



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 261857

Present:

CAGUIOA, J., *Chairperson*,
INTING,
GAERLAN,
DIMAAMPAO, and
SINGH, JJ.

- versus -

CYNTHIA GO MORENO,
PEPITO A. MAGUILIMOTAN,
NONELA N. VILLEGAS,
MARILYN P. FLORDELIZA, and
GERTRUDES D. ABABON,

Promulgated:

May 29, 2024

Accused.

AUGUSTUS CAESAR L.
MORENO and EVANGELINE D.
MANIGOS,

Accused-Appellants.

X-----X

DECISION

INTING, J.:

Before the Court is an appeal¹ under Rule XI, Section 1² of the

¹ See Notice of Appeal dated June 12, 2022, *rollo*, pp. 4-5.

² SECTION 1. *Methods of Review.* —

(a) *In General.* — The 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 filed with the Sandiganbayan and by serving a copy thereof upon the adverse party.

2018 Revised Internal Rules of the Sandiganbayan³ of the Decision⁴ dated February 22, 2022, and Resolution⁵ dated May 23, 2022, of the Sandiganbayan in Criminal Case Nos. SB-17-CRM-2397, SB-17-CRM-2398, and SB-17-CRM-2400, filed by Augustus Caesar L. Moreno (accused-appellant Augustus) and Evangeline D. Manigos (accused-appellant Manigos) (collectively, accused-appellants).

The Antecedents

Accused-appellant Manigos, together with Cynthia Go Moreno (Cynthia), Pepito A. Maguilimotan (Maguilimotan), Nonela N. Villegas (Villegas), Marilyn P. Flordeliza (Flordeliza), and Gertrudes D. Ababon (Ababon), was charged with violation of Section 3(e)⁶ of Republic Act No. 3019, or the Anti-Graft and Corrupt Practices Act, in Criminal Case No. SB-17-CRM-2397. The Information⁷ provides:

On 16 February 2010 and during the period of 26 April 2010 to 30 July 2010, or sometime prior or subsequent thereto, in Aloguinsan, Cebu, Philippines and within this Honorable Court's jurisdiction; public officers CMoreno as Municipal Mayor, Maguilimotan as Bids and Awards Committee (BAC) Chairman, Villegas as BAC Vice Chairman, and Flordeliza, Ababon, and Manigos as BAC Members, all of the Municipality of Aloguinsan, Cebu; while in the performance of their respective administrative and/or official functions, and in conspiracy with one another; acting with manifest partiality, evident bad faith and/or gross inexcusable negligence; did then and there willfully, unlawfully, and criminally give unwarranted benefits and advantage to AVG Bakeshop,

The appeal to the Supreme Court in criminal cases decided by the Sandiganbayan in the exercise of its appellate jurisdiction, and in civil cases shall be by petition for review on *certiorari* under Rule 45 of the 1997 Rules of Civil Procedure.

³ A.M. No. 13-07-05-SB, October 9, 2018.

⁴ *Rollo*, pp. 7-45. Penned by Associate Justice Ronald B. Moreno and concurred in by Presiding Justice Amparo M. Cabotaje-Tang and Associate Justice Bernelito R. Fernandez of the Third Division, Sandiganbayan, Quezon City.

⁵ *Id.* at 46-54. Penned by Associate Justice Ronald B. Moreno and concurred in by Presiding Justice Amparo M. Cabotaje-Tang and Associate Justice Bernelito R. Fernandez of the Third Division, Sandiganbayan, Quezon City.

⁶ 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:

.....

(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.

⁷ SBN *rollo* (Criminal Case No. SB-17-CRM-2397, Vol. II), pp. 1-3.

a sole proprietorship owned by and registered in the name of CMoreno, by causing the repeated procurement by the municipal government of food supplies from AVG Bakeshop in the aggregate amount of approximately SEVENTY-EIGHT THOUSAND THREE HUNDRED SEVENTY-FIVE PESOS (₱78,375.00), despite the following:

1. CMoreno's ownership of AVG Bakeshop and direct pecuniary interest in the transaction;
2. Failure to conduct public bidding and splitting of contracts; and
3. AVG Bakeshop's use of cash slips bearing a non-vat TIN of "250-073-421-000-NV".

CONTRARY TO LAW.⁸

Accused-appellant Manigos was likewise charged with violation of Section 3(e) of Republic Act No. 3019 together with accused-appellant Augustus, Maguilimotan, Villegas, Flordeliza, and Ababon in Criminal Case No. SB-17-CRM-2398.⁹

On 20 April 2010 and during the period of 11 August 2010 to 30 December 2010, or sometime prior or subsequent thereto, in Aloguinsan, Cebu, Philippines, and within this Honorable Court's jurisdiction; public officers AMoreno as Municipal Mayor, Maguilimotan as Bids and Awards Committee (BAC) Chairman, Villegas as BAC Vice Chairman, and Flordeliza, Ababon, and Manigos as BAC Members, all of the Municipality of Aloguinsan, Cebu; while in the performance of their respective administrative and/or official functions, and in conspiracy with one another; acting with manifest partiality, evident bad faith and/or gross inexcusable negligence; did then and there willfully, unlawfully, and criminally give unwarranted benefits and advantage to AVG Bakeshop—a sole proprietorship owned by and registered in the name of AMoreno's spouse, Cynthia G. Moreno—by causing the repeated procurement by the municipal government of food supplies from AVG Bakeshop in the aggregate amount of approximately TWO HUNDRED FOUR THOUSAND THREE HUNDRED FIFTY PESOS (₱204,350.00), despite the following:

1. AMoreno's spouse's ownership of AVG Bakeshop and direct and/or indirect pecuniary interest in the transactions;
2. Failure to conduct public bidding and splitting of contracts; and
3. AVG Bakeshop's use of cash slips bearing a non-vat TIN of "250-073-421-000-NV";

⁸ *Id.* at 1-2.

⁹ *See* Information, SBN *rollo* (Criminal Case No. SB-17-CRM-2398), p. 13.

to the damage and prejudice of the government.

CONTRARY TO LAW.¹⁰

Accused-appellant Augustus was also charged with violation of Section 3(h) of Republic Act No. 3019 in Criminal Case No. SB-17-CRM-2400:¹¹

On 20 April 2010 and from 11 August 2010 to 30 December 2010, or sometime prior or subsequent thereto; in the municipality of Aloguinsan, Cebu, Philippines and within this Honorable Court's jurisdiction; AUGUSTUS CAESAR LIM MORENO (SG 27) as the incumbent Mayor of said municipality; willfully, unlawfully, and criminally intervened in transactions between the municipal government and AVG Bakeshop—a sole proprietorship owned and registered by his spouse CYNTHIA GO MORENO in her name, and doing business in Aloguinsan, Cebu—by requesting and/or reviewing and approving the municipal government's purchases of food supplies from AVG Bakeshop, and their corresponding disbursement vouchers and checks, resulting in the disbursement of public funds in the aggregate amount of TWO HUNDRED FOUR THOUSAND THREE HUNDRED FIFTY PESOS (₱204,350.00).

CONTRARY TO LAW.¹²

Cynthia was likewise charged with violation of Section 3(h)¹³ of Republic Act No. 3019 in Criminal Case No. SB-17-CRM-2399,¹⁴ and violation of Section 9¹⁵ in relation to Section 11¹⁶ of Republic Act No.

¹⁰ *Id.* at 1–2.

¹¹ *See* Information, SBN *rollo* (Criminal Case No. SB-17-CRM-2400), pp. 1–2.

¹² *Id.* at 1.

¹³ 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:

.....
(h) Directly or indirectly having financial or pecuniary interest in any business, contract or transaction in connection with which he intervenes or takes part in his official capacity, or in which he is prohibited by the Constitution or by any law from having any interest.

¹⁴ *See* Information, SBN *rollo* (Criminal Case No. SB-17-CRM-2399), pp. 1–2.

¹⁵ SECTION 9. *Divestment.* — A public official or employee shall avoid conflicts of interest at all times. When a conflict of interest arises, he shall resign from his position in any private business enterprise within thirty (30) days from his assumption of office and/or divest himself of his shareholdings or interest within sixty (60) days from such assumption.

The same rule shall apply where the public official or employee is a partner in a partnership.

The requirement of divestment shall not apply to those who serve the Government in an honorary capacity nor to laborers and casual or temporary workers.

¹⁶ SECTION 11. *Penalties.* — (a) Any public official or employee, regardless of whether or not he holds office or employment in a casual, temporary, holdover, permanent or regular capacity, committing any violation of this Act shall be punished with a fine not exceeding the equivalent of

6713, or the Code of Conduct and Ethical Standards for Public Officials and Employees, in Criminal Case No. SB-17-CRM-2401.¹⁷

Accused-appellants pleaded “Not Guilty” during their respective arraignments, while their co-accused, namely: Cynthia, Maguilimotan, Villegas, Flordeliza, and Ababon, were still at large when the Sandiganbayan promulgated its Decision.¹⁸

Version of the Prosecution

In the years 2010 and 2011, the Commission on Audit (COA) Audit Team conducted an annual audit on the municipality of Aloguinsan, Cebu (Municipality) for the year ended December 31, 2010. They discovered that the Municipality purchased food supplies for a total of PHP 282,725.00 from AVG Bakeshop, paid under 28 disbursement vouchers (DVs) and purchase orders (POs) approved by Cynthia, whose term as Mayor ended in June 2010, and accused-appellant Augustus, who succeeded her as Mayor on July 1, 2010.¹⁹ Accused-appellant Manigos was a member of the Bids and Awards Committee (BAC) when these transactions occurred.²⁰

Based on the official receipts and confirmation with the Department of Trade and Industry (DTI), the COA Audit Team found that AVG Bakeshop is owned by Cynthia; thus, these were prohibited

six (6) months' salary or suspension not exceeding one (1) year, or removal depending on the gravity of the offense after due notice and hearing by the appropriate body or agency. If the violation is punishable by a heavier penalty under another law, he shall be prosecuted under the latter statute.

Violations of Sections 7, 8 or 9 of this Act shall be punishable with imprisonment not exceeding five (5) years, or a fine not exceeding five thousand pesos (P5,000), or both, and, in the discretion of the court of competent jurisdiction, disqualification to hold public office.

(b) Any violation hereof proven in a proper administrative proceeding shall be sufficient cause for removal or dismissal of a public official or employee, even if no criminal prosecution is instituted against him.

(c) Private individuals who participate in conspiracy as co-principals, accomplices or accessories, with public officials or employees, in violation of this Act, shall be subject to the same penal liabilities as the public officials or employees and shall be tried jointly with them.

(d) The official or employee concerned may bring an action against any person who obtains or uses a report for any purpose prohibited by Section 8 (D) of this Act. The Court in which such action is brought may assess against such person a penalty in any amount not to exceed twenty-five thousand pesos (P25,000). If another sanction hereunder or under any other law is heavier, the latter shall apply.

¹⁷ See Information, SBN *rollo* (Criminal Case No. SB-17-CRM-2401), pp. 1-2.

¹⁸ *Rollo*, p. 12.

¹⁹ *Id.* at 14-15.

²⁰ *Id.* at 12.

business transactions under Section 89(a)(1) of Republic Act No. 7160,²¹ or the Local Government Code of 1991, and Section 7(a) of Republic Act No. 6713,²² or the Code of Conduct and Ethical Standards for Public Officials and Employees. The COA Audit Team prepared the Annual Audit Report²³ for the year ended December 31, 2010 and Audit Observation Memorandum²⁴ dated August 26, 2011, stating their findings, addressed to accused-appellant Augustus.²⁵

Danilo L. Margallo (Margallo) filed an Affidavit-Complaint²⁶ dated April 27, 2012, against accused-appellants and their co-accused as well as Emilia Luz A. Celis (Celis), Orven M. Nengasca (Nengasca), Christopher P. Brigoli (Brigoli), and John D. Lim with the Deputy Ombudsman for the Visayas.²⁷ Margallo alleged that he discovered the existence of the COA Annual Audit Report for the year-ended December 31, 2010, which stated, among others, that purchases of food supplies amounting to PHP 282,725.00 made by the Municipality from AVG Bakeshop constituted an unlawful act, and at the time of these transactions, Cynthia was the mayor while accused-appellant Augustus was the vice-mayor.²⁸

Thereafter, Graft Investigation and Prosecution Officer Mellany V. Entica-Ferrolino (Entica-Ferrolino) filed a Complaint²⁹ and Supplemental Complaint-Affidavit³⁰ against accused-appellants and their co-accused before the Office of the Ombudsman (OMB). This resulted in a finding

²¹ SECTION 89. *Prohibited Business and Pecuniary Interest.* —

- (a) It shall be unlawful for any local government official or employee, directly or indirectly, to:
- (1) Engage in any business transaction with the local government unit in which he is an official or employee or over which he has the power of supervision, or with any of its authorized boards, officials, agents, or attorneys, whereby money is to be paid, or property or any other thing of value is to be transferred, directly or indirectly, out of the resources of the local government unit to such person or firm;

²² SECTION 7. *Prohibited Acts and Transactions.* — In addition to acts and omissions of public officials and employees now prescribed in the Constitution and existing laws, the following shall constitute prohibited acts and transactions of any public official and employee and are hereby declared to be unlawful:

- (a) *Financial and material interest.* — Public officials and employees shall not, directly or indirectly, have any financial or material interest in any transaction requiring the approval of their office.

²³ SBN *rollo*, Vol. II (Criminal Case No. SB-17-CRM-2397), pp. 63–108.

²⁴ *Id.* at 109–113.

²⁵ *Rollo*, pp. 14–15.

²⁶ SBN *rollo*, Vol. II (Criminal Case No. SB-17-CRM-2397), pp. 61–62.

²⁷ *Id.* at 59.

²⁸ *Id.* at 61.

²⁹ *Id.* at 56–58.

³⁰ *Id.* at 119–129.

of probable cause against accused-appellants and their co-accused, and the filing of the corresponding criminal cases.³¹

The prosecution presented Entica-Ferrolino, Lydia B. Clapano (Clapano), Paul P. Tolomia (Tolomia), Wilfredo Ismael Picazo III (Picazo), and Samuel D. Capada (Capada) as its witnesses.³²

Entica-Ferrolino identified the complaints she filed against accused-appellants and their co-accused. She testified on the documents submitted together with the complaints.³³

Clapano testified that she was the State Auditor IV of COA that led the COA Audit Team which conducted a regular annual audit on the Municipality for the year ended December 31, 2010 and that they gave accused-appellant Augustus a copy of the Audit Observation Memorandum. The Municipality provided them with copies of the DVs and supporting documents. She identified the DVs upon which the checks issued to AVG Bakeshop were based on.³⁴

Tolomia's testimony was dispensed with after the parties stipulated that: *first*, he is an employee of the COA; *second*, he is the custodian of the documents marked as Exhibits A-2 to A-7³⁵ and B series up to BB-6;³⁶ and *third*, Exhibits A-2 to A-7 and B series up to BB-6, are faithful copies of the original.³⁷

The parties stipulated on the following matters regarding Picazo: *first*, he is an employee of the DTI holding the position of Trade and Industry Development Specialist of the Competitiveness Bureau, Program Management Team for Business Registration; and *second*, if shown the document, he can identify the certification he personally prepared and was signed by Mary Lou A. Gesilva, Assistant Director, Competitiveness

³¹ *Rollo*, p. 13.

³² *Id.*

³³ *Id.* at 13-14.

³⁴ *Id.* at 14-15.

³⁵ Exhibits "A2" to "A7" refer to the COA Annual Audit Report for the Year Ended December 31, 2010, Audit Observation Memorandum, Letter dated September 3, 2013 of BAC Secretariat Irene Joy P. Flordeliza, and Certification from the DTI. SBN *rollo*, Vol. IV (Criminal Case No. SB-17-CRM-2397), pp. 26-29.

³⁶ Exhibits "B" series up to "BB-6" refer to the DVs, POs, checks, journal entry vouchers, cash slips, obligation requests, purchase requests, canvass, abstract of canvass, inspection and acceptance report, and request for quotation for the transactions subject of the case. *Id.* at 29-51.

³⁷ *Rollo*, p. 14.

Bureau of the DTI, whose existence, due execution, and authenticity were admitted by the defense.³⁸ The certification states that Cynthia is the registered owner of AVG Bakeshop.³⁹ Picazo stated that AVG Bakeshop's registration was cancelled on March 14, 2012.⁴⁰

Capada is the Chief Revenue Officer II, designated as the Chief, Client Support Section of the Bureau of Internal Revenue (BIR) Revenue District Office No. 083, Talisay, Cebu. The Municipality is under its jurisdiction. His duties include supervising and controlling the registration of taxpayers, acting on requests for verification of registration of taxpayers, and generating Registration Certificates, Clearances, and Authority to Print Receipts and Invoices. His supervisor, Debbie Angeles V. Garcia, referred a subpoena to him from the Office of the Special Prosecutor – OMB for the registration details of AVG Bakeshop. Capada found the following after verifying with their Integrated Tax System: *first*, AVG Bakeshop was a sole proprietorship registered under the name of Cynthia, with business address at Poblacion, Aloguinsan, Cebu and with Tax Identification Number (TIN) 250-073-421-000 registered on February 8, 2007; *second*, the last authority to print (ATP) was issued on November 2, 2010 with ATP No. 2AU0000519393; and *third*, the business was closed on January 22, 2013.⁴¹

Version of the Defense

The defense presented Marilou B. Arante (Arante), Montana Almazan (Almazan), Brigoli, and accused-appellants as its witnesses.⁴²

Accused-appellant Augustus was the Mayor of the Municipality from July 1, 2010 to June 30, 2013 and the Head of Procuring Entity (HOPE) for the said period. As the HOPE, he established the BAC and the Secretariat composed of Villegas as Chairperson; Maria Iris V. Adrino (Adrino), Flordeliza, accused-appellant Manigos, and Ababon as members; Nengasca as TWG;⁴³ and Celis as the secretariat. Upon submission of the BAC's recommendation for award, he or his

³⁸ *Id.* at 13.

³⁹ SBN *rollo*, Vol. IV (Criminal Case No. SB-17-CRM-2397), p. 136.

⁴⁰ *Rollo*, p. 13.

⁴¹ *Id.* at 17-18.

⁴² *Id.* at 19.

⁴³ The BAC Organization lists down Nengasca's position simply as "TWG." SBN *rollo*, Vol. II (Criminal Case No. SB-17-CRM-2397), p. 107.

representative may approve or deny it based on valid and justifiable grounds.⁴⁴

There was a total of 15 transactions for food purchases amounting to PHP 222,301.00 during accused-appellant Augustus' term. All the transactions were done through shopping because the amount did not exceed PHP 50,000.00, the biggest being PHP 43,200.00. Accused-appellant Augustus approved the recommendation of the BAC based on Republic Act No. 9184, or the Government Procurement Reform Act. He could not interfere in their functions to canvass, prepare price quotations, and recommend the lowest bidder because the office of the BAC is separate and independent. The COA Auditor did not issue a notice of suspension or notice of disallowance for these transactions.⁴⁵

Anent the allegation that his wife Cynthia was the owner of AVG Bakeshop, accused-appellant Augustus explained that it was purchased in 2007 by one Lyn Tojeno (Tojeno), who holds a Job Order position in the Municipality. Cynthia sold the bakeshop because she was told that it was not okay for a mayor to own a business in the Municipality. Tojeno purchased the bakeshop because she used to work at one and the price was affordable. Tojeno was responsible for changing the ownership in the records of the BIR and the DTI. She should not have used the receipts issued in Cynthia's name.⁴⁶

Accused-appellant Manigos was a bookkeeper assigned at the Office of the Municipal Treasurer who was designated as a BAC member from 2009 to 2013. The BAC recommended shopping as a mode of procurement because each transaction did not exceed PHP 50,000.00. The food supplies were provided for meetings and other local events. She assisted in the preparation of abstract canvass, price quotations from local establishments, and neighboring eateries.⁴⁷

Arante is the Municipal Treasurer and the current BAC Chairperson of the Municipality. She was not the BAC Chairperson for the transactions subject of the case because she was not yet connected with the Municipality at that time. She testified on her functions and on shopping as a mode of procurement under Republic Act No. 9184.⁴⁸

⁴⁴ *Rollo*, pp. 22-23.

⁴⁵ *Id.* at 23.

⁴⁶ *Id.* at 23-25.

⁴⁷ *Id.* at 21-22.

⁴⁸ *Id.* at 19-20.

Almazan is the Human Resource Management Officer Designate of the Municipality who has the custody and is responsible for the safekeeping of the following documents: (1) Oath of Office and Service Record of Cynthia; (2) Oath of Office and Service Record of accused appellant Augustus; (3) Service Record of Villegas; (4) Service Record of accused-appellant Manigos; and (5) Service Record of Brigoli. However, she has no personal knowledge as to the facts and circumstances regarding the preparation of these documents.⁴⁹

Brigoli was the Municipal Accountant Designate of the Municipality from July 2, 2010 to December 31, 2014. Aside from enumerating his duties, he identified the DVs and the supporting documents subject of the case that were prepared and processed by his office during the term of accused-appellant Augustus. He explained the process regarding these documents. He testified that accused-appellant Manigos participated as a BAC member in the preparation of abstract of canvass and price quotations but did not participate in the preparation of the DVs. He has no personal knowledge on the procurement of the subject food supplies because the Municipality resorted to shopping.⁵⁰

The Ruling of the Sandiganbayan

In the Decision dated February 22, 2022,⁵¹ the Sandiganbayan ruled as follows:

WHEREFORE, premises considered, judgment is hereby rendered as follows:

1. In Criminal Case No. SB-17-CRM-2397, the Court finds accused Evangeline D. Manigos GUILTY beyond reasonable doubt of violation of Section 3(e) of R.A. No. 3019, as amended, and is hereby sentenced to suffer the indeterminate penalty of imprisonment of (6) [*sic*] years and one (1) month, as minimum, to ten (10) years, as maximum, and to suffer perpetual disqualification from holding public office;
2. In Criminal Case No. SB-17-CRM-2398, the Court finds accused Augustus Caesar L. Moreno and Evangeline D. Manigos GUILTY beyond reasonable doubt of violation of

⁴⁹ *Id.* at 20.

⁵⁰ *Id.* at 20–21.

⁵¹ *Id.* at 7–45.

Section 3(e) of R.A. No. 3019, as amended, and are hereby sentenced to suffer the indeterminate penalty of imprisonment of (6) [*sic*] years and one (1) month, as minimum, to ten (10) years, as maximum, and to suffer perpetual disqualification from holding public office;

3. In Criminal Case No. SB-17-CRM-2400, the Court finds accused Augustus Caesar L. Moreno GUILTY beyond reasonable doubt of violation of Section 3(h) of R.A. No. 3019, as amended, and is hereby sentenced to suffer the indeterminate penalty of imprisonment of (6) [*sic*] years and one (1) month, as minimum to ten (10) years, as maximum, and to suffer perpetual disqualification from holding public office;

Since the Court has not acquired jurisdiction over the persons of accused Cynthia Go Moreno (SB-17-CRM-2397, SB-17-CRM-2399 and SB-17-CRM-2401), Pepito A. Maguilimotan (SB-17-CRM-2397 and SB-17-CRM-2398), Nonela N. Villegas (SB-17-CRM-2397 and SB-17-CRM-2398), Marilyn P. Flordeliza (SB-17-CRM-2397 and SB-17-CRM-2398), and Gertrudes D. Ababon (SB-17-CRM-2397 and SB-17-CRM-2398) as they remain at-large, the cases against them are hereby ordered ARCHIVED, the same to be revived upon their arrest. Let the appropriate warrants of arrest be issued against the said accused.

SO ORDERED.⁵²

For Criminal Case No. SB-17-CRM-2397, the Sandiganbayan ruled that the prosecution was able to prove the existence of all the elements of Section 3(e) of Republic Act No. 3019. *First*, the parties stipulated that accused-appellant Manigos was a public officer, specifically a member of the BAC of the Municipality from February 16, 2010 to December 30, 2010. *Second*, accused-appellant Manigos acted with manifest partiality in favor of AVG Bakeshop. The BAC did not issue a resolution recommending shopping as the mode of procurement of the subject transactions. Accused-appellant Manigos failed to justify that resort to shopping was proper because of an unforeseen contingency. Even if it was justified, there were still irregularities in the procurement process, such as lacking entries in the DVs, undated supporting documents, and the requests for quotation that do not indicate the specific terms and conditions of the items to be procured. In one transaction, the inspection and acceptance were made in December 2009, but the PO and the purchase request were made in May 2010. The BAC further failed to make inquiries to confirm that AVG Bakeshop was qualified. *Third*,

⁵² *Id.* at 42-43.

accused-appellant Manigos gave unwarranted benefits and advantage to AVG Bakeshop. *Finally*, accused-appellant Manigos conspired with Cynthia and her co-BAC members because her repeated participation was essential for the award of the contracts to AVG Bakeshop.⁵³

In Criminal Case No. SB-17-CRM-2398, the Sandiganbayan noted that accused-appellant Augustus was arraigned under the Information for Criminal Case No. SB-17-CRM-2397, to which he pleaded not guilty. Accused-appellant Augustus participated in the proceedings without assailing this. In any event, the Sandiganbayan similarly found the presence of all the elements of Section 3(e) of Republic Act No. 3019. *First*, accused-appellants were public officers and the acts charged against them were done in the performance of their official functions. *Second*, accused-appellants are guilty of manifest partiality towards AVG Bakeshop. The transactions did not undergo competitive bidding. The resort to shopping cannot be justified simply by averring that the amounts did not exceed PHP 50,000.00, as Republic Act No. 9184 requires that there should be an unforeseen contingency requiring immediate purchase of the goods. Assuming otherwise, the procurement process did not meet the conditions under the law. Further, the Sandiganbayan found it suspicious that AVG Bakeshop was allegedly sold to a job order employee of the Municipality. In any event, ownership over the bakeshop was not completely transferred to Tojeno. *Third*, AVG Bakeshop was given unwarranted benefits, advantage, or preference.⁵⁴

As for Criminal Case No. SB-17-CRM-2400, the Sandiganbayan held that the prosecution established all the elements of Section 3(h) here. *First*, accused-appellant Augustus is unquestionably a public officer. *Second*, AVG Bakeshop was registered in the name of Cynthia, accused-appellant Augustus' wife. Though the bakeshop was allegedly sold to Tojeno, Cynthia was still the owner in the records of the BIR and DTI. In addition, Cynthia's TIN appears in the cash slips issued by AVG Bakeshop for the transactions. *Third*, accused-appellant Augustus unlawfully intervened in the transactions by participating as the HOPE.⁵⁵

Accused-appellants filed a Motion for Reconsideration which the Sandiganbayan denied for lack of merit.⁵⁶ Thus, they filed the present

⁵³ *Id.* at 26–34.

⁵⁴ *Id.* at 34–39.

⁵⁵ *Id.* at 39–42.

⁵⁶ *Id.* at 46–54.

appeal to question the ruling of the Sandiganbayan.

In compliance with the Court's Resolution dated October 10, 2022,⁵⁷ the parties filed their respective briefs.⁵⁸ Accused-appellants also filed a reply⁵⁹ to plaintiff-appellee's brief.

Accused-Appellants' Arguments

First, the prosecution did not prove that accused-appellants acted in bad faith. Accused-appellant Augustus and Cynthia no longer had any pecuniary interest in AVG Bakeshop when the Municipality transacted with it. Accused-appellant Augustus honestly believed that its ownership was transferred to Tojeno based on the notarized Deed of Sale dated May 10, 2007. Tojeno likewise executed an affidavit confirming the purchase and transfer of ownership and thereafter, obtained business permits in her own name. Hence, Cynthia did not include AVG Bakeshop in her Statement of Assets, Liabilities, and Net Worth as of December 31, 2007 and December 31, 2008. As for accused-appellant Manigos, she was correct in recommending shopping as the mode of procurement. The BAC obtained at least three price quotations from legitimate suppliers.⁶⁰

Second, there is also no proof that accused-appellants acted with manifest partiality. To reiterate, accused-appellant Augustus and Cynthia no longer had any interest in AVG Bakeshop at the time of the transactions. With respect to accused-appellant Manigos, there is no proof that she acted with manifest partiality.⁶¹

Third, there is no showing of gross inexcusable negligence on the part of accused-appellants. Accused-appellant Augustus merely approved the recommendations of the BAC whom he could reasonably believe to have properly ascertained the technical, legal, and financial capability of the suppliers. Even if there was a violation of the procurement law, this is not tantamount to gross inexcusable negligence.⁶²

⁵⁷ *Id.* at 57–58.

⁵⁸ *Id.* at 79–106 and 107–162, respectively. *

⁵⁹ *Id.* at 308–320.

⁶⁰ *Id.* at 130–136, 313.

⁶¹ *Id.* at 136–137.

⁶² *Id.* at 137–139.

Fourth, the prosecution failed to establish that accused-appellants caused undue injury to the government. No graft and corruption took place in the procurement process.⁶³ There was no issue on the quality of the food procured or its pricing.⁶⁴

Fifth, accused-appellant Augustus did not violate Section 3(h) of Republic Act No. 3019 because the elements of pecuniary interest and intervention are absent.⁶⁵

Finally, accused-appellants' right to speedy disposition of cases has been violated. The fact-finding investigation began on April 27, 2012. The criminal and administrative complaints were formally docketed on October 3, 2014. The OMB issued its Joint Resolution more than two years after, or on November 21, 2016, while the Informations were filed only on December 11, 2017.⁶⁶

Plaintiff-Appellee's Arguments

First, the Sandiganbayan correctly found accused-appellant Manigos guilty of violation of Section 3(e) of Republic Act No. 3019 in Criminal Case Nos. SB-17-CRM-2397 and SB-17-CRM-2398. All the elements are present in the case: (1) accused-appellants were public officers; (2) they acted with evident bad faith, manifest partiality, and/or gross inexcusable negligence when they participated in the procurement of the food supplies despite the glaring irregularities in the process; and (3) they gave unwarranted benefit, advantage, and preference to AVG Bakeshop to the detriment of other prospective bidders, denying the public the best possible advantages of contract. The court *a quo* further noted that accused-appellants were indifferent to the prohibition under Section 89(a) of Republic Act No. 7160 and Section 7(a) of Republic Act No. 6713. More, there were no BAC resolutions justifying the resort to shopping and the procurement process was not duly observed. Considering that AVG Bakeshop was a sole proprietorship which does not have a separate juridical personality, the Municipality literally entered into a contract with Cynthia. As to the alleged sale of AVG Bakeshop, the Sandiganbayan ruled that accused-appellant Augustus failed to prove that the ownership of AVG Bakeshop was indeed transferred to Tojeno.⁶⁷

⁶³ *Id.* at 139-145.

⁶⁴ *Id.* at 314.

⁶⁵ *Id.* at 145-156, 316.

⁶⁶ *Id.* at 156-159.

⁶⁷ *Id.* at 94-100.

Second, the Sandiganbayan was likewise correct that accused-appellant Augustus is guilty of violation of Section 3(h) of Republic Act No. 3019: accused-appellant Augustus was a public officer; *further*, accused-appellant Augustus was married to Cynthia who was the owner of AVG Bakeshop. Thus, he had a direct or indirect financial or pecuniary interest in it; and *furthermore*, accused-appellant Augustus intervened in the transactions with AVG Bakeshop even though he was prohibited from doing so.⁶⁸

Finally, accused-appellants' constitutional right to speedy disposition of cases was not violated. The Sandiganbayan denied their motion to quash because the alleged delay was not inordinate but justified. Accused-appellants did not question the ruling of the Sandiganbayan denying their motion to quash. Hence, they are deemed to have acquiesced to it.⁶⁹

The Issues

First, whether accused-appellants' right to speedy disposition of cases was violated.

Second, whether the Sandiganbayan is correct in convicting accused-appellant Manigos of violation of Section 3(e) of Republic Act No. 3019 in Criminal Case No. SB-17-CRM-2397.

Third, whether the Sandiganbayan is correct in convicting accused-appellants of violation of Section 3(e) of Republic Act No. 3019 in Criminal Case No. SB-17-CRM-2398.

Finally, whether the Sandiganbayan is correct in convicting accused-appellant Augustus of violation of Section 3(h) of Republic Act No. 3019 in Criminal Case No. SB-17-CRM-2400.

The Ruling of the Court

The Court grants the appeal.

⁶⁸ *Id.* at 100-102.

⁶⁹ *Id.* at 102-104.

The right to speedy disposition of cases is provided for in Section 16,⁷⁰ Article III, of the 1987 Constitution. In determining whether the right to speedy disposition of cases has been violated, the following guidelines in *Cagang v. Sandiganbayan*⁷¹ must be considered:

First, the right to speedy disposition of cases is different from the right to speedy trial. While the rationale for both rights is the same, the right to speedy trial may only be invoked in criminal prosecutions against courts of law. The right to speedy disposition of cases, however, may be invoked before any tribunal, whether judicial or quasi-judicial. What is important is that the accused may already be prejudiced by the proceeding for the right to speedy disposition of cases to be invoked.

Second, a case is deemed initiated upon the filing of a formal complaint prior to a conduct of a preliminary investigation. This Court acknowledges, however, that the Ombudsman should set reasonable periods for preliminary investigation, with due regard to the complexities and nuances of each case. Delays beyond this period will be taken against the prosecution. The period taken for fact-finding investigations prior to the filing of the formal complaint shall not be included in the determination of whether there has been inordinate delay.

Third, courts must first determine which party carries the burden of proof. If the right is invoked within the given time periods contained in current Supreme Court resolutions and circulars, and the time periods that will be promulgated by the Office of the Ombudsman, the defense has the burden of proving that the right was justifiably invoked. If the delay occurs beyond the given time period and the right is invoked, the prosecution has the burden of justifying the delay.

If the defense has the burden of proof, it must prove *first*, whether the case is motivated by malice or clearly only politically motivated and is attended by utter lack of evidence, and *second*, that the defense did not contribute to the delay.

Once the burden of proof shifts to the prosecution, the prosecution must prove *first*, that it followed the prescribed procedure in the conduct of preliminary investigation and in the prosecution of the case; *second*, that the complexity of the issues and the volume of evidence made the delay inevitable; and *third*, that no prejudice was suffered by the accused as a result of the delay.

⁷⁰ SECTION 16. All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies.

⁷¹ 837 Phil. 815 (2018).

Fourth, determination of the length of delay is never mechanical. Courts must consider the entire context of the case, from the amount of evidence to be weighed to the simplicity or complexity of the issues raised.

An exception to this rule is if there is an allegation that the prosecution of the case was solely motivated by malice, such as when the case is politically motivated or when there is continued prosecution despite utter lack of evidence. Malicious intent may be gauged from the behavior of the prosecution throughout the proceedings. If malicious prosecution is properly alleged and substantially proven, the case would automatically be dismissed without need of further analysis of the delay.

Another exception would be the waiver of the accused to the right to speedy disposition of cases or the right to speedy trial. If it can be proven that the accused acquiesced to the delay, the constitutional right can no longer be invoked.

In all cases of dismissals due to inordinate delay, the causes of the delays must be properly laid out and discussed by the relevant court.

Fifth, the right to speedy disposition of cases or the right to speedy trial must be timely raised. The respondent or the accused must file the appropriate motion upon the lapse of the statutory or procedural periods. Otherwise, they are deemed to have waived their right to speedy disposition of cases.⁷²

The Court finds that accused-appellants' right to speedy disposition was violated in the present case.

First. The OMB incurred delay in the resolution of the complaint filed against accused-appellants and their co-accused.

The OMB approved the Joint Resolution dated November 21, 2016,⁷³ for the filing of the criminal charges against accused-appellants and their co-accused on November 28, 2016,⁷⁴ or after two years, one month, and 25 days from Entica-Ferrolino's filing of the formal complaint on October 3, 2014; or after one year, nine months, and 16 days from the time the Supplemental Complaint was filed on February 12, 2015.⁷⁵ And if it is counted from accused-appellant Augustus' filing

⁷² *Id.* at 880-882.

⁷³ *Rollo*, pp. 167-188.

⁷⁴ *Id.* at 187.

⁷⁵ *Id.* at 167.

of his position paper on March 25, 2015,⁷⁶ then one year, eight months, and three days have lapsed.

The OMB then rendered its Resolution on the Motions for Reconsideration on February 27, 2017 or two years, four months, and 24 days from the time of the filing of the formal complaint, or four years and 10 months from the time when Margallo filed his affidavit-complaint.

While Ombudsman Administrative Order No. 7, series of 1990, or the Rules of Procedure of the OMB, does not specify the period within which a complaint for a criminal case must be resolved, the Rules of Court apply in a suppletory character.⁷⁷ Rule 112, Section 3⁷⁸ of the Rules of Court provides that the investigating officer must determine whether there is sufficient ground to hold respondent for trial within ten days after the investigation. Clearly then, there was a delay in the resolution of the complaints against accused-appellants.⁷⁹

Even under Ombudsman Administrative Order No. 1, series of 2020,⁸⁰ which has a prospective application,⁸¹ the period taken here still exceeded the maximum period for the conduct of preliminary investigation under said order, which is 12 months for simple cases and 24 months for complex cases.

In addition, the Informations were filed on December 1, 2017, or nine months and four days from the time that the OMB issued its

⁷⁶ SBN *rollo* (Criminal Case No. SB-17-CRM-2397), p. 347.

⁷⁷ Rule V, Section 3 of the Rules of Procedure of the OMB states:

SECTION 3. *Rules of Court, application.* — In all matters not provided in these rules, the Rules of Court shall apply in a suppletory character, or by analogy whenever practicable and convenient.

⁷⁸ SEC. 3. Procedure. — The preliminary investigation shall be conducted in the following manner:

....
(f) Within ten (10) days after the investigation, the investigating officer shall determine whether or not there is sufficient ground to hold the respondent for trial.

⁷⁹ In *Perez v. Sandiganbayan* (888 Phil 990, 1017 [2020]), the Court held that there was a delay when the complaint was resolved after one year, two months, and two days from the filing of the last pleading. In *Malones v. Sandiganbayan* (G.R. Nos. 226887–88, July 20, 2022), the Court held that there was a delay when the OMB found probable cause one year and 20 days from the filing of the last counter-affidavit.

⁸⁰ Titled “Prescribing the Periods in the Conduct of Investigation by the Office of the Ombudsman.” Approved on August 15, 2020.

⁸¹ Section 17. *Applicability.* - These rules shall apply to all cases, complaints, grievances, or requests for assistance filed or brought after they take effect and to further proceedings in cases then pending, except to the extent that their application would not be feasible or would cause injustice to any party.

resolution on the motions for reconsideration on February 27, 2017.

Second. Following *Cagang*, the prosecution bears the burden of justifying the delay. This, the prosecution failed to do.

Although the case involves 28 transactions that took place within one year, the total amount involved here is only PHP 282,725.00. More, the details of these transactions are practically identical, including the participation of accused-appellants and their co-accused, except for the amount. Lastly, the COA Annual Audit Report for the year-ended December 31, 2010, and the Audit Observation Memorandum which contained the COA's findings were attached to the formal complaint filed on October 3, 2014.

To the Court's mind, the case was not so complex that it could not be resolved within the period prescribed under Rule 112, Section 3 of the Rules of Court.

The OMB's delay in the filing of the Informations is likewise unjustified considering that there is nothing left for the OMB to do but to file the Informations.

In *Pacuribot v. Sandiganbayan*,⁸² the Court held that the argument of complexity of the cases should be disregarded when there is significant delay in filing the Informations before the Sandiganbayan because the OMB's findings of fact and conclusions of law at this stage should already be determined; no further evaluation of evidence is expected to be done.⁸³

Lastly. Accused-appellants timely raised the alleged violation of their right to speedy disposition of cases by filing a Motion to Quash⁸⁴ before the Sandiganbayan. They had no remedy available before the OMB, as its Rules of Procedure prohibits the filing of a motion to dismiss except on the ground of lack of jurisdiction. Moreover, it was not their duty to constantly follow-up on the case to ensure its resolution.⁸⁵

⁸² G.R. Nos. 247414–18, July 6, 2022.

⁸³ *Id.* at 12.

⁸⁴ SBN *rollo*, Vol. II (Criminal Case No. SB-17-CRM-2397), pp. 253–265, 328–340.

⁸⁵ *Javier v. Sandiganbayan*, 873 Phil. 951, 966–967 (2020)

Anent plaintiff-appellee's contention that accused-appellants are deemed to have acquiesced that their constitutional right to speedy disposition of cases was not violated when they did not question the Sandiganbayan's ruling denying their motion to quash, the Court finds it to be patently unmeritorious.

It is recognized in jurisprudence that if a motion to quash is denied, the accused may enter a plea, go to trial, and raise the ground for the quashal of the Information in their appeal.⁸⁶ Verily, accused-appellants were not precluded from raising the violation of their right to speedy disposition of cases in their appeal before the Court.

Considering the foregoing, the Court must dismiss the criminal cases against accused-appellants. The violation of their constitutional right to speedy disposition of cases demands nothing less.

WHEREFORE, the appeal is granted. The Decision dated February 22, 2022, and Resolution dated May 23, 2022, of the Sandiganbayan in Criminal Case Nos. SB-17-CRM-2397, SB-17-CRM-2398, and SB-17-CRM-2400 are **REVERSED** and **SET ASIDE**:

1. Criminal Case No. SB-17-CRM-2397 for violation of Section 3(e) of Republic Act No. 3019, or the Anti-Graft and Corrupt Practices Act, against accused-appellant Evangeline D. Manigos is **DISMISSED** for violation of her right to speedy disposition of cases;
2. Criminal Case No. SB-17-CRM-2398 for violation of Section 3(e) of Republic Act No. 3019 against accused-appellants Augustus Caesar L. Moreno and Evangeline D. Manigos is **DISMISSED** for violation of their right to speedy disposition of cases; and
3. Criminal Case No. SB-17-CRM-2400 for violation of Section 3(h) of Republic Act No. 3019 against accused-appellant Augustus Caesar L. Moreno is **DISMISSED** for violation of his right to speedy disposition of cases.

⁸⁶ *People v. Ramoy*, G.R. No. 212738, March 9, 2022, citing *Enrile v. Manalastas*, 746 Phil. 43, 48 (2014).

SO ORDERED.



HENRI JEAN PAUL B. INTING
Associate Justice

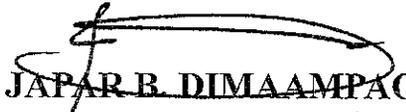
WE CONCUR:



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



SAMUEL H. GAERLAN
Associate Justice



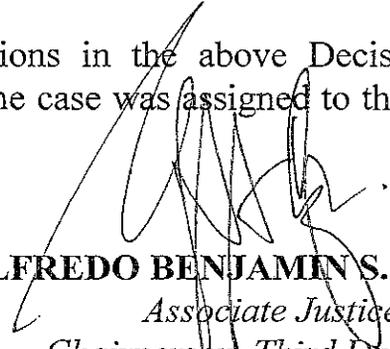
JAPAR B. DIMAAMPAO
Associate Justice



MARIA FILOMENA D. SINGH
Associate Justice

ATTESTATION

I attest 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.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Article VIII, Section 13 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 case was assigned to the writer of the opinion of the Court.



ALEXANDER G. GESMUNDO
Chief Justice