

**MARIETTA T. CAUGMA, AMIANA ABELLA AND ROSAURO MARTINEZ,
PETITIONERS, VS. THE PEOPLE OF THE PHILIPPINES AND THE
SANDIGANBAYAN,RESPONDENTS.**

G.R. NO. 167048. April 07, 2006

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

Before us is a Petition for Review on Certiorari of the Decision[1] of the Sandiganbayan in Criminal Case No. 17001 convicting the four accused therein of violating Section 3(e) of Republic Act No. 3019, as well as its Resolution[2] denying the motion for reconsideration thereof.

Under Executive Order (E.O.) No. 888 dated March 18, 1983, ministers and heads of government agencies were authorized to dispose of their unserviceable equipment and disposable property through the creation of a Disposal Committee (Committee) composed of a representative of the owning ministry or agency as chairperson, and, as members, representatives of the Bureau of Supply Coordination and the Commission on Audit (COA). The committee had the following functions:

- (1) Inspect or authorize the field officer to inspect the unserviceable equipment and property to verify justification for disposal;
- (2) Set the final appraised value of all disposable property considering obsolescence, market demand, physical condition and result of previous biddings for similar property;
- (3) Recommend to the Minister or Head of Ministry/Agency for approval the manner of disposal taking into consideration the pertinent provisions of the Revised Administrative Code and the National Auditing Code;
- (4) Conduct public biddings for the sale or disposable property on an "AS IS," "WHERE IS" basis and to recommend the corresponding award;
- (5) The representatives of the Commission on Audit and the Bureau of Supply Coordination together with the COA Technical Staff specifically assigned to the Disposal Committee, shall be clothed with full authority to make final decisions in behalf of their respective offices in the various committee deliberations;
- (6) In the case of agencies attached to certain Ministries, recommendations of the Disposal Committee is subject to the final approval of the Minister concerned.[3]

E.O. No. 888 also provided that the unserviceable equipment may be disposed of by sale through public bidding and that their appraised value (as determined by the Committee) shall be the minimum selling price. Should the sale through public bidding be unsuccessful, the Committee was authorized to dispose of the property in any manner deemed advantageous to the government, including through barter or negotiated sale at no less than the Committee's appraised value.

Pursuant to E.O. No. 888, the Bureau of Fisheries and Aquatic Resources (BFAR) created its own committee

under Office Order No. 65 dated May 8, 1983. Among the committee members were Marietta T. Caugma, Chief of the Finance Division as chairperson; Amiana M. Abella, vice-chairperson; Rosauro M. Martinez, BFAR Representative as member; Villa J. Bernaldo, COA Auditor/Representative as member; and Meynardo Geralde, Jr., Supply Coordination Office representative, as member.

Way back in December 1959, the BFAR had acquired eight vessels from Japan under the RP-Japan Reparation Commission Agreement, among them the "M/V Malasugui." In 1974 to 1980, the deteriorating vessel was dry-docked for extensive repairs, and thereafter was no longer utilized for test fishing activities.[4]

Thus, in a Comment Slip[5] dated April 18, 1984, Arsenio S. De Jesus, Chief of the Technological Services Division, informed BFAR Director Felix R. Gonzales that it was time to "condemn the vessel due to old age (27 years)."

On July 18, 1984, the vessel sustained leaks on her forward hull while docked at Pier 4, Fishing Port, Navotas, Metro Manila, flooding the engine room, fish holder and gear locker rooms. The BFAR engaged the services of V/L Shipyard Corporation (Corporation) to tow the vessel from the Navotas pier.

The Corporation billed the BFAR for berthing fees at P110.90 a day from September 11, 1984 to December 31, 1984 in the total amount of P12,420.00,[6] and for security services, tonnage, electrical power for water supply, gasoline and other vessel services in the amount of P21,037.00, or the total amount of P33,457.80 via Bill No. 1529[7] dated January 3, 1985. Gonzales approved the claim and Caugma certified the availability of funds for the disbursement via Disbursement Voucher[8] dated January 28, 1985, subject to release of funds from the Ministry of Budget and Management.

In a Memorandum[9] dated July 20, 1984, Officer-in-Charge Eriberto A. Macatangay of the Fishing Boat Operations Section recommended to the Bureau Director that the vessel should be disposed of considering that it could no longer serve its purpose due to "old age and deteriorating superstructure." In a Memorandum[10] dated November 13, 1984, the captain of the vessel also recommended that the vessel be disposed/condemned to save funds which would have to be spent for repair and berthing fees. An Inventory and Inspection Report of Unserviceable Property[11] was prepared, declaring that the vessel was obsolete, "junk or scrap," and that to maintain it was no longer economical. The report was signed by the Bureau Director, a COA representative and Arsenio S. De Jesus, Chief, Technological Services Division. The report was transmitted to the Director of the Supply Coordination Office of the General Services Administration (GSA) for appropriate action.[12]

In a Memorandum[13] dated April 29, 1985 signed by De Jesus, COA representative Jaquin C. Lim and Supply Coordination Office representative Meynardo L. Garalde, Jr. it was reported to the GSA that the fishing vessel was obsolete, unserviceable and beyond economical repair, and that spare parts were no longer available. The appraised value of the vessel was declared at P86,917.60. It was recommended that the vessel be sold through public bidding for not lower than P86,000.00; that in addition, the awardee/buyer shall pay all the charges in connection with the sale of the property; and that the vessel be disposed immediately to avoid further depreciation in value, "considering that it [was] berthed/docked in a private firm."

Meanwhile, on November 8, 1985, the Corporation billed the BFAR for berthing fees at P110.90 a day from January 1, 1985 to October 31, 1985 totaling P33,457.80; and for security services, electrical power, shifting of vessel with the use of a tugboat, fresh water supply and gasoline, and other services amounting to P25,940.00. The total charges amounted to P69,653.60.[14]

On November 11, 1985, the Disposal Committee submitted its Report[15] on the appraisal of the vessel, recommending that it be sold at public auction at the appraised value of P86,917.60, including the charges of the

sale. The Committee also prepared the Procedural Guidelines[16] to be followed relative to the sale. These were transmitted to Bureau Director Gonzales on November 11, 1985.[17]

On November 12, 1985, Gonzales issued an Invitation to Bid[18] which also contained the conditions of the sale of the vessel. He revised the proposed procedural guidelines of the Committee (Condition No. 8 of the Invitation to Bid) to provide that the "bidder agrees to pay, in addition to the award price, taxes, duties and other costs such as berthing fees, cost of publication of the bid, etc. and levies which may be imposed by law." [19] Prospective bidders were required to submit their sealed bids not later than 10:00 a.m. on November 21, 1985, at which time the bids would be opened publicly as required by Presidential Decree (P.D.) No. 1445. The bid offer was also required to be accompanied by cash or manager's check in an amount equivalent to 10% percent of the offer to guarantee the bid, and compliance with the terms and conditions of the sale, and later converted as downpayment in case of a winning bidder. Bids which did not meet the full consideration or requirements of the BFAR would be considered defective, and only those deemed advantageous to the government would be accepted. The sale of the vessel would be awarded to the highest bidder who would pay the bid price within 10 days from notice of the award.

The invitation to bid was published in the Times Journal for three consecutive days from November 14 to 15, 1985.[20] The publisher billed the BFAR P2,400.00 as publication fee on November 16, 1985.[21]

The public bidding was held on November 21, 1985.[22] There were four bidders but only two participated: Dr. Enrique Peras, Jr. for the All Point Trading and General Services Corporation, and Eddie S. Galler, Jr., General Manager of the Corporation. Galler, Jr. submitted the bid, as well as copies of Invoice Nos. 1529 and 1589 showing that the Corporation had billed the Bureau the total amount of P103,111.40 for various services rendered on the vessel. Dr. Peras, Jr. inquired what were included as "berthing fees" under Condition No. 8 in the invitation to bid, and Caugma replied that the fees included those due after the publication of the invitation to bid up to the final award of the sale of the vessel.[23] Galler, Jr. asked if the P103,111.40 under Bill Nos. 1529 and 1589 issued by the Corporation would be included in the bid price, and Caugma replied that the Committee would study the matter.[24] At that time, the Committee had no knowledge of the berthing fees and other charges incurred from November 1, 1985 up to the final award.[25]

The Committee, however, agreed that the bid for the vessel should be stated separately from berthing and publication fees which should be broken down.[26] Galler, Jr. withdrew the bid of the Corporation. The Committee resolved to reset the opening of the bids at 10:00 a.m. of November 28, 1985. Upon the suggestion of Bernaldo, the notice of public bidding was posted in public places.[27]

On November 28, 1985, the Committee met for the re-scheduled public bidding. Bernaldo was substituted by Marlene Nacua of the COA. There were five registered bidders but only two appeared. The Corporation submitted its sealed bid - P13,890.00 or 10% of its bid price as required by the invitation to bid. The other registered bidders left without submitting any bid.

Caugma asked the committee members if the lone bid of the Corporation could already be opened and they all agreed. Nacua did not interpose any objection because she believed in good faith that it was in accordance with COA rules and regulations. Caugma opened the bid and receipted the P13,890.00 representing 10% of the bid price of P138,900.00, broken down as follows:

- a) PUBLICATION FEE P 2,400.00
- b) BERTHING FEE 103,111.40
- c) BFAR 33,388.60

Total P138,900.00[28]

Believing that the bid price for the vessel was P138,900.00 and that this amount surpassed the appraised value of P86,917.60, the Committee members resolved to recommend to the Bureau Director that the sale of the vessel be awarded to the Corporation for final approval. The Committee transmitted its recommendation to the Bureau Director, including the minutes of the meeting. Upon the suggestion of Amiana Abella, the Committee sent a letter to the corporation confirming that its bill for costs and berthing fees would be the last it would receive.[29]

Meanwhile, Gonzales approved Disbursement Voucher No. 101-85-12-19-9042[30] dated December 5, 1985 amounting to P69,653.60 in favor the Corporation. Caugma certified that the amount was available for the purpose, but payment was held in abeyance pending the release of the final award to be made by the Ministry of Budget and Management.

On December 23, 1985, Gonzales transmitted a letter[31] to the Minister of Agriculture and Food requesting for authority to award the sale of the "M/V Malasugui" to the Corporation. He stated that of the five registered bidders, only the Corporation had submitted its bid of P138,900.00, which included the cost of publication, berthing fees, and the appraised value of the vessel. He appended to the letter the lone Minutes of the Public Bidding held on November 28, 1985 as well as the submitted bid. The Assistant Minister, Aurora B. Marcos, referred the matter to the Resident Auditor for study and recommendation.[32] Then Ministry Auditor Reynaldo Ventura informed the Minister that he had no objection to award to the Corporation the sale of the fishing vessel, considering that the bid it submitted was higher than the appraised value.[33] He required, however, that the proposed sale be given wide publication, and that the proceeds of the sale be accounted for as income and be remitted to the National Treasury.

In light of this favorable report, the Minister of Agriculture and Food, through Assistant Minister Marcos, authorized the Bureau Director to award and sell the vessel to the Corporation for P138,900.00, pursuant to Section 79 of P.D. No. 1445, and Section 3, paragraph 3 of E.O. No. 888.[34]

Meanwhile, on January 6, 1986, the BFAR remitted to the Corporation the amount of P69,653.60 in payment of Bill No. 1589. Galler, Jr. issued Receipt No. 256 for the said amount.[35]

On February 10, 1986, the BFAR, through Gonzales, awarded the sale of the "M/V Malasugui" to the Corporation and requested it to remit the amount of P138,900.00 in payment thereof.[36] The BFAR delivered juridical possession of the vessel to the Corporation on February 27, 1986.[37] On February 28, 1986, the Corporation remitted P138,900.00 as full payment of the vessel for which it was issued Official Receipt No. 2861007.[38] The amount was deposited in the National Treasury on March 5, 1986.[39] Thereafter, the BFAR released to the Corporation its bid bond of P13,890.00.

On April 25, 1986, Caugma approved the change of entry in the book of accounts of the BFAR and credited P138,900.00 to it.[40]

However, on May 5, 1986, Antonio B. Baltazar, a former BFAR Chief Technologist who was separated from government service on September 19, 1975, filed a Complaint-Affidavit[41] with the Ombudsman against Director Felix Gonzales for negligence under Article 365 of the Revised Penal Code on July 17, 1984 for the leaks of the vessel while berthed at Navotas, Metro Manila. Baltazar claimed, among others, that Gonzales had failed to file an insurance claim on the vessel from the Government Service Insurance System. The matter was referred to the COA.

Meanwhile, on May 12, 1986, the National Treasurer remitted P33,457.80 to the Corporation[42] as full payment for berthing fees and other services per Invoice No. 1529 and Disbursement Voucher dated January 28, 1985.[43]

On June 5, 1986, the Regional Director of the COA directed Villa Bernaldo (then BFAR Auditor) to conduct a discreet inquiry regarding Baltazar's complaint.[44] Bernaldo submitted her report on June 18, 1986, where she declared that the Corporation submitted its P138,900.00 bid, broken down as follows: publication fee, P2,400.00; berthing fee, P103,111.40; charges on the BFAR, P33,388.60; or a total of P138,900.00.[45] According to Bernaldo, the berthing fee represented the amount BFAR billed the Corporation for dry-docking costs, and that this expense was included as one of the findings in the 1985 Annual Audit Report of the BFAR because it was incurred mainly due to the delay in the disposal of the "M/V Malasugui." She concluded that the appraised value of P86,917.60 was therefore, not met, but the fees incurred in connection with the disposal were included in the bid offer of P138,900.00 and was accepted by the Bureau. She admitted, however, that the amount of P138,900.00 had been fully accounted for, receipted under O.R. No. 2861007 dated March 4, 1986 and deposited as income in the National Treasury on March 5, 1986.[46]

Baltazar thereafter filed a Manifestation[47] with the Ombudsman requesting the inclusion of Caugma, Abella, Bernaldo, and Martinez as respondents.

The Ombudsman required the Committee members to submit their counter-affidavits. In their Joint Counter-Affidavit and Rejoinder Affidavit,[48] they declared inter alia that the bidding and sale of the vessel was made in accordance with law, as well as accounting and auditing rules and regulations. After the requisite preliminary investigation, Special Prosecution Officer Robert E. Kallos issued a Resolution[49] dated July 24, 1992, recommending that the charges against Gonzales and Bernaldo be dropped; Gonzales acted in good faith, while Bernaldo was not present when the actual bidding was conducted.

Thereafter, the Ombudsman filed an Information charging Eddie S. Galler, Jr., Marietta Caugma, Amiana Abella and Rosauro Martinez of violating Section 3(e) of Republic Act No. 3019. The accusatory portion of the information reads:

That in or about and during the period from November 21, 1985 to November 28, 1985 and/or prior or subsequent thereto in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, accused Marietta T. Caugma, Amiana Abella and Rosauro Martinez, all public officers being then the Chairman, Vice-Chairman and member respectively, of the Disposal Committee of the Bureau of Fisheries and Aquatic Resources (BFAR), while in the discharge/exercise of their official administrative functions conspiring and confederating with accused EDUARDO S. GALLER, JR., a private individual and representative of V.L. Shipyard of Navotas, did then and there willfully and unlawfully through evident bad faith cause undue injury to the BFAR/Government by then and there proceeding with a public bidding for the disposal of BFAR' fishing vessel M/V Malasugui held on November 28, 1985 when only EDDIE S. GALLER, JR. was present and submitted his bid and thereafter accused public officers acted favorably on the itemized bid offer of EDDIE S. GALLER, JR. in spite of their knowledge that said bid offer is in violation of condition no. 8 of the Invitation to Bid and that the BFAR/Government will only get the amount of THIRTY THREE THOUSAND THREE HUNDRED EIGHTY EIGHT PESOS AND SIXTY CENTAVOS (P33,388.60), Philippines (sic) Currency, which is very much below the Appraised value of M/V Malasugui in the amount of P86,917.60, thereby causing damage or injury to the BFAR/Government in the sum of P53,529.00.

CONTRARY TO LAW.[50]

On reinvestigation, the Ombudsman denied the recommendation of Special Prosecutor Reynaldo A. Alhambra to withdraw the Information for being unsupported by evidence.[51]

To prove the guilt of all the accused, the prosecution relied on the testimony of the BFAR Resident Auditors Bernaldo and Nacua. Bernaldo declared that she was present during the initial public bidding on November 21, 1985. However, during the public bidding on November 28, 1985, the COA was represented by Nacua. She

claimed that the second bidding should not have proceeded because the lone bidder offered to purchase the vessel for only P33,388.60 instead of its appraised value as required by Section 6, paragraph 1 of E.O. No. 888.[52] She further declared that to comply with E.O. No. 888, the minimum acceptable selling price was P190,000.00 broken down as follows: P2,400.00 for publication fee; berthing fee of P103,111.40; and P86,917.60 for the appraised value of the vessel.[53] Considering that this bid price was not reached after the second bid, the Committee should have declared a failure of bid, hence, per COA regulations, the vessel should have been sold through negotiation for a price to be fixed by the Commission.[54]

In response to the clarificatory question of the Presiding Justice, Bernaldo declared that the transactions relative to the sale of the vessel were in order.[55] She also affirmed the contents of petitioners' Joint Affidavit and Rejoinder Joint Affidavit. Nacua, for her part, declared that the public auction/bidding was done in accordance with pertinent laws and COA rules and regulations.

Caugma adduced testimonial and documentary evidence that as early as January 3, 1985, the Corporation had billed the BFAR for services rendered on the vessel after the July 18, 1984 incident, per Invoice No. 1529 for the amount of P33,457.80. The BFAR prepared and issued a Disbursement Voucher on January 28, 1985.[56] The funding of the disbursement was released by the Ministry (now Department) of Budget and Management only on March 4, 1986 under CDC B-0141-86-1-022. The Treasurer of the Philippines paid the amount to the Corporation on May 12, 1986, per PNB Check No. SN-5-7994745-4 for P33,457.00.[57] She clarified that the P69,653.60 paid to the Corporation per Invoice Receipt No. 1589 dated November 8, 1985 was for mooring and berthing services, as well as part of the security services at the water front, electric supply, tug services from January 1, 1985 up to October 31, 1985, and other services provided to the vessel from January 1, 1985 to September 15, 1985. The payment of these bills to the Corporation was approved by no less than Villa Bernaldo, BFAR resident auditor.[58] The two obligations of the BFAR totaling P103,111.40 were separate and valid obligations of BFAR which should not have been deducted from the proceeds of the sale to the winning bidder.[59]

Caugma further declared that on November 21, 1985, she explained to Galler, Jr. and Dr. Peras that the berthing fees referred to in the Invitation to Bid were those due from the publication of the Invitation to Bid up to the final award. The berthing fees from January 1, 1984 to October 31, 1985 were not for the account of the bidder. When she asked Galler, Jr. if the Corporation was waiving the publication fees and berthing fees from the time the invitation to bid was published up to the final award, Galler, Jr. agreed.

Galler, Jr. adopted the evidence of Caugma. He testified that he was the Marketing Manager of the Corporation, and that he had not met the Committee members before the public bidding on November 21, 1985.[60] At that time, the purchase price of the vessel had not yet been fixed.[61] He presented the two bills of the Corporation - one for services, and another for berthing fees up to October 31, 1985 totaling P103,111.40. At the time, the Corporation had not yet presented its bill for berthing fees and various services from November 13, 1985 to November 21, 1985. His impression was that since the vessel was being sold on an "as is where is" basis, the other charges were not part of the bid and had to be separately paid. As far as he knew, the only interest of the BFAR was to recover the value of the vessel.[62] He waived the berthing fees due from the publication of the Invitation to Bid until the final award.[63] On November 28, 1985, he submitted the sealed bid of the Corporation which he signed upon the request of the Corporation's president.[64] The net bid price of the Corporation for the vessel was P138,900.00,[65] but he could not recall whether this bid had been broken down because it was prepared by one of the staff, which he signed before submission to the Committee. The amount of P103,111.40 in his bid included the berthing fees of P46,000.00 and for miscellaneous services for the vessel.[66] He felt that the P103,111.40, the amount the BFAR owed the Corporation for services rendered on the vessel, was a reasonable price, but the Corporation still submitted its bid to purchase it for P138,900.00 because it could repair the vessel at

the least price.[67]

On July 29, 2004, the Sandiganbayan rendered judgment[68] convicting the four (4) accused of the crime charged. The dispositive portion of the decision reads:

WHEREFORE, judgment is hereby rendered finding accused Marietta T. Caugma, Amiana Abella, Rosauro Martinez and Eduardo S. Galler, Jr., GUILTY beyond reasonable doubt for violation of Sec. 3(e) of R.A. 3019 and are hereby sentenced to each suffer the indeterminate penalty of imprisonment from six (6) years and one (1) month as minimum to fifteen (15) years as maximum and to each suffer the penalty of perpetual disqualification from public office.

SO ORDERED.[69]

The Sandiganbayan ruled that, under Condition No. 8 of the invitation to bid, only those bidders who had agreed to pay no less than the appraised value of the vessel, P86,917.60, excluding taxes, duties and other costs (such as berthing fees, publication of the bid and levies which may be imposed by law), should have been considered by the Committee. Caugma was aware of this condition in the invitation to bid, as evidenced by the minutes of the bidding held on November 21, 1985. She even explained the conditions of the sale to the bidders then present. The Sandiganbayan further declared that Caugma had knowledge of the fact that the berthing fee was P103,111.40 since it was clearly indicated in the invitation to bid. Thus, in evident bad faith, the accused conspired together and awarded the vessel to the Corporation for P138,900.00, of which only P33,388.60 would be remitted to the BFAR. It also held that Committee members Abella and

Martinez took active part in the public bidding and, as evidenced by the Minutes of the Meeting, favored the Corporation.

The Sandiganbayan concluded that the prosecution proved beyond reasonable doubt that the Disposal Committee gave unwarranted advantage and preference to Galler, Jr., causing injury to the government to the extent of P53,529.00; after deducting the publication fee of P2,400.00 and the berthing fee of P103,111.40, the government realized only the net amount of P33,388.60, short by P53,529.00 of the appraisal value of the vessel, P86,917.60.

Petitioners moved for the reconsideration of the decision, which the graft court denied on January 26, 2005.[70]

Hence, petitioners filed the instant petition seeking the reversal of the Sandiganbayan's ruling on the following claims: (1) they were denied their right to equal protection of the law; and (2) the prosecution failed to prove that they acted in evident bad faith in awarding the sale of the vessel to the Corporation and that the BFAR suffered damage/injury in the amount of P53,529.00.

Petitioners aver that the Committee complied with the requirements of E.O. No. 888 and of Fisheries Order No. 65, Series of 1983 relative to the sale of the fishing vessel. They maintain that their recommendation to accept the subject bid was in order, as even the BFAR Director concurred therein and transmitted a letter-request to the Minister of Agriculture and Food for authority to award the sale to the lone bidder; in turn, the Ministry Auditor interposed no objection as the said bid was higher than the vessel's appraised value. Petitioners point out that no less than the Assistant Minister concurred with the Resident Auditor to the Committee's recommendation.

Petitioners likewise posit that the conditions set forth in the invitation to bid were complied with. They maintain that the Committee's determination of the award is merely recommendatory and is not in itself a contract. Thus, the BFAR Director and the Assistant Minister should be charged and prosecuted for violation of Section 3(e) of Rep. Act No. 3019 considering that under E.O. No. 888, the Ministry of Agriculture and Food has the sole authority to dispose of the vessel. They point out that ultimately, it was the Ministry that sold the vessel to the Corporation. Since the BFAR Director and the Minister were not prosecuted, they (petitioners) should not have

been charged and prosecuted for the sale of the vessel to the Corporation, otherwise their right to the equal protection of the law would be violated.

Petitioners further aver that the prosecution failed to prove that they acted in evident bad faith and that the government sustained undue injury. They insist that the bid price of the fishing vessel was P138,900.00, not merely P33,388.60. Petitioners aver that this can be gleaned from the testimony of Bernaldo and Galler, Jr. The costs referred to in Condition No. 8 of the Condition of Sale pertained to all charges in connection with the sale of the vessel and were to be paid by the bidder, not as part of but in addition to the bid price of P138,900.00. The fact that BFAR owed to the Corporation has no relevance to the public bidding, as the obligation of BFAR in the amount of P103,111.40 is separate and distinct from the Corporation's bid of P138,900.00. Petitioners point out that the amount of P138,900.00 was paid to the national treasury. Even assuming that the government sustained a loss of P53,529.00, they should not be the ones held liable therefor.

The Office of the Special Prosecutor (OSP), for its part, avers that petitioners' contention that their role in the public bidding was recommendatory in nature is baseless; such argument was proffered in order to evade responsibility for the unjust and disadvantageous sale which prejudiced the interest of the government. The subsequent issuance by the BFAR Director of the certificate of award to the winning bidder is only a formality. What consummates the sale is the Committee's declaration of the winning bidder. When a qualified bidder is declared as such, it follows that such winning bidder will be awarded the contract or certificate of award; otherwise, taking part in the said bidding would be a meaningless exercise.

The OSP maintains that when the subject fishing vessel was advertised for sale, the act of selling the property had begun as there was already an offer. After complying with the requirements on publication and invitation to bid, the Committee proceeded with the sale and the Corporation was declared the winning bidder. The contract was perfected at that moment, as there was already a meeting of the minds between the seller and the buyer. The Bureau Director's subsequent issuance of the Certificate of Award did not affect the contract which had already been perfected and consummated in the first place through the Committee's actuations. Besides, the OSP asserts, the corresponding certificate of award would not have been issued had not the Committee declared the Corporation as the winning bidder. Thus, it was the Committee that conducted the sale and subsequently disposed of the fishing vessel in favor of said Corporation.

According to the OSP, "what is certain is that the public bidding was in fact a feigned, orchestrated and bogus one designed to prejudice the government, and this was known to petitioners before the bidding started." It argued further argued that:

The appraised value of M/V Malasugui was P86,917.60 as reported to by the Disposal Committee. V/L Shipyard Corporation offered a bid in the amount of P133,900.00 (sic). In its application, V/L Shipyard broke down the items to constitute the amount of P133,900.00 (sic) as follows:

Publication fee P 2,400.00

Berthing fee 103,111.40

BFAR 33,388.60

When the Disposal Committee published its Invitation to Bid, it was specific in one of its condition that "(t)he bidder agrees to pay in addition to the award, price, taxes, duties and other costs such as berthing fees, cost of publication of the bid, etc. and levies which may be imposed by law."

It was a matter of fact that BFAR owed V/L Shipyard Corporation an amount of P103,111.40, as berthing fee, for [dry-docking] M/V Malasugui at its property. After deducting the said amount together with P2,400.00 for

the cost of the publication of the bid from the bid proposal in the amount of P138,900.00, the amount of P33,388.60 was arrived at. And this amount of P33,388.60 will go to BFAR as itemized by V/L Shipyard ahead when it posted its bid for M/V Malasugui. To reiterate, the bid proposal of V/L Shipyard was included in the Invitation to Bid of BFAR. Clearly, the government lost an amount of P53,529.00. x x x

xxxx

In reality what was paid by V/L Shipyard Corporation for M/V Malasugui to BFAR was only P33,388.60, short of P53,529.00 from the appraised value of P86,917.60. The damage cost to the government was not merely negligible but more than substantial.

From the foregoing, all the elements of Section 3 (e) of Republic Act No. 3019 were present, and thus, the conviction of all the petitioners, together with Eddie Galler, Jr. is correct.[71]

In their Reply, petitioners reiterate that their determination as Committee members was merely recommendatory and subject to the final approval of the Minister of Agriculture and Food as provided in Section 6 of E.O. No. 888.

The petition is meritorious.

Under the Constitution, accusation is not synonymous with guilt. In a criminal case, the accused is presumed innocent. It is incumbent upon the prosecution to prove the guilt of the accused for the crime charged beyond reasonable doubt. His freedom is forfeited only if the requisite quantum of proof necessary for conviction exists. The accused is even obliged to offer evidence in his behalf. The proof against him must survive the test of reason; the strongest suspicion must not be permitted to become a summary judgment. The conscience must be satisfied that on the accused could be laid the responsibility for the offense charged in that not only did he perpetrate the act but that it amounted to a crime. It is required that every circumstance favoring his innocence be duly taken into account.[72] Thus, the burden of proof never shifts to the accused.

Section 3(e) of Rep. Act No. 3019 provides:

(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.

The essential elements of violation of the provision are as follows:

- The accused must be a public officer discharging administrative, judicial or official functions;
- He must have acted with manifest partiality, evident bad faith or inexcusable negligence; and
- That his action caused any undue injury to any party, including the government, or giving any private party unwarranted benefits, advantage or preference in the discharge of his functions.[73]

It must be stressed that mere bad faith is not enough for one to be liable under the law, since the act of bad faith must in the first place be evident.[74] Elaborating on the meaning of evident bad faith, this Court held in *Marcelo v. Sandiganbayan*: [75]

Bad faith does not simply connote bad judgment or negligence; it imputes a dishonest purpose or some moral obliquity and conscious doing of a wrong; a breach of sworn duty through some motive or intent or ill will; it partakes of the nature of fraud. (*Spiegel v. Beacon Participations*, 8 NE 2[nd] Series, 895, 1007). It contemplates a state of mind affirmatively operating with furtive design or some motive of self-interest or ill will for ulterior purposes. (*Air France v. Carrascoso*, 18 SCRA 155, 166-167). Evident bad faith connotes a

manifest deliberate intent on the part of the accused to do wrong or cause damage.

Undue injury has been interpreted as synonymous to actual damages which is akin to that in civil law.[76] The prosecution is burdened to prove the factual basis and amount of loss with a reasonable degree of certainty, premised upon competent proof and on the best evidence obtainable by the injured party.[77] Courts cannot simply rely on speculations, conjectures or guesswork in determining the fact and the amount of damages.[78]

Conspiracy or collusion by and among public officers, inter se, and via private individuals to commit the crime under Section 3(e) of Rep. Act No. 3019 must likewise be proven by the prosecution beyond reasonable doubt. This was the ruling of the Court in *Desierto v. Ocampo*:[79]

Collusion implies a secret understanding whereby one party plays into another's hands for fraudulent purposes. It may take place between and every contractor resulting in no competition, in which case, the government may declare a failure of bidding. Collusion may also ensue between contractors and the chairman and members of the PBAC to simulate or rig the bidding process, thus insuring the award to a favored bidder, to the prejudice of the government agency and public service. For such acts of the chairman and the members of the PBAC, they may be held administratively liable for conduct grossly prejudicial to the best interest of the government service. Collusion by and among the members of the PBAC and/or contractors submitting their bids may be determined from their collective acts or omissions before, during and after the bidding process. The complainants are burdened to prove such collusion by clear and convincing evidence because if so proved, the responsible officials may be dismissed from the government service or meted severe administrative sanctions for dishonesty and conduct prejudicial to the government service.

To prove the guilt of petitioners for the crime charged, the prosecution presented COA Auditors Nacua and Bernaldo, and the report prepared by the latter dated June 18, 1986. However, contrary to petitioners' stance, the collective testimonies of the witnesses tend to exculpate petitioners.

In her Report, Bernaldo declared that the Corporation's bid for the vessel was only P33,388.60, P53,529.00 short of the threshold minimum price of P86,917.60, as provided in Condition No. 8 of the Invitation to Bid:

8. That the bidder agrees to pay in addition to the award price, taxes, duties and other costs such as berthing fees, cost of publication of the bid, etc. and levies which may be imposed by law.[80]

Bernaldo testified that the Corporation's bid indicated the amount of P103,111.40, its claim for berthing fees and for various services rendered for the vessel from September 11, 1984 to October 31, 1985 under Bill Nos. 1529 and 1589, and that such expenses should be deducted from its bid of P138,900.00. She maintained that a qualified bidder should have submitted a bid not lower than P192,529.60. Bernaldo concluded that the Corporation submitted a bid of only P33,388.00, P53,529.00 short of a threshold minimum bid for the vessel; hence, the government lost P53,529.00 in the sale of the vessel. However, in the Joint Affidavit[81] submitted to the Ombudsman, petitioners, including Bernaldo, categorically declared that the bid price of the Corporation was P138,900.00, and that such bid was higher than the appraised value of the vessel amounting to P86,917.60. Bernaldo declared that the P138,900.00 was fully accounted for under O.R. No. 2861007 dated March 4, 1986, and deposited as income in the national treasury on March 5, 1986. Petitioners and Bernaldo maintained that the sale of the vessel was made in accordance with accounting and auditing rules and regulations of the government. Bernaldo was as adamant as petitioners when they declared in their Rejoinder Joint Affidavit[82] submitted to the Ombudsman that the disposition of the vessel was made strictly in accordance with the law, rules and regulations of the government on the disposition of government property:

6. That the obligations under Bill No. 1529 in the amount of P33,457.00 dated January 3, 1985 for services rendered in 1984 by the [V/L] Shipyard Corporation, was noted and approved for payment by the Bureau Resident Auditor and requested for the revalidation by the Bureau with the Department of Budget and

Management and a corresponding funding was released by the said Department of Budget and Management under CDC No. B-0141-86-1-022 dated March 4, 1986.

The obligation under Bill No. 1589 dated November 8, 1985 in the amount of P69,653.60 were services rendered by the [V/L] Shipyard Corporation in the form of mooring on berthing fee, including share on security services at water front, supply of electrical power and four units light bulbs during night time, from January 1, 1985 up to October 31, 1985; tug service; supplied vessel's crew with freshwater requirements on board from January 1, 1985 up to October 31, 1985 and provided vessel with one (1) set gasoline driven 3" diameter centrifugal water pump, and supplied gasoline, oil operator and mechanics from January 1, 1985 to September 15, 1985. That the said obligation under Obligation No. 409-102-12-412-85 was approved and concurred by the Bureau Auditor of the Commission on Audit.

Thus, the two obligations (Bill Nos. 1529 and 1589 in the total amount of P103,111.40 of the Bureau with the [V/L] Shipyard Corporation were for services rendered and therefore, separate and distinct valid obligations of the Bureau to the Corporation. The two obligations were pre-audited by the Bureau Auditor before payments were made by the Bureau. The payment of P103,111.40, therefore, for the berthing fees and other services rendered by [V/L] Shipyard Corporation was made in accordance with accounting and auditing rules and regulations and therefore should not be added nor deducted from the proceeds of the sale of the vessel. Xerox copies of the Requests for Obligation of Allotment for [V/L] Shipyard Corporation in the amount of P33,457.00 and P69, 653.50, for various services rendered for RPS Malasugui in 1984 and 1985 as noted and approved by the Bureau Auditor of the Commission on Audit before payment can be made by the Bureau as Annexes 8 and 9[,] respectively. Xerox copies of the two vouchers for P33,457.00 and P69,653.60 with all supporting documents including the description of the services rendered by [V/L] Shipyard Corporation approved by Director Juanito B. Malig and Mr. Felix R. Gonzales, former Director of the Bureau, respectively, as Annexes 10 and 11.[83]

When queried by the Sandiganbayan Presiding Justice, Bernaldo categorically declared that there was nothing wrong with the transaction relative to the award and sale of the vessel to the Corporation:

PJ GARCHITORENA

Questions from the Court.

Q Madam witness, as far as you are concerned what was wrong with the transaction or was there anything wrong with the transaction?

WITNESS

A I do not see anything wrong because the amount was more than the appraised value.

Q So, as far as you are concerned the transaction was in order?

A Yes, sir.[84]

When asked whether her and petitioners' Joint Affidavit and Rejoinder Affidavit were correct even in the light of the June 18, 1986 Report, Bernaldo answered in the affirmative:

Q Madam witness, when you executed this Joint Affidavit as well as the Rejoinder which have been marked as Exhibits 26 and 27[,] respectively[,] sometime in 1987, this superceded your previous Report, do you agree with me?

PROS. TABANGUIL

That will call for the conclusion of the witness, your Honor.

PJ GARCHITORENA

Sustained. If there is a contradiction then there is contradiction. Whether it supercedes or not is something you will have to find out, unless you will ask her why she excluded one and then the other.

ATTY. BLANES

Q Now, when you executed Exhibit 26, Madam witness, you have taken into account your indorsement dated June 18, 1986

A Yes, sir.

Q And your Joint Affidavit and your Rejoinder explained correctly what actually happened with respect to the sale of M/V Malasugui?

PROS. TABANGUIL

Vague, your Honor.

PJ GARCHITORENA

May answer.

WITNESS They were both correct.[85]

It bears stressing that the Rejoinder Affidavit[86] executed by petitioners and Bernaldo were adduced in evidence by no less than the prosecution itself. Bernaldo even sought the dismissal of the criminal complaint filed by the Ombudsman against her for violation of Section 3(e) of Rep. Act No. 3019 based on the Joint Affidavit and Rejoinder Affidavit.

Not to be outdone was COA auditor Marlene Nacua who declared on cross-examination that not only was the bidding process made on November 28, 1985 in order, but also that the bid of the Corporation was in accordance with COA regulations:

ATTY. PADERNAL

Q At the time of the bid you know that procedure well.

A Yes, sir.

Q And knowing that procedure[,] you did not interpose any objection to the decision of the committee to open the bid, the lone bid of [V/L] Shipyard, is that correct.

A Yes, sir.

Q And am I correct to say also that as representative of the Commission on Audit during the bid although you act as a witness, you have to guide the committee as to the regulations of the Commission on Audit, is that correct, Mrs. Witness.

A Yes, sir.

Q And when the bid was opened to [V/L] Shipyard it was then your belief and perception at the time that the committee had followed all the regulations of the Commission on Audit.

A Yes, sir.[87]

x x x x

Q That is why when the committee decided to open and award the bid to [V/L] Shipyard and submitted a payment of One Hundred Thirty Eight Thousand Nine Hundred Pesos (P138,900.00) you did not interpose any objection or guided the committee as to whether or not the bid was wrong or in accordance with the COA rules and regulations because you believe then that the bid and the opening of the bid was in accordance with the COA regulations, is that correct. A Yes, sir. [[88]]

By her testimony, Nacua thereby implied that the petitioners acted in good faith when the Committee conducted the bid process and made its recommendation to the Ministry of Agriculture and Food. The BFAR Director found no infirmity in the bid process, as shown in the minutes of the meeting on November 18, 1985 and the

Committee's recommendation.

Moreover, no less than BFAR Director Gonzales concurred with the Committee's recommendation and requested the Minister of Agriculture and Food for authority to award the sale of the vessel to the Corporation for P138,900.00 which included the P103,111.40 for services and berthing fees and P2,400.00 as publication fee. The Resident Auditor of the Ministry studied the matter very carefully and found no factual and legal basis for any objection to the recommendation. The Assistant Minister of Agriculture and Food also found the Committee's recommendation in accordance with law and COA rules and regulations, and directed the BFAR to award the vessel to the Corporation for P138,900.00. The Bureau Director complied with the directive. The ranking officials of the Ministry found no infirmity in the bid process and the Committee's recommendation, evidence of which was adduced by no less than the prosecution itself.

We agree with petitioners' contention that the recommendation of the Committee to the Ministry to approve the award of the sale was not in itself a contract of sale in favor of the Corporation. The sale of the vessel was perfected only upon notice to said Corporation that the sale of the vessel had been awarded to it.

Article 1318 of the New Civil Code provides that there is no contract unless the following requisites concur:

- (1) Consent of the contracting parties;
- (2) Object certain which is the subject matter of the contract;
- (3) Cause of the obligation which is established.

Consent is manifested by the meeting of the offer and the acceptance upon the thing and the cause which are to constitute the contract. An offer is the manifestation of willingness to enter into a bargain in such a way as to justify the other process in understanding that an assessment will conclude the agreement. An offer ripens into a contract when it is accepted. The offer must be certain and the acceptance absolute.[89]

Thus, a bid at an auction constitutes an offer to buy. Where, as in this case, the seller reserved the right to refuse to accept any bid made, a binding

sale is not perfected until the seller accepts the bid. The seller may exercise his right to reject any bid even after the auctioneer has accepted a bid.[90] The mere determination of a public official bound to accept the offer or a proposal of a bidder does not constitute a contract.[91]

Anent petitioners' contention that the Committee had no authority to dispose of the vessel to the Corporation through the sale at public auction, Section 1 of E.O. No. 888 provides that the Ministers or Heads of ministries of the government shall have the full and sole authority and responsibility to dispose of all unserviceable equipment and property:

Section 1. Authority to Dispose - The provisions of existing laws, rules and regulations to the contrary notwithstanding, the Ministers or Heads of Ministries/Agencies of the Government shall have the full and sole authority and responsibility to dispose of, all unserviceable equipment and property of their respective Ministries/Agencies. (emphasis supplied)

In cases of agencies attached to the Ministry of Agriculture and Food such as the BFAR, the Committee merely determines the awardee and makes a recommendation to the Minister concerned. In fine, the recommendation of the Committee is subject to such final approval:

6. In the case of agencies attached to certain Ministries, recommendations of the Disposal Committee is subject to the final approval of the Minister concerned (emphasis supplied).

The awardee is not obliged to make payment for the property bid until after notice to the awardee. It is only when

the awardee receives the notice of award that a contract of sale is perfected between the bidder and the seller.

In this case, the Corporation was notified of the award only after February 28, 1986. It was only upon its receipt of the notice of award that a contract of sale had been perfected between the government, as seller, and the Corporation as buyer. The Committee had no involvement in the sale of the vessel to the Corporation apart from its recommendation on the November 28, 1986 bidding, and yet, the Ombudsman indicted only petitioners, excluding the BFAR Director, Resident Auditor and Assistant Minister of Agriculture and Food.

We agree with petitioners' contention that the crime of violation of Section 3(e) of Rep. Act No. 3019 was not committed when the Committee conducted the bidding on November 28, 1985 and resolved to recommend to the Minister, through the BFAR Director, to award the sale of the vessel to the Corporation; neither was it committed when the award was made by the BFAR Director to the Corporation. This is so because there was as yet no evidence that the government sustained a loss of P53,529.60. The crime would have been committed if the Corporation had remitted to the National Treasurer the P138,900.00, and the P103,111.40 was applied by way of set-off against Bureau's account to said Corporation for Bill Nos. 1529 and 1589.

The prosecution failed to prove beyond reasonable doubt that the government lost P53,529.00 in the sale of the vessel. The only evidence presented is the Corporation's bid and the Report of Villa Bernaldo on June 18, 1986. The Prosecution offered no competent and sufficient evidence to prove the actual damages caused to the government. On the other hand, the BFAR Director declared that the vessel was sold to the Corporation for P138,900.00, which accepted and remitted the amount to the national treasury, as full payment of the vessel. The government receipted the amount "as proceeds of the sale" of the vessel.[92] To reiterate, there is no evidence on record that, after the Corporation had remitted the P138,900.00 on February 28, 1986, P103,111.40 thereof was applied to the Bureau's account under Bill Nos. 1529 and 1589 by way of set off. In fact, on January 6, 1986, before the sale of the vessel was awarded to the Corporation, the government had already remitted the P69,653.60 to it in payment of Bill No. 1589. The government did not even apply a portion of the P138,900.00 as payment of its account of P33,388.60 under Bill No. 1529, and instead paid the amount to the Corporation on May 12, 1986.

Thus, the full amount of the bid price, P138,900.00, which the Corporation remitted to the national treasury was intact as Bernaldo stated in her June 18, 1986 Report; yet, petitioners were prosecuted and convicted of violation of Section 3(e) of Rep. Act No. 3019.

In fine then, the Court holds that the travesty which had been committed must be undone.

IN LIGHT OF ALL THE FOREGOING, the petition is GRANTED. The Decision of the Sandiganbayan is REVERSED and SET ASIDE. Petitioners Marietta T. Caugma, Amiana Abella and Rosauro Martinez are ACQUITTED of the crime charged. The bail bonds posted for petitioners' provisional liberty are CANCELLED. No costs.

SO ORDERED.

Panganiban, C.J., (Chairperson), Ynares-Santiago, Austria-Martinez, and Chico-Nazario, JJ., concur.

[1] Penned by Associate Justice Diosdado M. Peralta with Associate Justices Roland B. Jurado and Efren N. de la Cruz, concurring; rollo, pp. 73-96.

[2] Penned by Associate Justice Diosdado M. Peralta with Presiding Justice Teresita Leonardo-De Castro and Associate Justice Efren N. dela Cruz, concurring; id. at 98-100.

[3] Rollo, p. 101.

- [4] Exhibit "13-a," folder of exhibits.
- [5] Exhibit "12," id.
- [6] Exhibit "21-a," id.
- [7] Exhibit "22," id.
- [8] Exhibits "N," "11," "11-a," "11-b," and "23," id.
- [9] Exhibit "13," id.
- [10] Exhibit "15," id.
- [11] Exhibit "14-a," id.
- [12] Exhibit "14," id.
- [13] Exhibit "2," id.
- [14] Exhibit "10," "10-a," and "10-b," id.
- [15] Exhibits "C-1," "3-a," and "3-c," id.
- [16] Exhibit "C-2," id.
- [17] Exhibits "C," id.
- [18] Exhibit "16," id.
- [19] Exhibits "D" and "D-1-a," id. (emphasis supplied)
- [20] Exhibit "16-b," id.
- [21] Exhibit "16-a," id.
- [22] According to the Minutes of the Meeting of the Committee, the following were present during the bidding: Marietta T. Caugma, Chairperson; Villa J. Bernaldo, COA, Auditor, Member-Witness; Rosauro M. Martinez, Committee Member; Eufrosina A. Farral, COA, Observer; Arsenio de Jesus, Chief, Technological Services Division, Observer; and Edilberto Macatangay, Technological Services Division, Observer. Amiana Abella and Meynardo Garalde, Jr. were not in attendance; Exhibit "E," id.
- [23] TSN, August 1, 1996, p. 17.
- [24] Id. at 19-20.
- [25] Id. at 20-21.
- [26] Exhibit "E," folder of exhibits.
- [27] Exhibit "E-1," id.
- [28] Exhibit "P-1-b," id.
- [29] Exhibits "F" and "F-3," id.
- [30] Exhibit "M" and "10," id.
- [31] Exhibit "G," id.

- [32] Exhibit "G-1" and "4-a," id.
- [33] Exhibit "G-2," id.
- [34] Exhibit "H" and "H-1," id.
- [35] Exhibits "M," "10," "M-1," and "10-b," id.
- [36] Exhibit "H," id.
- [37] Exhibit "K," id.
- [38] Exhibit "P-2," id.
- [39] Exhibits "I" and "J," id.
- [40] Exhibit "L-1," id.
- [41] Rollo, pp. 115-116.
- [42] Exhibit "10-1" and "11-a," folder of exhibits.
- [43] Exhibit "N," id.
- [44] Exhibit "O," id.
- [45] Exhibit "P," id.
- [46] Id. (emphasis supplied)
- [47] Rollo, p. 117.
- [48] Exhibit "Q," folder of exhibits.
- [49] Rollo, pp. 125-137.
- [50] Id. at 138-139.
- [51] Id. at 154.
- [52] TSN, December 23, 1992, pp. 13-14.
- [53] Id. at 28.
- [54] Id.
- [55] TSN, November 28, 1994, p. 28.
- [56] Exhibits "N" and "11," folder of exhibits.
- [57] Exhibit "11-a," id.
- [58] Exhibit "27," id.
- [59] Id.
- [60] TSN, July 8, 1994, pp. 25-26.
- [61] Id. at 9.
- [62] Id. at 22-23.

- [63] Id. at 11.
- [64] Id. at 20.
- [65] TSN, July 8, 1994, p. 34.
- [66] Rollo, pp. 20-21.
- [67] Id. at 26-27.
- [68] Id. at 73-96.
- [69] Id. at 95.
- [70] Id. at 98-100.
- [71] Rollo, pp. 280-283.
- [72] *People v. Dramayo*, G.R. No. L-21325, October 29, 1971, 42 SCRA 59, 64.
- [73] *Velasco v. Sandiganbayan*, G.R. No. 160991, February 28, 2005, 452 SCRA 593, 601.
- [74] *Sistoza v. Desierto*, 437 Phil. 117, 132 (2002).
- [75] G.R. No. 69983, May 14, 1990, 185 SCRA 346, cited in *Sidro v. People*, G.R. No. 149685, April 28, 2004, 428 SCRA 182, 194.
- [76] *Go v. Office of the Ombudsman*, G.R. No. 131399, October 17, 2003, 413 SCRA 608, 618.
- [77] *People v. Francisco*, 416 Phil. 121, 145 (2001), citing *People v. Oliano*, 350 Phil. 604, 628.
- [78] See *Fernandez v. Fernandez*, 416 Phil. 323, 343 (2001).
- [79] G.R. No. 155419, March 4, 2005, 452 SCRA 789, 810-811.
- [80] Exhibit "D-1-a," folder of exhibits.
- [81] Exhibit "26-P," id. (emphasis added)
- [82] Exhibits "Q" and "27," folder of exhibits (emphasis added).
- [83] Exhibit "Q," id.
- [84] TSN, November 28, 1994, p. 28.
- [85] Id. at 23-24 (emphasis added).
- [86] Id. at 4.
- [87] TSN, November 29, 1994, p. 20 (emphasis added).
- [88] Id.
- [89] Article 1319, New Civil Code.
- [90] *Resier v. First Bank of Oak Park*, 466 NE2d.1245, 1984.
- [91] *People v. Jalandoni*, 108 Phil. 486, 492 (1960).
- [92] Exhibit "F," id.

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