



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. Nos. 250951 and 250958

Present:

GESMUNDO, C.J.,
Chairperson,
HERNANDO,
ZALAMEDA,
ROSARIO, and
MARQUEZ, JJ.

- versus -

HENRY M. GELACIO,
Accused-Appellant.

Promulgated:

AUG 10 2022

X-----X

DECISION

GESMUNDO, C.J.:

This is an Appeal¹ from the April 29, 2019 Decision² and the June 26, 2019 Resolution³ of the Sandiganbayan, Sixth Division (*Sandiganbayan*) in SB-15-CRM-0101-0102, finding Henry M. Gelacio (*accused-appellant*) guilty beyond reasonable doubt of violation of Section 3(e) of Republic Act (R.A.) No. 3019, or the Anti-Graft and Corrupt Practices Act, as amended, and of Sec. 7(d) of R.A. No. 6713, otherwise known as the Code of Conduct and Ethical Standards for Public Officials and Employees.

¹ *Rollo*, pp. 38-41.

² *Id.* at 4-37; penned by Associate Justice Kevin Narce B. Vivero and concurred in by Associate Justices Sarah Jane T. Fernandez and Karl B. Miranda.

³ *Id.* at 160-163.

Antecedents

Accused-appellant was the Regional Agrarian Reform Adjudicator of the Department of Agrarian Reform Adjudication Board (*DARAB*) in Region XII, Kidapawan City. On April 28, 2015, two Informations⁴ for violation of Sec. 3(e) of R.A. No. 3019 and for violation of Sec. 7(d) of R.A. No. 6713, were filed before the Sandiganbayan, docketed as SB-15-CRM-0101 and SB-15-CRM-0102, respectively. He was accused of allegedly soliciting and accepting, on separate occasions, the aggregate amount of ₱120,000.00 and a whole tuna fish in consideration for his issuance of a temporary restraining order (*TRO*) and writ of preliminary injunction (*WPI*) relative to a case docketed as DARAB Case No. XII-990-SC-2007 (*DARAB case*) pending before him.


The accusatory portion of SB-15-CRM-0101 for violation of Sec. 3(e) of R.A. No. 3019 reads:

That on five separate occasions during the period of 14 August to 19 November 2007, or sometime prior or subsequent thereto, in Kidapawan City, Philippines, and within the jurisdiction of this Honorable Court; accused **HENRY MAGAWAY GELACIO**, Regional Agrarian Reform Adjudicator (SG-28) of the Department of Agrarian Reform Adjudication Board - Region XII, Kidapawan City did then and there, wilfully, unlawfully, criminally and with evident bad faith, demand and extort from Eduardito Garbo and the group of Miguel Egagamao, Marisa Egagamao, Bebiano Egagamao, Zenona Egagamao, Saturnina Egagamao, Dominador Egagamao, Lucia Egagamao, Celso Palado, Sr., Aniceto Mejala, Jonathan Villegas, Herminigilda Garbo, Shirley Glodove and Norberto Malubay as complainants in DARAB Case NO. XII-990-SC-2007 (Miguel Egagamao, et al. vs. DARBACI and Alfonso, et al.), the total amount of ONE HUNDRED TWENTY THOUSAND PESOS (₱120,000.00) and a whole tuna fish in exchange for the issuance in said DARAB case of a Temporary Restraining Order and Injunction Order in complainants' favor; for which reason said complainants were forced to sell their farm animals, tools and materials at extremely low prices, resulting in more difficult farming conditions and their children's inability to continue attending school; thus causing undue injury to said complainants in the amount of no less than ₱120,000.00, and in undue injury even to said DARAB case respondents DARBACI and Alfonso, et al. whose rights and interests were compromised; to the damage and prejudice of said parties.

CONTRARY TO LAW.⁵

⁴ Id. at 5-6.

⁵ Id. at 5.



On the other hand, the accusatory portion of SB-15-CRM-0102 for violation of Sec. 7(d) of R.A. No. 6713 reads:

That on five separate occasions during the period of 14 August to 19 November 2007, or sometime prior or subsequent thereto, in Kidapawan City, Philippines, and within the jurisdiction of this Honorable Court; accused Regional Agrarian Reform Adjudicator (SG-28) of the Department of Agrarian Reform Adjudication Board - Region XII, Kidapawan City did then and there, wilfully, unlawfully, criminally solicit and accept from Eduardito Garbo and the group of Miguel Egagamao, Marisa Egagamao, Bebiano Egagamao, Zenona Egagamao, Saturnina Egagamao, Dominador Egagamao, Lucia Egagamao, Celso Palado, Sr., Aniceto Mejala, Jonathan Villegas, Herminigilda Garbo, Shirley Glodove and Norberto Malubay as complainants in DARAB Case NO. XII-990-SC-2007 (Miguel Egagamao, et al. vs. DARBACI and Alfonso, et al.), the total amount of ONE HUNDRED TWENTY THOUSAND PESOS (₱120,000.00) and a whole tuna fish in the course of and in exchange for the issuance in said DARAB case of a Temporary Restraining Order and Injunction Order in complainants' favor.

CONTRARY TO LAW.⁶

During arraignment, accused-appellant pleaded not guilty to both charges. Upon pre-trial, the parties entered into the following relevant stipulations:

1. Accused-appellant was the Regional Agrarian Reform Adjudicator of the DARAB, Region XII and concurrent Adjudicator for the other provinces in said region: Sultan Kudarat, North and South Cotabato and Maguindanao;
2. In 2007, the DARAB case was assigned to accused-appellant for adjudication; and
3. A TRO and a WPI were issued in DARAB XII-990-SC-2007.⁷

After pre-trial was terminated, trial on the merits ensued.

Version of the prosecution

The prosecution presented four witnesses: (1) Lorna Nietes Garte, the Supervising Agrarian Reform Program Officer and designated Clerk of the

⁶ Id. at 6.

⁷ Id.

DARAB, Office of the Provincial Adjudicator, who proved the existence of the Complaint in the DARAB case and the issuance of the TRO and WPI in the said case; (2) Atty. Johnny Landero (*Atty. Landero*), the counsel of complainants in the DARAB case; (3) Herminigilda Garbo (*Herminigilda*), the wife of private complainant and a co-complainant in the DARAB case; and (4) Dominador Egagamao, a co-complainant in the DARAB case, who testified that he contributed his money to come up with the amounts demanded by accused-appellant in exchange for the issuance of the TRO and WPI in the DARAB case.⁸

Eduardito Garbo (*private complainant*) was unable to testify because he died a few years after the filing of the criminal complaint against accused-appellant.⁹

From the collective testimonies of the witnesses, the prosecution evidence tends to establish that a Complaint dated August 1, 2007 was filed by several farmers, including Herminigilda, before the DARAB, docketed as DARAB Case No. XII-990-SC-2007, entitled "*Miguel Egagamao, et al. v. DARBC, et al.*" and the case was assigned to accused-appellant.¹⁰ According to Atty. Landero, the farmers appointed private complainant to represent them in the DARAB case although no Special Power of Attorney was executed.¹¹

Atty. Landero testified that he was the counsel of the farmers in said DARAB case. Upon filing of the complaint, Atty. Landero was advised by the DARAB's receiving officer to meet with accused-appellant regarding the issuance of provisional remedies prayed for in the complaint. According to Atty. Landero, he and private complainant met with accused-appellant and, after a short briefing of the case, private complainant informed Atty. Landero of his intention to talk privately with accused-appellant. Thus, Atty. Landero went out of accused-appellant's office and waited for his client. Afterwards, private complainant narrated to Atty. Landero that accused-appellant asked for cash amounting to ₱20,000.00 and that private complainant gave said sum to accused-appellant.¹²

Atty. Landero added that on September 13, 2007, private complainant and his wife gave another ₱20,000.00 to accused-appellant for the immediate issuance of the TRO. On September 24, 2007, Atty. Landero received a call from accused-appellant asking for private complainant to

⁸ Id. at 7-14.

⁹ Id. at 11.

¹⁰ Id. at 8.

¹¹ Id. at 11.

¹² Id. at 8.

meet him at a certain hotel. Atty. Landero agreed and drove his car to meet private complainant outside the hotel. Atty. Landero, however, stayed in the car while private complainant went inside the hotel. When he came back, private complainant showed to Atty. Landero the draft TRO, informed him that he paid accused-appellant an additional ₱20,000.00, and that the latter also requested for a tuna fish.¹³

Later, Atty. Landero and private complainant went to the former's house to obtain an ice box, and from there, proceeded to General Santos fish port where private complainant bought a tuna fish. Thereafter, Atty. Landero called accused-appellant to ask him where to deliver the fish. They delivered the fish to accused-appellant and the latter's driver assisted them in loading the fish onto their pick-up truck. Subsequently, private complainant informed Atty. Landero that accused-appellant had called to advise him that the TRO could be picked up in Kidapawan City. He also informed Atty. Landero that he gave accused-appellant another ₱20,000.00. Private complainant obtained the injunction and told Atty. Landero "*Mahal man hid ka injunction oy [P]40,000 man*" which meant "the price of the injunction is very high, it is worth [P]40,000."¹⁴

Atty. Landero further testified that every time there would be a meeting between private complainant and accused-appellant, the farmers in the DARAB case would also hold a meeting to contribute money to be brought to accused-appellant. He apprised the Sandiganbayan that private complainant died after two or three years from the filing of the case against accused-appellant.¹⁵

Private complainant's wife, Herminigilda, recalled that she accompanied her husband twice to Kidapawan City to give money to accused-appellant. On one incident, they gave ₱20,000.00 to accused-appellant's "*body body*" (assistant) as the latter was not in his office when they arrived. On the second incident, accused-appellant once again asked for money, and Herminigilda took out an envelope containing ₱20,000.00 from her brassiere and gave it to her husband who, in turn, handed it to accused-appellant. Upon inquiry, accused-appellant confirmed that he received the previous ₱20,000.00 that the spouses handed to his assistant.¹⁶

According to Herminigilda, the giving of money to accused-appellant adversely affected the livelihood of the farmers in the DARAB case because they had to sell their cows, hogs, and sprayers. She even claimed that she

¹³ Id. at 9.

¹⁴ Id. at 10-11.

¹⁵ Id. at 11.

¹⁶ Id. at 12.

could no longer give money to her youngest son who was attending school. While accompanying her husband, Herminigilda saw accused-appellant many times but it was only private complainant who was able to talk to him.¹⁷

Version of the defense

On the other hand, the defense presented three witnesses: (1) accused-appellant; (2) Bebiano Egagamao (*Bebiano*), one of the complainants in the DARAB case and the brother of prosecution witness Dominador Egagamao; and (3) Atty. Noli Lechonsito (*Atty. Lechonsito*), the Chief of the Legal Division of the Department of Agrarian Reform in Cotabato City. The defense testimonies were summarized as follows:

Accused-appellant denied all the charges against him, stating that private complainant had filed a disbarment case against him before this Court, which was dismissed for being inconclusive and unreliable. Bebiano also testified that it was true that their group held meetings and contributed money, but he claimed that it was given to Atty. Landero, their lawyer in the DARAB case. Lastly, Atty. Lechonsito testified that he assisted private complainant in drafting an affidavit of retraction of his accusations against accused-appellant, which he filed with the Office of the Ombudsman (*Ombudsman*).¹⁸

After the parties submitted their respective memoranda, the case was submitted for resolution by the Sandiganbayan.

Sandiganbayan Ruling

In its Decision dated April 29, 2019, the Sandiganbayan found accused-appellant guilty beyond reasonable doubt of the crimes charged, the dispositive portion of which, reads:

WHEREFORE, in light of all the foregoing, [judgment] is hereby rendered as follows:

- (1) In **Criminal Case No. SB-15-CRM-0101**, the Court finds Henry Magaway Gelacio **GUILTY** beyond reasonable doubt of violation of Section 3(e) of R.A. No. 3019, and is hereby sentenced to suffer the following penalties: (a) imprisonment

¹⁷ Id. at 12-13.

¹⁸ Id. at 14-17.

for six (6) years and one (1) month, as minimum, to eight (8) years, as maximum; and (b) perpetual disqualification from public office.

- (2) In **Criminal Case No. SB-15-CRM-0102**, the Court finds Henry Magaway Gelacio **GUILTY** beyond reasonable doubt of violation of Section 7(d) of R.A. No. 6713 and is hereby sentenced to suffer the following penalties: (a) imprisonment from one (1) year and one (1) day, as minimum, to five (5) years, as maximum; (b) fine of Five Thousand Pesos (PhP5,000.00); and disqualification to hold public office.

SO ORDERED.¹⁹

The Sandiganbayan held that all the elements of the crimes charged were satisfactorily established and that accused-appellant's defense of denial was sweeping and self-serving, which cannot prevail over the direct and positive testimonies of the prosecution's witnesses. The Sandiganbayan focused and lent evidentiary weight on the testimonies of Atty. Landero and Herminigilda. According to the Sandiganbayan, Atty. Landero positively testified on the delivery of the tuna fish that was requested by accused-appellant as he had personal knowledge of the incident, and that he called up accused-appellant directly on where to deliver the fish. Meanwhile, Herminigilda was a direct witness to the giving by private complainant of the money to accused-appellant in his office. The Sandiganbayan did not give credence to the alleged affidavit of retraction executed by private complainant because the same was not offered in evidence; and also, that affidavits of desistance are looked upon with disfavor. The Sandiganbayan concluded that the testimonies of the prosecution witnesses are sufficient to convict accused-appellant even without the testimony of private complainant.²⁰

Accused-appellant filed a motion for reconsideration but it was denied in the June 26, 2019 Resolution of the Sandiganbayan.

Later, accused-appellant filed a Notice of Appeal²¹ with the Sandiganbayan, which was, however, dismissed in a Minute Resolution dated September 4, 2019 for lack of proof of payment of the necessary appellate docket and other lawful fees. Accused-appellant filed a manifestation and motion for reconsideration of the September 4, 2019 Minute Resolution. The Sandiganbayan granted accused-appellant's manifestation and motion for reconsideration and gave due course to his

¹⁹ Id. at 36.

²⁰ Id. at 20-36.

²¹ Id. at 38-41.

notice of appeal *via* its January 10, 2020 Resolution.²² The dispositive portion of said resolution states:

WHEREFORE, the Court resolves as follows:

- a. Accused Gelacio's *Motion for Leave of Court* is **NOTED**[:]
- b. Accused Gelacio's *Motion for Reconsideration* is **GRANTED**. The *Resolution* dated September 4, 2019 is reversed and set aside;
- c. The Division Clerk of Court is directed to accept the belated payment of the appellate and legal fees; and,
- d. Accused Gelacio's appeal is given due course. The Division Clerk of Court is directed to elevate the records of this case to the Supreme Court.

SO ORDERED.²³

Hence, this appeal.

Issues

Accused-appellant raises the following assignment of errors:

- I. WHETHER THE SANDIGANBAYAN COMMITTED ERROR WHEN IT RELIED ON HEARSAY EVIDENCE IN ASCERTAINING THE EXISTENCE OF THE ELEMENTS OF THE CRIMES; AND WHEN IT FOUND ACCUSED-APPELLANT GUILTY OF THE CRIMES DESPITE GRAVE DOUBT ON THE IDENTITY OF THE PERSON, WHO SUPPOSEDLY SOLICITED/ACCEPTED GIFTS FROM PLAINTIFFS IN DARAB CASE NO. XII-990-SC-2007; AND THE COMMISSION OF THE CRIMINAL OFFENSES CHARGED.

- II. WHETHER THE SANDIGANBAYAN COMMITTED ERROR WHEN IT FAILED TO APPRECIATE THAT THE PROSECUTION HAD COME TO COURT WITH UNCLEAN HANDS, HAVING PROSECUTED ACCUSED-APPELLANT TO THE EXCLUSION OF PRIVATE COMPLAINANT AND HIS WITNESSES IN

²² Id. at 42-58.

²³ Id. at 58.

VIOLATION OF ACCUSED-APPELLANT'S RIGHT TO
EQUAL PROTECTION OF THE LAWS.²⁴

In his Brief,²⁵ accused-appellant argues that his conviction was merely anchored on hearsay evidence because private complainant failed to testify, and that the prosecution witnesses' testimonies were based only on the representations made by other parties and were laced with inconsistencies. Further, accused-appellant contends that positive identification was not proven as private complainant, who passed away, was the "fixer." He maintains that none of the other witnesses actually saw accused-appellant accepting the corruption money. He theorizes that private complainant could have pocketed the money himself, casting grave doubt as to whether he indeed committed the crimes charged. Accused-appellant also points out that private complainant had previously filed multiple cases against him and that he had been cleared of professional misconduct by this Court. Finally, accused-appellant submits that the prosecution had come to the court with unclean hands as private complainant and his witnesses expressly admitted corrupting or attempting to corrupt accused-appellant.²⁶

The People of the Philippines, represented by the Ombudsman through the Office of the Special Prosecutor (*OSP*), also filed its Brief.²⁷ The *OSP* counters that the testimonies of the prosecution witnesses were not hearsay evidence as said witnesses have personal knowledge of the factual circumstances they narrated before the Sandiganbayan. Further, the statements were consistent with private complainant's written manifestation, the due execution and preparation thereof being affirmed by Atty. Landero, who assisted him in its preparation. The *OSP* also argues that the evidence adduced by the prosecution clearly and succinctly established all the elements of both crimes. Finally, the *OSP* underscores that the maxim "coming to court with unclean hands" applies only to justice and equity in settling civil rights and obligations between two litigants.²⁸

In his Reply Brief,²⁹ accused-appellant highlights that the *OSP*'s brief was belatedly filed or filed 58 days late, and hence, should be treated as a mere scrap of paper.³⁰

²⁴ Id. at 87-88.

²⁵ Id. at 74-125.

²⁶ Id. at 88-121.

²⁷ Id. at 188-209.

²⁸ Id. at 200-202.

²⁹ Id. at 215-221.

³⁰ Id. at 216.

The Court's Ruling

The appeal is partly meritorious.

*Violation of Sec. 3(e) of R.A.
No. 3019*

Accused-appellant was charged with violation of Sec. 3(e) of R.A. No. 3019, which reads:

Section 3. *Corrupt practices of public officers.* In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

x x x x

(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

To sustain a conviction under the said provision, the prosecution must sufficiently establish the following elements:

- (1) the offender is a public officer;
- (2) the act was done in the discharge of the public officer's official, administrative or judicial functions;
- (3) the act was done through manifest partiality, evident bad faith, or gross inexcusable negligence; and
- (4) the public officer caused any undue injury to any party, including the Government, or gave any unwarranted benefits, advantage or preference.³¹

On the first and second elements, there is no doubt that accused-appellant is a public officer as he himself admitted and as established in the pre-trial stipulations. It is also clear that the complained acts of accused-

³¹ *People v. Pallasigue*, G.R. Nos. 248653-54, July 14, 2021.

appellant were discharged in consonance with his official and judicial functions as the Regional Agrarian Reform Adjudicator of the DARAB. Hence, he had the authority to issue the TRO and the WPI that were needed by the complainants.

Anent the third element, jurisprudence has established that the offense under Sec. 3(e) may be committed in three ways. There is manifest partiality when there is a clear, notorious, or plain inclination or predilection to favor one side or person rather than another. "Partiality" is synonymous with "bias" which "excites a disposition to see and report matters as they are wished for rather than as they are." In *Martel v. People*³² (*Martel*), the Court explained that under Sec. 3(e) of R.A. No. 3019, manifest partiality is in the nature of *dolo*. Hence, it must be proven that the offender had malicious and deliberate intent to bestow unwarranted partiality in favor of another.

Evident bad faith, on the other hand, pertains to bad judgment as well as palpably and patently fraudulent and dishonest purpose to do moral obliquity or conscious wrongdoing for some perverse or ill will. In *Martel*, the Court expounds that evident bad faith "does not simply connote bad judgment or negligence" but of having a "palpably and patently fraudulent and dishonest purpose to do moral obliquity or conscious wrongdoing for some perverse motive or ill will. It contemplates a state of mind affirmatively operating with furtive design or with some motive or self-interest or ill will or for ulterior purposes."³³ In *Martel*, it was emphasized that the presence of evident bad faith requires that the accused acted with a malicious motive or intent, or ill will. It is not enough that the accused violated a provision of law or that the provision of law violated is clear, unmistakable, and elementary. To constitute evident bad faith, it must be proven that the accused acted with fraudulent intent.³⁴

Meanwhile, gross inexcusable negligence is that negligence characterized by the want of even the slightest care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but wilfully and intentionally, with conscious indifference to consequences insofar as other persons may be affected.³⁵

From here, it must be pointed out that findings of fact of the Sandiganbayan, as a trial court, are accorded great weight and respect, especially on the assessment or appreciation of the testimonies of

³² G.R. Nos. 224720-23 & 224765-68, February 2, 2021.

³³ *Id.*

³⁴ *Id.*

³⁵ *Sabalдан, Jr. v. Office of the Ombudsman for Mindanao*, G.R. No. 238014, June 15, 2020.

witnesses.³⁶ This is more so when there is nothing to show that the ruling of the court was tainted with malice or bad faith. Hence, the findings of fact are binding and conclusive on this Court in the absence of a showing that they come under the established exceptions.³⁷

In light of this, the Court's review of the records of the case shows that accused-appellant committed manifest partiality and evident bad faith, which resulted in causing undue injury to private complainant and the farmers in the DARAB case, by draining their resources to secure the TRO.

There was manifest partiality when accused-appellant, instead of issuing the provisional remedies based on the merits of the case, expedited the issuance of the TRO prayed for in private complainant's DARAB case in consideration of monetary and non-monetary gifts. As mentioned, manifest partiality occurs "when there is a clear, notorious or plain inclination or predilection to favor one side or person rather than another."³⁸ The Court is convinced that accused-appellant had malicious and deliberate intent to cause undue injury, through manifest partiality, to private complainant in the issuance of the TRO.

In this case, accused-appellant inappropriately met with private complainant several times for purposes of discussing the latter's case, facilitated the immediate release of the TRO for several considerations, and released a copy of the TRO to a private person instead of issuing the same in due course of a proper proceeding. These acts show a clear malicious inclination on the part of accused-appellant to violate the law by giving undue preference to private complainant in exchange for monetary and non-monetary considerations.

Further, there was evident bad faith on accused-appellant's acts of soliciting and accepting money and a tuna fish from private complainant. Accused-appellant, as a public official, knew all too well that he was violating the laws against solicitation and acceptance of gifts of public officials and employees. The acts of privately meeting private complainant, soliciting money and a tuna fish, and issuing a provisional remedy for consideration are clear acts done for a dishonest purpose, self-interest, and ill will. There is nothing that will justify the acts of accused-appellant in accepting monetary and non-monetary considerations in exchange of a favorable action in the administrative case he was officially presiding.

³⁶ *Office of the Court Administrator v. Amor*, A.M. No. RTJ-00-1535, November 10, 2020.

³⁷ *Balderama v. People*, 566 Phil. 412, 420 (2008).

³⁸ *Martel v. People*, supra note 32.

While private complainant had died before he was able to testify before the Sandiganbayan, the prosecution was still able to present other witnesses who had direct knowledge of the acts committed by accused-appellant, particularly, the acceptance of the money and the tuna fish in exchange for a favorable action in the administrative case before the DARAB. Herminigilda testified that she accompanied her husband, private complainant, twice to Kidapawan City to give money to accused-appellant. On the first incident, they gave ₱20,000.00 to accused-appellant's assistant. On the second incident, accused-appellant once again asked for money, and Herminigilda handed an envelope containing ₱20,000.00 to her husband, who in turn, gave it to accused-appellant.³⁹ On the other hand, Atty. Landero had personal knowledge that he and private complainant proceeded to General Santos fish port to buy tuna fish and he witnessed the fish being delivered to accused-appellant.⁴⁰ These established facts clearly demonstrate the manifest partiality and evident bad faith committed by accused-appellant.

Finally, on the fourth element, there are two ways by which Sec. 3(e) of R.A. No. 3019 may be violated, to wit: (1) by causing undue injury to any party, including the government; or (2) by giving any private party any unwarranted benefit, advantage, or preference.⁴¹

In *Giangan v. People*,⁴² the Court defined “causing undue injury” as causing actual injury or damage. The word “undue” means “more than necessary, not proper, or illegal” while “injury” means “any wrong or damage done to another, either in his person, rights, reputation or property; the invasion of any legally protected interest of another.” Hence, actual damage in the context of these definitions is akin to that in civil law.⁴³ On the other hand, giving any party unwarranted benefit, advantage or preference in the discharge of his or her functions means giving a gain of any kind without justification or adequate reasons.⁴⁴

In this case, the undue injury was brought about when accused-appellant solicited and accepted money and a tuna fish from private complainant in exchange for the issuance of a TRO. This, in turn, forced the latter and the farmers in the DARAB case to sell their farm animals, tools, and materials to raise the funds demanded by accused-appellant, which led to more difficult farming conditions.⁴⁵ Atty. Landero even stated that every

³⁹ *Rollo*, pp. 8-13.

⁴⁰ *Id.* at 9-10.

⁴¹ *Montejo v. People*, G.R. Nos. 248086-93 & 248702-09, June 28, 2021.

⁴² 767 Phil. 738 (2015).

⁴³ *Id.* at 746, citing *Pecho v. Sandiganbayan*, 308 Phil. 120, 140 (1994).

⁴⁴ *Bacasmás v. Sandiganbayan*, 713 Phil. 639, 663 (2013).

⁴⁵ *Rollo*, pp. 12-14, 27, and 30.

time there would be a meeting between private complainant and accused-appellant, the farmers in the DARAB case would also conduct a meeting to contribute money to be brought to accused-appellant.⁴⁶ As attested by Herminigilda, the giving of money to accused-appellant caused a big effect on the livelihood of the farmers in the DARAB case.⁴⁷

Private complainant should have received a fair trial in the DARAB case without resorting to giving accused-appellant monetary and non-monetary gifts. However, due to the nefarious solicitations of accused-appellant, private complainant had to expend additional and unnecessary personal funds to secure a TRO from the DARAB. Indubitably, the acts of accused-appellant, through manifest partiality and evident bad faith, caused undue injury to private complainant.

Public officials and employees are expected to perform their duties without expecting or demanding anything in return. In the same vein, accused-appellant, in his capacity as the Regional Agrarian Reform Adjudicator of the DARAB, is expected to have the cold neutrality of an impartial judge and to serve the public with utmost responsibility, integrity, loyalty, and efficiency.⁴⁸

*Violation of Sec. 7(d) of R.A.
No. 6713*

Accused-appellant was also charged with violation of Sec. 7(d) of R.A. No. 6713, which reads:

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:

X X X X

(d) Solicitation or acceptance of gifts. — Public officials and employees shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value from any person in the course of their official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of their office.

⁴⁶ Id. at 11.

⁴⁷ Id. at 12-13.

⁴⁸ CONSTITUTION, Article XI, Sec. 1.



To sustain a conviction under the said provision, the prosecution must sufficiently establish the following elements:

- (a) that the accused is a public official or employee;
- (b) that the accused solicited or accepted any loan or anything of monetary value from any person; and
- (c) that the said act was done in the course of the accused's official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of his office.⁴⁹

However, it must be pointed out that Sec. 11(a) of R.A. No. 6713 provides that if the violation under R.A. No. 6713 is punishable by a heavier penalty under another law, then the offender shall be prosecuted under the said statute. The provision states:

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 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. (Emphasis and underscoring supplied)

Verily, the statutory provision clearly states that if the violation of R.A. No. 6713 is punishable by a heavier penalty under another law, the offender shall be prosecuted under the latter statute. The use of the word "shall" in a statute or rule expresses what is mandatory and compulsory, hence, the obligatory language of Sec. 11(a) of R.A. No. 6713 should have been observed and followed by the Sandiganbayan.⁵⁰

The Senate deliberations on Senate Bill No. 139, which eventually became R.A. No. 6713, show that the lawmakers intended to proscribe two

⁴⁹ *Malicse-Hilaria v. Reyes*, G.R. No. 251680, November 17, 2021.

⁵⁰ See *People v. Palaña*, G.R. Nos. 243547-48, June 16, 2021.

or more prosecutions for violations of R.A. No. 6713 and of the other laws with similar provisions, to wit:

SENATOR GONZALES — Mr. President, some of the acts or omissions which are punishable under this bill are somehow covered already by the provisions of the Anti-Graft and Corrupt Practices Act and also the Revised Penal Code.

Is it my understanding then that a conviction or acquittal, and in a prosecution for violation of any of this provision would constitute a bar to another prosecution for the same offense punishable under the Anti-Graft and Corrupt Practices or the Revised Penal Code?

SENATOR SAGUISAG. I believe that this is a fair statement of my own personal opinion.⁵¹ (Emphases supplied)

Thus, it is clear from the Senate deliberations that the lawmakers agreed that an accused may not be prosecuted twice for violation of R.A. No. 6713 and other laws, especially if the violation of other laws imposes a higher penalty, as in this case.⁵² Consequently, Sec. 11(a) of R.A. No. 6713 reflects that if the violation under R.A. No. 6713 is punishable by a heavier penalty under another law, the offender shall be prosecuted under the latter statute.

In this case, the Sandiganbayan should not have allowed accused-appellant to be prosecuted for both Sec. 3(e) of R.A. No. 3019 and Sec. 7(d) of R.A. No. 6713 in view of the mandatory import of Sec. 11(a) of R.A. No. 6713. The Court notes that accused-appellant was charged under two separate Informations – one for Sec. 3(e) of R.A. No. 3019 and one for Sec. 7(d) of R.A. No. 6713 – which allege substantially the same facts and are identical to the other.

In summary, the Information for violation of Sec. 3(e) of R.A. No. 3019 reads in part:

That on five separate occasions x x x accused x x x wilfully, unlawfully, criminally and with evident bad faith, **demand and extort from Eduardito Garbo and the group x x x in DARAB Case NO. XII-990-SC-2007 x x x the total amount of ONE HUNDRED TWENTY THOUSAND PESOS (P120,000.00) and a whole tuna fish in exchange for the issuance in said DARAB case of a Temporary Restraining**

⁵¹ Senate Deliberations in Senate Bill No. 139 (Second Reading); see *People v. Perez*, G.R. No. 198303, May 3, 2021.

⁵² *Id.*

Order and Injunction Order in complainants' favor x x x.⁵³ (Emphases supplied)

On the other hand, the Information for violation of Sec. 7(d) of R.A. No. 6713, states:

That on five separate occasions x x x accused x x x wilfully, unlawfully, criminally **solicit and accept from Eduardito Garbo and the group x x x in DARAB Case NO. XII-990-SC-2007 x x x the total amount of ONE HUNDRED TWENTY THOUSAND PESOS (₱120,000.00) and a whole tuna fish in the course of and in exchange for the issuance in said DARAB case of a Temporary Restraining Order and Injunction Order in complainants' favor.**⁵⁴ (Emphases supplied)

A comparison of the two readily shows that both violations consist of the same acts, *i.e.*, the extortion or solicitation from private complainant of the total amount of ₱120,000.00 and a whole tuna fish in exchange for provisional remedies in private complainant's favor.

Sec. 3(e) of R.A. No. 3019 penalizes a public officer who causes undue injury to any party by giving unwarranted benefits or advantages, while Sec. 7(d) of R.A. No. 6713 penalizes a public official soliciting or accepting any gifts or anything of monetary value in connection with any operation or transaction which may be affected by the functions of their office. In this case, accused-appellant was found guilty of committing manifest partiality and evident bad faith which resulted in undue injury to the private complainant. As already discussed, manifest partiality and evident bad faith were proven when accused-appellant extorted/solicited monetary and non-monetary gifts to issue the provisional reliefs in private complainant's favor. These same acts of the offender are used as basis to prosecute accused-appellant for the identical violation of Sec. 7(d) of R.A. No. 6713. Evidently, both laws essentially penalize the same violation of accused-appellant.

Again, if the violation under R.A. No. 6713 is punishable by a heavier penalty under another law, such as Sec. 3(e) of R.A. No. 3019, the offender shall be prosecuted under the latter statute. The prescribed penalty for violation of Sec. 3(e) in R.A. No. 3019 is imprisonment of not less than six (6) years and one (1) month nor more than 15 years;⁵⁵ while violation of Sec.

⁵³ *Rollo*, p. 5.

⁵⁴ *Id.* at 6.

⁵⁵ Sec. 2, Batas Pambansa Blg. 195, entitled "AN ACT AMENDING SECTIONS EIGHT, NINE, TEN, ELEVEN, AND THIRTEEN OF REPUBLIC ACT NUMBERED THIRTY HUNDRED AND NINETEEN, OTHERWISE KNOWN AS THE ANTI-GRAFT AND CORRUPT PRACTICES ACT." Approved: March 16, 1982.

7(d) in R.A. No. 6713 prescribes the penalty of imprisonment not exceeding five (5) years or a fine not exceeding ₱5,000.00, or both.⁵⁶ As Sec. 3(e) of R.A. No. 3019 prescribes a heavier penalty, accused-appellant may only be prosecuted under the said law. The criminal charge against accused-appellant for violation of Sec. 7(d) in R.A. No. 6713 should be dismissed. He must be acquitted of that particular charge.

It is a well-entrenched rule that penal laws are to be construed strictly against the State and liberally in favor of the accused.⁵⁷ Hence, as mandated by Sec. 11(a) of R.A. No. 6713, accused-appellant shall only be prosecuted for violation of Sec. 3(e) of R.A. No. 3019, the offense with the heavier prescribed penalty.

Hearsay evidence

The Court delves into the issue of alleged hearsay evidence in ascertaining the existence of the elements of the crimes. It is a basic rule in evidence that a witness can testify only on the facts that are of his own personal knowledge, *i.e.*, those which are derived from his own perception. Hence, a witness may not testify on what he merely learned, read or heard from others because such testimony is considered hearsay and may not be received as proof of the truth of what he has learned, read or heard.⁵⁸ Thus, the general rule is that hearsay evidence is not admissible.

In the present case, the Sandiganbayan, in its decision, outlined the testimonies which it did not consider being hearsay evidence. Nevertheless, even if these hearsay testimonies were set aside, the remaining pieces of evidence would still be sufficient to establish the guilt of accused-appellant for the crimes charged beyond reasonable doubt.

Notably, most of the testimonies of Atty. Landero and Herminigilda were all drawn from their own personal knowledge. Atty. Landero was the one who called accused-appellant directly and delivered the fish to him personally.⁵⁹ Meanwhile, Herminigilda had accompanied her husband to see accused-appellant and was the one who carried the money for safekeeping before handing it over to accused-appellant's assistant. She also witnessed private complainant handing another sum of money to accused-appellant.⁶⁰ These testimonies were all taken from their own perception, the parties

⁵⁶ Sec. 11, R.A. No. 6713.

⁵⁷ *People v. Sullano*, 827 Phil. 613, 625 (2018).

⁵⁸ *People v. Cariño*, G.R. No. 234155, March 25, 2019, 898 SCRA 326, 345.

⁵⁹ *Rollo*, pp. 7-14.

⁶⁰ *Id.*

being present during those incidents. Accordingly, even though the Sandiganbayan completely disregarded private complainant's affidavit, as he was not presented as a witness, there was still sufficient, competent, and convincing evidence to convict accused-appellant of the crimes charged.

Finally, accused-appellant's assertion that the prosecution had come to court with unclean hands deserves scant consideration. It is understood that the legal doctrine is a maxim of equity upon which: (1) he who seeks equity must do equity, and (2) he who comes into equity must come with clean hands.⁶¹ The general principle is that he who comes into equity must come with clean hands applies only to plaintiff's conduct in relation to the very matter in litigation. The judicial process is sacred and is meant to protect only those who are innocent.⁶² It would certainly be unwarranted to allow accused-appellant, who solicited money for the release of the provisional reliefs, to escape criminal liability simply because of this legal maxim. Equity does not apply to a situation when fraud and dilatory schemes exist.⁶³

Proper penalty

As stated earlier, accused-appellant was charged under two separate Informations. Notably, the Informations charging accused-appellant of violations under Sec. 3(e) of R.A. No. 3019 and Sec. 7(d) of R.A. No. 6713 allege substantially the same facts and are identical to each other. Pursuant to Sec. 11(a) of R.A. No. 6713, accused-appellant should only be prosecuted under Sec. 3(e) of R.A. No. 3019.

The prescribed penalty for violation of Sec. 3(e) of R.A. No. 3019 is found in Sec. 9 thereof, which states:

Section 9. *Penalties for violations.* (a) Any public officer or private person committing any of the unlawful acts or omissions enumerated in Sections 3, 4, 5 and 6 of this Act shall be punished with imprisonment for not less than six years and one month nor more than fifteen years, perpetual disqualification from public office, and confiscation or forfeiture in favor of the Government of any prohibited interest and unexplained wealth manifestly out of proportion to his salary and other lawful income.

⁶¹ *Vitug v. Abuda*, 776 Phil. 540, 571 (2016).

⁶² *ANGKLA: Ang Partido ng mga Pilipinong Marino, Inc. v. Commission on Elections*, G.R. No. 246816, September 15, 2020.

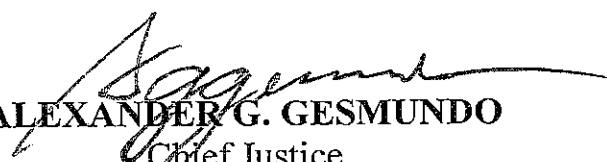
⁶³ *Ramnani v. Court of Appeals*, 413 Phil. 194, 208 (2001).

Applying the Indeterminate Sentence Law,⁶⁴ the penalty shall not be less than the minimum term nor exceed the maximum term fixed by the law.⁶⁵ Accordingly, the penalties imposed by the Sandiganbayan, which are imprisonment for six (6) years and one (1) month, as minimum, to eight (8) years, as maximum, and perpetual disqualification from holding public office,⁶⁶ are within range of the penalty prescribed by law.

WHEREFORE, the appeal is **PARTIALLY GRANTED**. The April 29, 2019 Decision and the June 26, 2019 Resolution of the Sandiganbayan are hereby **AFFIRMED** with **MODIFICATIONS** as follows:

1. In SB-15-CRM-0101, accused-appellant Henry M. Gelacio is found **GUILTY** beyond reasonable doubt of violation of Section 3(e) of Republic Act No. 3019, and is hereby **SENTENCED** to suffer the penalty of imprisonment for six (6) years and one (1) month, as minimum, to eight (8) years, as maximum. He is also perpetually disqualified to hold public office.
2. In SB-15-CRM-0102, accused-appellant Henry M. Gelacio is **ACQUITTED** of the charge of violation of Section 7(d) of Republic Act No. 6713.

SO ORDERED.



ALEXANDER G. GESMUNDO
Chief Justice


⁶⁴ Act No. 4103 (As Amended by Act No. 4225 and Republic Act No. 4203 [June 19, 1965]), entitled "AN ACT TO PROVIDE FOR AN INDETERMINATE SENTENCE AND PAROLE FOR ALL PERSONS CONVICTED OF CERTAIN CRIMES BY THE COURTS OF THE PHILIPPINE ISLANDS; TO CREATE A BOARD OF INDETERMINATE SENTENCE AND TO PROVIDE FUNDS THEREFOR; AND FOR OTHER PURPOSES." Approved: December 5, 1933.

⁶⁵ *Sarion v. People*, G.R. Nos. 243029-30, March 18, 2021.

⁶⁶ *Umpa v. People*, G.R. Nos. 246265-66, March 15, 2021.

WE CONCUR:


RAMON PAUL L. HERNANDO
Associate Justice


RODIL V. ZALAMEDA
Associate Justice


RICARDO R. ROSARIO
Associate Justice


JOSE MIDAS P. MARQUEZ
Associate Justice

CERTIFICATION

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


ALEXANDER G. GESMUNDO
Chief Justice

