSIS to pursue a settlement. Records show that from 2001–2003, the municipality continued to fail in remitting employees' contributions to the GSIS.[100] As for Ajijon, the Sandiganbayan observed that she was in office ahead of Ismael and was aware of the arrearages, but failed to advise Ismael of such important matter.[101]

Petitioners then cite the terrorist activities in their area as a major factor that prevented them from making full remittance of GSIS contributions. Such fact, however, does not suffice since records show that, at the very least, members' shares were consistently collected from them, but still, those deductions were not fully remitted,[102] and **no proper accounting was given to explain where the unremitted portions went**. That municipality funds were allegedly used for rehabilitation of areas devastated by terrorism is likewise unacceptable because Section 6(b)[103] of RA No. 8291 categorically states that remittance by the employer of the contributions to the GSIS takes priority over and above the payment of any and all obligations, except salaries and wages of its employees.[104] In any case, there is no competent evidence presented to support petitioners' claim that the GSIS contributions were actually and legally realigned for other legitimate purposes.

Finally, petitioners cannot simply pass the buck to the municipal accountant and budget officer since the "[t]he task of ensuring the remittance of accounts due the GSIS is x x x as much a burden and responsibility of the mayor [and the treasurer] as it is the burden and responsibility of those personnel who are involved in the collection of premium contributions."[105] Precisely, Congress included in the list of liable persons each and every officer and personnel concerned in the collections and remittance of GSIS contributions to create a sense of urgency on their part and deter them from passing the blame to their subordinates[106] or colleagues.

Ismael's initiative may have successfully restructured the municipality's obligation with the GSIS through negotiations which began in 2003, but such belated effort do not justify petitioners' initial non-feasance. At this point, such settlement finds relevance only to the civil liability of the

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99 *Rollo*, p. 68.

100 The Commission on Audit found that the municipality deducted GSIS contributions from its employees from 2001–2003, but no vouchers were issued for their remittance; *id.* at 38.

101 *Id.* at 48–49 and 54–55.

102 *Id.* at 239.

103 Section 6. *Collection and Remittance of Contributions.* — x x x
(b) Each employer shall remit directly to the GSIS the employees' and employers' contributions within the first ten (10) days of the calendar month following the month to which the contributions apply. **The remittance by the employer of the contributions to the GSIS shall take priority over and above the payment of any and all obligations, except salaries and wages of its employees.** (Emphasis supplied)

104 See *People v. Talaue*, G.R. No. 248652, January 12, 2021, <https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66777> [Per C.J. Peralta, First Division].

105 *Id.*

106 *Id.*

municipality and of the accused. As we have held in *Talaue*, "[c]riminal liability can neither be mitigated nor extinguished by any arrangement that the GSIS may enter into with an employer."[107]

As to the penalty, the Sandiganbayan penalized petitioners under Section 3.3.1,[108] in relation to Section 17.2.3[109] of the IRR of RA No. 8291. But Section 3.3.1 speaks of the duty to deduct and withhold employees' share from their monthly compensation, and there was neither allegation nor proof that this provision was violated. Rather, petitioners were charged and found liable for their failure to fully and timely remit GSIS contributions. Hence, we find it apt to clarify the proper penalty to be imposed.

Both Sections 52(d) and (g) of RA No. 8291, in relation to Sections 17.2.3 and Section 17.2.6 of its IRR, punishes the failure to fully and timely remit GSIS contributions. Notably, these provisions listed specific persons who may be held liable for such non-remittance. Pertinently, Section 52(d) and Section 17.2.3 include the treasurer as one of the liable persons, and prescribe the penalty of "imprisonment from six (6) months and one (1) day to six (6) years, and a fine of not less than [t]hree thousand pesos ([PHP] 3,000.00) but not more than [s]ix thousand pesos ([PHP] 6,000.00), and in addition shall suffer absolute perpetual disqualification from holding public office and from practicing any profession or calling licensed by the government." On the other hand, Section 52(g) and Section 17.2.6 holds heads of offices of a political subdivision liable, and prescribe a higher penalty of imprisonment of not less than one (1) year nor more than five years and a fine of not less than [t]en thousand pesos ([PHP] 10,000.00) nor more than [t]wenty thousand pesos ([PHP] 20,000.00), and in addition shall suffer absolute disqualification from holding public office and from practicing any profession or calling licensed by the government." Thus, the penalty prescribed under Section 52(d), in relation to Section 17.2.3 applies to Ajijon as treasurer, while that prescribed under Section 52(g), in relation to Section 17.2.6 applies to Ismael as municipal mayor.

Accordingly, as to Ajijon, the penalty is modified to a period of one year to three years of indeterminate imprisonment. The imposed fine amounting to PHP 3,000.00, as well as the absolute disqualification from holding public office and from practicing any profession or calling licensed by the government, stands. As to Ismael, considering her high-ranking

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107 *Id.*

108 Section 3.3.1. It shall be compulsory upon the Employer to deduct and withhold each month from the monthly compensation of each Employee his contributions as specified under Section 31[.]

109 Section 17.2.3. The Heads of Offices, Treasurer, Finance Officer, Cashier, Disbursing Officer, Budget Officer or other official or employee who fails to include in the annual budget the amount corresponding to the employer and employee contribution; or who fails or refuses to remit or delays remittances by more than thirty (30) days from the time such amount becomes due and demandable; or fails to deduct the monthly contributions of the employee shall, upon conviction by final judgment, suffer the penalties of imprisonment from six (6) months and one (1) day to six (6) years, and a fine of not less than [t]hree thousand pesos ([PHP] 3,000[.00]) but not more than [s]ix thousand pesos ([PHP] 6,000[.00]), and in addition shall suffer absolute perpetual disqualification from holding public office and from practicing any profession or calling licensed by the government.

position,[110] the penalty of imprisonment from two to four years imposed by the Sandiganbayan was within the prescribed period under the applicable provision, but the fine should be increased from PHP 3,000.00 to PHP 10,000.00. The absolute disqualification from holding public office and from practicing any profession or calling licensed by the government likewise stands.

One final note. No less than the fundamental law of the land commands accountability from public officers. Section 1, Article XI of the 1987 Constitution states that "[p]ublic office is a public trust[,]" and as such, "[p]ublic officers and employees must, *at all times*, be accountable to the people[.]" Public office comes with burdens and obligations. Those who accept public office subject themselves to all constitutional and statutory provisions, and pledge under oath to perform all the duties of their office. A corollary of public accountability is the highest level of transparency. Indubitably, it would take more than allegations of uncorroborated explanations and blame-shifting to relieve a public officer of liability in failing to perform a clear statutory duty.

ACCORDINGLY, the Verified Petition for Review on *Certiorari* is **PARTIALLY GRANTED**. The Decision dated August 2, 2017 and the Resolution dated September 19, 2017 of the Sandiganbayan in Criminal Case Nos. 28278 and 28279 are **MODIFIED** as follows:

(1) In Criminal Case No. 28278, petitioners Tahira S. Ismael (Ismael) and Aida U. Ajijon (Ajijon) are **ACQUITTED** of the charge under Section 3(e) of Republic Act (RA) No. 3019; and

(2) In Criminal Case No. 28279, Ajijon is found **GUILTY** beyond reasonable doubt of violating Section 52(d) of RA No. 8291, in relation to Section 17.2.3 of its Implementing Rules and Regulations, and is thus sentenced to suffer an indeterminate penalty of imprisonment ranging from one (1) year, as minimum, to three (3) years, as maximum, and to pay a fine of PHP 3,000.00. She shall further suffer absolute perpetual disqualification from holding public office and from practicing any profession or calling licensed by the government. On the other hand, Ismael is found **GUILTY** beyond reasonable doubt of violating Section 52(g) of RA No. 8291, in relation to Section 17.2.6 of its Implementing Rules and Regulations, and is thus sentence to suffer an indeterminate penalty of imprisonment ranging from two (2) years, as minimum, to four (4) years, as maximum, and to pay a fine of PHP 10,000.00. She shall also suffer the penalty of absolute perpetual disqualification from holding public office and from practicing any profession or calling licensed by the government.

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[110] See *Matalam v. People*, 783 Phil. 711, 732 (2016) [Per J. Leonen, Second Division].

SO ORDERED.

MARIO V. LOPEZ
Associate Justice

WE CONCUR:

MARVIC M.V.F. LEONEN
Senior Associate Justice

AMY C. LAZARO-JAVIER
Associate Justice

JHOSEP Y. LOPEZ
Associate Justice

ANTONIO T. KHO, JR.
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the cases were assigned to the writer of the opinion of the Court's Division.

MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson, Second Division

CERTIFICATION

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

ALEXANDER G. GESMUNDO
Chief Justice