

MARIO JOEL T. REYES, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 237172. September 18, 2019

Ponente: LEONEN, J.

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LEONEN, J.:

The approval of small scale mining permits is a discretionary act of provincial governors. A provincial governor is considered to have been grossly and inexcusably negligent in renewing a small scale mining permit despite knowing that the extraction limits have already been exhausted by the applicant mining company.

Likewise, the grant of bail after a judgment of conviction is discretionary upon the courts. Bail may be denied if the courts find any of the circumstances present in Rule 114, Section 5 of the Rules of Court.[2]

This Court resolves a Petition for Review on Certiorari[3] filed by Mario Joel T. Reyes (Reyes), then Governor of Palawan, assailing the Decision[4] and Resolution[5] of the Sandiganbayan, which found him guilty beyond reasonable doubt of violation of Section 3(e) of Republic Act No. 3019, or the Anti-Graft and Corrupt Practices Act, when he renewed the small scale mining permit of a mining company despite it violating the terms and conditions of its previous permit. In an Urgent Motion to Review Resolution Revoking Bail, he also assails the Sandiganbayan Resolution[6] revoking his bail due to previous violations of the conditions of bail and for possibility of flight.

Olympic Mines and Development Corporation (Olympic Mines) is a grantee of mining lease contracts in Narra and Española, Palawan.[7]

On July 18, 2003, the company entered into a 25-year Operating Agreement, under which it granted Platinum Group Metal Corporation (Platinum Group) exclusive privilege to control, possess, manage or operate, and conduct mining operations within the Toronto Nickel Mine in Narra and Pulot Nickel Mine in Española. Olympic Mines "also authorized Platinum Group to market or dispose minerals and mineral products obtained from the areas." [8]

On January 21, 2004, Olympic Mines and Platinum Group separately applied for small scale mining permits before the Provincial Mining Regulatory Board.[9]

The two (2) applications were approved by Reyes, then the Palawan Governor. He issued SSMP PLW No. 37 for a 19,800-hectare property in San Isidro, Narra, Palawan in favor of Olympic Mines. Under the permit, which was valid from November 4, 2004 to November 3, 2006, Olympic Mines was allowed to extract 50,000 dry metric tons of laterite ore.[10] Within the same duration, Platinum Group was similarly allowed, under SSMP PLW No. 39, to extract 50,000 dry metric tons of laterite ore in San Isidro, Narra and in Pulot, Española.[11]

On October 22, 2004, the Department of Environment and Natural Resources issued Olympic Mines' and Platinum Group's Environmental Compliance Certificates, which imposed a limit of 50,000 dry metric tons of nickel/ore mineral to be extracted per year.[12]

From May 30, 2005 to April 3, 2006, Platinum Group transported, for itself and on behalf of Olympic Mines, a total of 203,399.135 dry metric tons of nickel ore extracted under their permits.[13]

On March 10, 2006, Olympic Mines applied for the renewal of SSMP PLW No. 37 before the Provincial Mining Regulatory Board. At the time of its application, Olympic Mines had already exhausted its 50,000-dry metric ton limit under SSMP PLW No. 37 and its 100,000-dry metric ton limit under its Environmental Compliance Certificates.[14]

In Resolution No. 024-2006, the Provincial Mining Regulatory Board unanimously recommended to then Governor Reyes that the application be approved.[15]

On April 6, 2006, then Governor Reyes issued SSMP PLW No. 37.1, valid from April 6, 2006 to April 5, 2008, granting Olympic Mines the right to extract 50,000 dry metric tons of laterite ore per year within the same area covered by SSMP PLW No. 37.[16]

From June 2, 2006 to July 31, 2006, Platinum Group transported, on behalf of Olympic Mines and on its own behalf, 79,330 dry metric tons of nickel ore under SSMP PLW No. 37.1 and SSMP PLW No. 39.1.[17]

In a September 25, 2006 Order, then Environment and Natural Resources Secretary Angelo Reyes, acting on Citinickel Mines' complaint, cancelled Olympic Mines' Environmental Compliance Certificates for over-extraction of minerals.[18]

On appeal, the Office of the President reversed this Order and reinstated the cancelled Environmental Compliance Certificates on the following grounds: (1) Republic Act No. 7076[19] has already repealed the limit of 50,000 dry metric tons on ore extraction; (2) the condition in the Environment Compliance Certificates referred to nickel and not nickel ore; and (3) there was no proof on the amount of nickel extracted from the nickel ore.[20]

Reyes and Andronico J. Baguyo (Baguyo), Head of the Provincial Mining Regulatory Board, however, were charged with violation of Section 3(e) of Republic Act No. 3019 when they allegedly gave unwarranted benefits, preference, and advantage to Olympic Mines in the renewal of its Small Scale Mining Permit.[21]The Information against them read:

That on or about April 6, 2006, or sometime prior or subsequent thereto, in Puerto Princesa City, Palawan, and within the jurisdiction of this Honorable Court, accused JOEL T. REYES, a high ranking public officer being Governor of the Province of Palawan and accused ANDRONICO J. BAGUYO, Mining Operations Officer IV, Provincial Environment and Natural Resources Office and concurrent Head of the Provincial Mining Regulatory Board (PMRB) Technical Secretariat, taking advantage of their respective positions and committing the offense in relation to office, conspiring and confederating with each other, did then and there willfully, knowingly and criminally, with manifest partiality, evident bad faith or, at the very least, gross and inexcusable negligence, grant and issue Small Scale Mining Permit Number SSMP PLW No. 37-1 to Olympic Mines and Development Corporation (OMDC) for a period of April 6, 2006 to April 5, 2008 as renewal of its previous mining permit (SSMP PLW No. 37) despite the fact that said previous mining permit is valid and subsisting up to November 3, 2006 and even as said OMDC already mined and extracted the annual maximum 50,000 dry metric tons (DMT) of ore set forth in its previous permit (or 100,000 DMT for the two-year period), allowing in the process OMDC to mine and extract ore in excess of the allowable limit; and despite OMDC's violations of its prior mining permit such as, but not limited to: (1) over-extraction of ore and (2) the use of heavy equipment in its mining operations which is prohibited by Republic Act 7076 and Presidential Decree 1899, as amended, thereby giving unwarranted benefits, preference and advantage to OMDC. to the damage and prejudice of the government and People of Palawan.

CONTRARY TO LAW.[22] (Citation omitted)

Upon arraignment, Reyes and Baguyo pleaded not guilty to the charge.[23] Trial on the merits then ensued.

As his defense, Reyes contended that there was no criminal intent or negligence on his part since he signed and approved SSMP PLW No. 37.1 based on the favorable recommendation of the Provincial Mining Regulatory Board. He also argued that over-extraction of nickel could not have been proven through Olympic Mines' Ore Transport Permits since these only showed the transport of the minerals. Moreover, he pointed out that the volume in the permits referred to the combined volume of ore extracted by Olympic Mines and Platinum Group.[24]

On August 29, 2017, the Sandiganbayan rendered its Decision[25] finding Reyes guilty of violation of Republic Act No. 3019, Section 3(e).[26] Baguyo, however, was acquitted. The dispositive portion of the Decision read:

WHEREFORE, accused JOEL TOLENTINO REYES is found GUILTY beyond reasonable doubt of violation of Section 3(e) of Republic Act No. 3019, and is sentenced to an indeterminate penalty of imprisonment of six (6) years and one (1) month, as minimum, to eight (8) years, as maximum, with perpetual disqualification from holding public office.

Accused ANDRONICO JARA BAGUYO is ACQUITTED of the crime charged for failure of the prosecution to establish his guilt beyond reasonable doubt.

SO ORDERED.[27]

According to the Sandiganbayan, there was no manifest partiality since the renewal of SSMP PLW No. 37 was not shown to have been granted to favor Olympic Mines alone and no other mining company.[28] It also found no evident bad faith since the applicable laws did not expressly prohibit the renewal of small scale mining permits before they expired.[29]

The Sandiganbayan, however, found that there was gross inexcusable negligence when Reyes renewed SSMP PLW No. 37.1 during the validity of SSMP PLW No. 37. Citing *SR Metals, Inc. v. Reyes*,[30] it stated that the 50,000-dry metric ton limit under Presidential Decree No. 1899[31] was not repealed by Republic Act No. 7076. It explained that the annual production limit in Republic Act No. 7076 includes other materials lumped together with the sought-after material, while Presidential Decree No. 1899 refers to ore in its unprocessed form. The Sandiganbayan ruled that by renewing SSMP PLW No. 37 before it expired, Reyes allowed Olympic Mines to extract nickel ore after its privilege had been exhausted for the period. Reyes allowed Olympic Mines, through Platinum Group, to do an act which it would have been otherwise prohibited.[32]

The Sandiganbayan found no merit in Reyes' argument that he merely relied on the Provincial Mining Regulatory Board's recommendation, stating that "his authority to approve small mining permits calls for the dual role of allowing the exploration and exploitation of, and conserving and preserving the natural resources within the provinces' territorial jurisdiction." [33] It noted that the Board's recommendation was subject to certain conditions, and that Reyes failed to inquire if they had been met before approving the renewal.[34]

The Sandiganbayan likewise found that Reyes acted with gross inexcusable negligence when Olympic Mines' agent, Platinum Group, used heavy machinery in its operations. It noted that the use of sophisticated mining equipment was not allowed in small scale mining.[35]

Thus, through his gross inexcusable negligence, Reyes was found to have given Olympic Mines unwarranted benefits when he allowed it to extract nickel ore beyond the limits allowed by law, as well as when he failed to impose sanctions for the violation of the Small Scale Mining Permit's terms, which caused undue injury to the government.[36]

The Sandiganbayan acquitted Baguyo since his signature on SSMP PLW No. 37.1 appears to be a "Certified

Machine Copy." It also found no indication that he participated in the preparation and issuance of the permit.[37]

Reyes filed a Motion for Reconsideration, which was denied by the Sandiganbayan in its January 25, 2018 Resolution.[38] Hence, he filed this Petition.[39]

Petitioner maintains that he relied in good faith on the recommendation of the Provincial Mining Regulatory Board, it being the specialized agency with the duty and technical expertise to evaluate small scale mining permit applications. He points out that it is the Mines and Geosciences Bureau, not the provincial governor, which has the duty to ensure that the terms and conditions of small scale mining applications are complied with.[40]

Petitioner further argues that SR Metals should not have been given retroactive application when it is prejudicial to the accused. In any case, he points out that this Decision only shows that there has already been an issue as to how to interpret the 50,000-dry metric ton threshold. Therefore, he insists, there was reasonable doubt in his case.[41]

Petitioner likewise submits the Urgent Motion to Review the Revocation of Bail assailing the Sandiganbayan's January 17, 2018 Resolution,[42] which had revoked his bail. The Sandiganbayan cited that: (1) he violated the conditions of his bail without any justification after he had failed to appear before the Sandiganbayan despite a directive for him to do so; and (2) there was a probability of flight.[43]

The Sandiganbayan had previously granted petitioner bail in the amount of P60,000.00 on August 29, 2017, right after his conviction. Petitioner explains that this was distinct from the bail he posted on September 1, 2011 to stay the warrant of his arrest. He states that any violation of the conditions of his bail was prior to his conviction; thus, the bail he posted on September 1, 2011 was considered cancelled. He likewise argues that this violation was justified since he did not believe that he would be tried fairly if he stayed in the country.[44]

Petitioner argues that he was "vindicated"[45] when the Court of Appeals, in CA-G.R. SP. No. 132847, through Associate Justice Normandie Pizarro, found no probable cause to find him liable for the murder of radio personality Gerry Ortega and dismissed the case against him. He argues that there was no reason to revoke his bail in this case since the Court of Appeals had already dismissed the case against him, negating any possibility of flight. He points out that he even voluntarily surrendered when the Sandiganbayan issued its January 17, 2018 Resolution.[46]

Respondent People of the Philippines, through the Office of the Ombudsman, counters that all the elements of violation of Section 3(e) of Republic Act No. 3019 were sufficiently established by the prosecution. It points out that based on the evidence presented, Olympic Mines violated the terms and conditions of its Small Scale Mining Permit when Platinum Group extracted, on Olympic Mines' behalf, more than the 50,000-dry metric ton limit under the law. It contends that the Office of the Governor of Palawan, through petitioner, acted with gross inexcusable negligence in allowing the renewal of Olympic Mines and Platinum Group's Small Scale Mining Permit despite their blatant violations of law.[47]

Respondent likewise asserts that the Sandiganbayan did not commit grave abuse of discretion when it cancelled petitioner's bail. It states that petitioner had already been convicted, and that the Sandiganbayan cited two (2) grounds for the bail's cancellation: (a) when petitioner failed to appear in court despite a directive to do so; and (b) the probability of flight.[48]

Additionally, respondent submits that the Sandiganbayan's factual findings are conclusive on this Court since there was no grave abuse of discretion on its part when it arrived at its conclusions.[49]

In rebuttal, petitioner maintains that the questions raised in his Petition were proper in a petition for review on

certiorari since he argued that the assailed judgment was issued by the Sandiganbayan without any legal basis.[50] He likewise insists that he merely relied on the Provincial Mining Regulatory Board's recommendation when he renewed the Small Scale Mining Permit, which cannot be considered gross inexcusable negligence on his part.[51]

This Court is now asked to resolve the following issues:

First, whether or not the Sandiganbayan erred in finding petitioner Mario Joel T. Reyes guilty of violation of Section 3(e) of Republic Act No. 3019 when he approved the renewal of Olympic Mines' Small Scale Mining Permit; and Second, whether or not the Sandiganbayan erred in revoking his bail on the ground of violation of the conditions of his bail and for possibility of flight.

Section 3(e) of Republic Act No. 3019, or the Anti-Graft and Corrupt Practices Act, provides:

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

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

To prove guilt, the prosecution must establish the following elements:

- 1) The accused must be a public officer discharging administrative, judicial or official functions;
- 2) He must have acted with manifest partiality, evident bad faith or inexcusable negligence; and
- 3) That his action caused undue injury to any party, including the government, or gave any private party unwarranted benefits, advantage or preference in the discharge of his functions.[52] (Citation omitted)

Here, the prosecution has duly proven the existence of the first element. Petitioner was the Palawan Governor during the alleged commission of the crime. As provincial governor, he had the duty under the Local Government Code to adopt measures for the conservation of the natural resources within the province:

ARTICLE I

The Provincial Governor

SECTION 465. The Chief Executive: Powers, Duties, Functions, and Compensation. — . . .

(3) Initiate and maximize the generation of resources and revenues, and apply the same to the implementation of development plans, program objectives and priorities as provided for under Section 18 of this Code, particularly those resources and revenues programmed for agro-industrial development and country-wide growth and progress and, relative thereto, shall:

. . . .

(v) Adopt adequate measures to safeguard and conserve land, mineral, marine, forest and other resources of the province, in coordination with the mayors of component cities and municipalities;

(vi) Provide efficient and effective property and supply management in the province; and protect the funds, credits, rights, and other properties of the province[.]

Petitioner was likewise tasked with approving the permits for small scale mining operations within the province:

Section 8. Role of Local Government

Subject to Section 8 of the Act and pursuant to the Local Government Code and other pertinent laws, the Local Government Units (LGUs) shall have the following roles in mining projects within their respective jurisdictions:

....

b. In coordination with the Bureau/Regional Office(s) and subject to valid and existing mining rights, to approve applications for small-scale mining, sand and gravel, quarry, guano, gemstone gathering and gratuitous permits and for industrial sand and gravel permits not exceeding five (5) hectares [..][53]

Petitioner's approval of small scale mining permits was within his official duties as the local chief executive of the province. To prove a violation of the Anti-Graft and Corrupt Practices Act, however, the prosecution must also establish that his approval of these permits was done through manifest partiality, evident bad faith, or inexcusable negligence.

Commission of the offense through any of these three (3) modes is sufficient for a conviction.[54] These modes, however, are distinct from one another. In *Albert v. Sandiganbayan*,[55] this Court defines each mode of commission:

There is "manifest partiality" when there is a clear, notorious, or plain inclination or predilection to favor one side or person rather than another. "Evident bad faith" connotes not only bad judgment but also palpably and patently fraudulent and dishonest purpose to do moral obliquity or conscious wrongdoing for some perverse motive or ill will. "Evident bad faith" contemplates a state of mind affirmatively operating with furtive design or with some motive or self-interest or ill will or for ulterior purposes. "Gross inexcusable negligence" refers to 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 willfully and intentionally, with conscious indifference to consequences insofar as other persons may be affected.[56]

Here, since the renewal of Olympic Mines' SSMP PLW No. 37.1 was not exclusively granted to Olympic Mines, the Sandiganbayan found that petitioner was not proven to be manifestly partial to Olympic Mines.[57] It also could not find any evident bad faith when petitioner approved SSMP PLW No. 37.1 before the expiration of SSMP PLW No. 37 since the law existing at the time did not expressly prohibit the renewal of small scale mining permits before their expiration.[58]

The Sandiganbayan, however, found that petitioner committed gross inexcusable negligence when he approved Olympic Mines' SSMP PLW No. 37.1, considering that Olympic Mines violated the terms and conditions of SSMP PLW No. 37.

Small scale mining was first defined in Presidential Decree No. 1899,[59] which was issued on January 23, 1984. Section 1 of the law states:

SECTION 1. Small-scale mining refers to any single unit mining operation having an annual production of not more than 50,000 metric tons of ore and satisfying the following requisites:

1. The working is artisanal, either open cast or shallow underground mining, without the use of sophisticated mining equipment;
2. Minimal investment on infrastructures and processing plant;
3. Heavy reliance on manual labor; and

4. Owned, managed or controlled by an individual or entity qualified under existing mining laws, rules and regulations.

Considering that the operative phrase is "small scale," Presidential Decree No. 1899 limits production to only 50,000 metric tons of ore. Tasked with implementing the law,[60]the Department of Environment and Natural Resources issued Mines Administrative Order No. MRD-41, series of 1984, which provided:

SECTION 2. Who May Qualify for the Issuance of a Small Scale Mining Permit. — Any qualified person as defined in Sec. 1 of these Regulations, preferably claim owners and applicants for or holders of quarry permits and/or licenses may be issued a small scale mining permit provided that their mining operations, whether newly-opened, existing or rehabilitated, involve:

(a) a single mining unit having an annual production not exceeding 50,000 metric tons of run-of-mine ore, either an open cast mine working or a sub-surface mine working which is driven to such distance as safety conditions and practices will allow[.][61]

In 1991, Congress enacted Republic Act No. 7076, or the People's Small-scale Mining Act of 1991. This law defined "small scale mining" as "mining activities which rely heavily on manual labor using simple implements and methods and do not use explosives or heavy mining equipment[.]"[62] Unlike Presidential Decree No. 1899, Republic Act No. 7076 did not include an extraction threshold of 50,000 metric tons of ore. This led the Department of Justice to issue Opinion No. 74, series of 2006, opining that Republic Act No. 7076 effectively repealed the 50,000-metric ton threshold mandated by Presidential Decree No. 1899.[63]

This erroneous interpretation by the Department of Justice has since been rectified in *SR Metals*.^[64] In any case, petitioner contends that at the time of the mining activities in this case, there had already been a controversy on whether Republic Act No. 7076 impliedly repealed Presidential Decree No. 1899's 50,000-dry metric ton threshold. To find any merit in this argument, however, would be to misread *SR Metals*.

In *SR Metals*^[65] *SAN R Mining and Construction Corporation* and *Galeo Equipment and Mining Company, Inc.* were each granted small scale mining permits to extract nickel and cobalt in a mining site in Agusan del Norte. Subsequently, however, Agusan del Norte Governor Erlpe John M. Amante (Governor Amante) questioned the amounts being extracted by the mining companies since they had already extracted 177,297 dry metric tons of nickel and cobalt. The mining companies explained to Governor Amante that they, in reality, only extracted 1,699.66 metric tons of nickel and cobalt "ore," or the material that had already undergone a scientific process to separate the metal from the unwanted rocks and minerals.^[66]

Unsatisfied with this explanation, Governor Amante sought the opinion of the Department of Justice on the matter. This was why, on November 30, 2006, then Justice Secretary Raul M. Gonzalez issued Department of Justice Opinion No. 74, where it was opined that Republic Act No. 7076 had already repealed the 50,000-dry metric ton threshold set by Presidential Decree No. 1899. It was also opined that even assuming that there was no repeal, "ore" should be confined only to material that has economic value to the mining companies.^[67]

This Court proceeded to resolve the main issue of the proper interpretation of "ore" within the context of the dry metric ton threshold. To resolve this issue, however, it had to first pass upon the issue of the "implied repeal." It was then categorically held that Republic Act No. 7076 did not repeal the dry metric ton threshold set by Presidential Decree No. 1899 since "[Presidential Decree No.] 1899 applies to individuals, partnerships[, and corporations while [Republic Act No.] 7076 applies to cooperatives."^[68]

This Court likewise recognized that the Department of Environment and Natural Resources had already issued Memorandum Circular No. 2007-07, or the "Clarificatory Guidelines in the Implementation of the Small-Scale Mining Laws," which provides:

V. Maximum Annual Production

For metallic minerals, the maximum annual production under an SSMP/SSMC shall be 50,000 dry metric tons (DMT[s]) of ore, while for non-metallic minerals, the maximum annual production shall be 50,000 DMT[s] of the material itself, e.g., 50,000 DMT[s] of limestone, 50,000 DMT[s] of silica, or 50,000 DMT[s] of perlite.

The maximum annual production above shall include low-grade and/or marginal ore, and/or minerals or rocks that are intended for sampling and/or metallurgical testing purpose/s.[69]

Thus, contrary to petitioner's contention, the "implied repeal" only became a controversy when Department of Justice Opinion No. 74 was issued on November 30, 2006, or after the mining activities in this case had occurred from May 2005 to April 2006. At the time the mining activities occurred, mining companies were aware of the existence of the 50,000-dry metric ton threshold. Petitioner, as the local chief executive, is presumed to have been aware of it as well.

In this case, the Sandiganbayan found that from May 30, 2005 to April 3, 2006, Platinum Group transported a total of 203,399.135 dry metric tons of nickel ore under Olympic Mines' SSMP PLW No. 37 and Platinum Group's SSMP PLW No. 39[70] This is clearly beyond the 100,000-dry metric ton threshold of the combined permits, a fact that petitioner does not dispute. His act of renewing Olympic Mines' Small Scale Mining Permits, despite a blatant violation of the terms of the permit, was correctly characterized as gross inexcusable negligence.

In an attempt to disclaim liability, petitioner argues that he merely relied on the recommendation of the Provincial Mining Regulatory Board to renew Olympic Mines' permit. This argument, however, is unmeritorious.

Samson A. Negosa (Negosa), a member of the Provincial Mining Regulatory Board from 1993 to 2010,[71] appeared on petitioner's behalf and testified:

The role of PMRB is only recommendatory. The PMRB's recommendation is not automatically approved by the Governor. The Governor issues the SSMP on the basis of the PMRB's recommendation. The Governor has the prerogative to review the recommendation of PMRB.[72]

Thus, while the Provincial Mining Regulatory Board is the technical body that recommends the approval of applications for small scale mining permits, the provincial governor still has the correlative duty to review its recommendation.

The duty to approve was, therefore, discretionary on petitioner, not ministerial.

Negosa, petitioner's own witness, likewise testified that the Provincial Mining Regulatory Board did not have jurisdiction over ore transport permits. Thus, when the Provincial Mining Regulatory Board recommended the permit's renewal, it would have been unaware that Olympic Mines had already exhausted its extraction limit. Negosa stated:

He has no personal knowledge of the contents, veracity and truthfulness of Ore Transport Permits (OTPs) issued before 2007 because the PMRJB had no jurisdiction over OTPs prior to 2007.[73] (Citation omitted)

In contrast, petitioner, as provincial governor, signs the ore transport permits of small scale miners.[74] Therefore, it can be presumed that unlike the Provincial Mining Regulatory Board, petitioner was aware of the amounts of ore being transported by Olympic Mines. Had he taken the slightest care, he would have taken the Provincial Mining Regulatory Board's recommendation together with the amounts in the Ore Transport Permits and realized that he should not have renewed Olympic Mines' Small Scale Mining Permit after all.

The controversy in SR Metals, by contrast, arose because a provincial governor questioned the over-extraction of minerals by mining companies within his province. This Court recognized that irresponsible mining activities

posed an environmental threat:

It must be emphasized that mining, whether small or large-scale, raises environmental concerns. To allow such a scenario will further cause damage to the environment such as erosion and sedimentation, landslides, deforestation, acid rock drainage, etc. As correctly argued by the Solicitor General, extracting millions of DMTs of run-of-mine ore will mean irreversible degradation of the natural resources and possible landslides and flashfloods.[75](Citation omitted)

Petitioner, as the local chief executive, had the duty to act within the best interests of his constituents and to safeguard the environment's natural resources. The dry metric ton threshold set by the law ensures that small scale mining activities will not result in environmental damage. Petitioner's gross inexcusable negligence, thus, caused undue injury to the Province of Palawan, as it exposed the province to various environmental threats resulting from irresponsible mining.

There was, thus, no error in the Sandiganbayan's finding that petitioner was guilty beyond reasonable doubt of violating Section 3(e) of the Anti-Graft and Corrupt Practices Act. Under Section 9 of the law, the offense is punishable by "imprisonment for not less than six years and one month nor more than fifteen years [and] perpetual disqualification from public office[.]" The Sandiganbayan, therefore, did not err in imposing the indeterminate penalty of six (6) years and one (1) month as minimum to eight (8) years as maximum with perpetual disqualification from public office.

II

Bail after conviction is not a matter of right. Its grant or cancellation is within the sound discretion of the court.

As early as 1936, this Court has already recognized that the grant of bail after conviction, not being a constitutional right, is left to the discretion of the courts:

Under the law, persons convicted of non-capital crimes, who appeal from a judgment sentencing them to penalties other than death, have no absolute right to bail, except when said penalties are imposed upon them by the justice of the peace courts, as the right to bail after conviction is not authorized by the Constitution and is, as a general rule, not recognized (3 Ruling Case Law, par. 14, p. 15), it being clearly stated in section 64 of General Orders, No. 58, as amended by section 2 of Act No. 4178, that:

"After judgment by a justice of the peace, the defendant shall be admitted to bail as of right, and, in all non-capital cases after judgment by any other court, as a matter of judicial discretion. . . ."[76] (Emphasis supplied)

Indeed, even the 1987 Constitution mandates that bail is a matter of right in bailable offenses before conviction:

Article III

Bill of Rights

SECTION 13. All persons, except those charged with offenses punishable by reclusion perpetua when evidence of guilt is strong, shall, before conviction, be bailable by sufficient sureties, or be released on recognizance as may be provided by law. The right to bail shall not be impaired even when the privilege of the writ of habeas corpus is suspended. Excessive bail shall not be required.

Rule 114, Section 5 of the Rules of Court, therefore, provides:

SECTION 5. Bail, when discretionary. — Upon conviction by the Regional Trial Court of an offense not punishable by death, reclusion perpetua, or life imprisonment, admission to bail is discretionary. The application for bail may be filed and acted upon by the trial court despite the filing of a notice of appeal, provided it has not transmitted the original record to the appellate court. However, if the decision of the trial court convicting the accused changed the nature of the offense from non-bailable to bailable, the application

for bail can only be filed with and resolved by the appellate court.

Should the court grant the application, the accused may be allowed to continue on provisional liberty during the pendency of the appeal under the same bail subject to the consent of the bondsman.

If the penalty imposed by the trial court is imprisonment exceeding six (6) years, the accused shall be denied bail, or his bail shall be cancelled upon a showing by the prosecution, with notice to the accused, of the following or other similar circumstances:

- (a) That he is a recidivist, quasi-recidivist, or habitual delinquent, or has committed the crime aggravated by the circumstance of reiteration;
- (b) That he has previously escaped from legal confinement, evaded sentence, or violated the conditions of his bail without valid justification;
- (c) That he committed the offense while under probation, parole, or conditional pardon;
- (d) That the circumstances of his case indicate the probability of flight if released on bail; or
- (e) That there is undue risk that he may commit another crime during the pendency of the appeal.

The appellate court may, *motu proprio* or on motion of any party, review the resolution of the Regional Trial Court after notice to the adverse party in either case. (Emphasis supplied)

After conviction of an offense not punishable by death, reclusion perpetua, or life imprisonment, the grant of bail becomes discretionary upon the court, which may either deny or grant it. In circumstances where the penalty imposed exceeds six (6) years, the court is not precluded from cancelling the bail previously granted upon a showing by the prosecution of the circumstances enumerated in Rule 114, Section 5 of the Rules of Court. The presence of even one (1) of the enumerated circumstances is sufficient cause to deny or cancel bail.

Here, the Sandiganbayan initially granted petitioner's application for bail on August 29, 2017. The dispositive portion of the Order^[77] read:

In today's scheduled promulgation of decision, only the dispositive portion of the decision was read upon the request of both accused. Accused Joel Tolentino Reyes was found GUILTY as charged of Violation of Section 3(e) of Republic Act No. 3019 while accused Andronico Jara Baguyo was ACQUITTED of the same charge.

Upon motion of accused Reyes and over the objection of the prosecution, let his bail be set at Sixty Thousand Pesos (PhP60,000.00) or double the amount originally set by the Court for said accused, to be posted today.

In view of the acquittal of accused Andronico Jara Baguyo, his bail bond is ordered released, subject to accounting rules and regulations. Further the Hold Departure Order of accused Baguyo is lifted.

SO ORDERED.^[78]

The prosecution filed an Urgent Omnibus Motion^[79] to cancel petitioner's bail, stating that petitioner was a flight risk and that his counsel could not produce him before the Sandiganbayan on several occasions:

In spite of his conviction, accused Reyes was allowed bail, over the objections of the prosecution that accused Reyes was and remains to be a flight risk; and notwithstanding the fact that during the trial of the case, his counsel could not produce the accused before the Honorable Court nor categorically state or account for his whereabouts on several occasions.

... It will be recalled that accused Reyes was a fugitive. He, together with his brother, were arrested in Thailand. Had it not been for the intervention of Thai authorities, accused Reyes would not have been deported to face the criminal charges against him.^[80] (Citation omitted)

On January 17, 2018, the Sandiganbayan issued a Resolution^[81] granting the Urgent Omnibus Motion and cancelling petitioner's bail. According to the Sandiganbayan, petitioner had initially been granted bail when he voluntarily surrendered on September 1, 2011, after he had filed a Waiver of Appearance/Identity and a Hold Departure Order was issued against him.^[82] But on the scheduled hearings on October 22 and 23, 2013, petitioner failed to appear,^[83] and it was later discovered that he managed to escape to Thailand. He was only returned to the country with the assistance of Thai authorities.^[84] For these reasons, the Sandiganbayan deemed it necessary to cancel petitioner's bail.

Indeed, the factual findings show the presence of two (2) circumstances stated in Rule 114, Section 5 of the Rules of Court: (1) petitioner had previously escaped from legal confinement, evaded sentence, or violated the conditions of his bail without a valid justification; and (2) he poses a flight risk if admitted to bail. The Sandiganbayan did not act arbitrarily or capriciously, but rather, arrived at its decision with due consideration of the arguments presented by the prosecution. In *People v. Cadera*.^[85]

The right to bail after conviction is not absolute, and while the person convicted may, upon application be bailed at the discretion of the court, that discretion — particularly with respect to extending the bail — should be exercised, not with laxity, but with caution and only for strong reasons with the end in view of upholding the majesty of the laws and the administration of justice.^[86]

Here, when petitioner fled the country in 2011 after a warrant of arrest for murder had been filed against him, he has been a proven flight risk. He has since been acquitted of this charge by the Court of Appeals for lack of evidence.^[87]

Petitioner had the propensity to evade the lawful orders of the court even before he could be convicted of murder. Since petitioner had already been convicted, the Sandiganbayan had to be more circumspect in examining the condition for petitioner's bail in this case. As the Sandiganbayan pointed out, petitioner fled despite the existence of a Hold Departure Order, and thus, "there is indeed a distinct probability that he would once again escape considering that the [Sandiganbayan] already found him guilty and ordered his imprisonment for more than six (6) years."^[88] In *Obosa v. Court of Appeals*:^[89]

[T]he grave caution that must attend the exercise of judicial discretion in granting bail to a convicted accused is best illustrated and exemplified in Administrative Circular No. 12-94 amending Rule 114, Section 5 which now specifically provides that, although the grant of bail is discretionary in non-capital offenses [,] nevertheless, when imprisonment has been imposed on the convicted accused in excess of six (6) years and circumstances exist (inter alia, where the accused is found to have previously escaped from legal confinement or evaded sentence, or there is an undue risk that the accused may commit another crime while his appeal is pending) that point to a considerable likelihood that the accused may flee if released on bail, then the accused must be denied bail, or his bail previously granted should be cancelled.

But the same rationale obtained even under the old rules on bail (i.e., prior to their amendment by Adm. Circular 12-94). Senator Vicente J. Francisco's eloquent explanation on why bail should be denied as a matter of wise discretion after judgment of conviction reflects that thinking, which remains valid up to now:

The importance attached to conviction is due to the underlying principle that bail should be granted only where it is uncertain whether the accused is guilty or innocent, and therefore, where that uncertainty is removed by conviction it would, generally speaking, be absurd to admit to bail. After a person has been tried and convicted the presumption of innocence which may be relied upon in prior applications is rebutted, and the burden is upon the accused to show error in the conviction. From another point of view it may be properly argued that the probability of ultimate punishment is so enhanced by the conviction that the accused is much more likely to attempt to escape if liberated on bail than before conviction[.].^[90]

The Sandiganbayan, in its January 17, 2018 Resolution, emphasized:

In ordering the revocation of the grant of bail to accused Reyes, the Court is also guided by the teaching of the Supreme Court that after conviction by the trial court, the presumption of innocence terminates and, accordingly, the constitutional right to bail ends. From then on, the grant of bail is subject to judicial discretion. In the exercise of that discretion, the proper courts are to be guided by the fundamental principle that the allowance of bail pending appeal should be exercised not with laxity but with grave caution and only for strong reasons, considering that the accused has been in fact convicted by the trial court.[91] (Citations omitted)

There was, thus, no error in the Sandiganbayan's exercise of its discretion to cancel petitioner's bail. In any case, the review of the Resolution cancelling his bail has become unnecessary in view of this Court's finding that petitioner is guilty beyond reasonable doubt of violation of Section 3(e) of the Anti-Graft and Corrupt Practices Act.

WHEREFORE, the Petition is DENIED. Petitioner Mario Joel T. Reyes is found GUILTY beyond reasonable doubt of violation of Section 3(e) of Republic Act No. 3019. He is sentenced to an indeterminate penalty of imprisonment of six (6) years and one (1) month, as minimum, to eight (8) years, as maximum, with perpetual disqualification from holding public office.

SO ORDERED.

Peralta (Chairperson), Reyes, A., Jr., Hernando, and Inting, JJ., concur.

[1] Referred to by the Sandiganbayan and the Office of the Special Prosecutor as "Joel Tolentino Reyes." He is not to be confused with his brother, Mario Tolentino Reyes, who was the former Mayor of Coron, Palawan.

[2] Rules of Court, Rule 114, sec. 5 provides:

SECTION 5. Bail, when discretionary. —...

If the penalty imposed by the trial court is imprisonment exceeding six (6) years, the accused shall be denied bail, or his bail shall be cancelled upon a showing by the prosecution, with notice to the accused, of the following or other similar circumstances:

- (a) That he is a recidivist, quasi-recidivist, or habitual delinquent, or has committed the crime aggravated by the circumstance of reiteration;
- (b) That he has previously escaped from legal confinement, evaded sentence, or violated the conditions of his bail without a valid justification;
- (c) That he committed the offense while under probation, parole, or conditional pardon;
- (d) That the circumstances of his case indicate the probability of flight if released on bail; or
- (e) That there is undue risk that he may commit another crime during the pendency of the appeal.

[3] Rollo, pp. 3-61.

[4] Id. at 62-90. The August 29, 2017 Decision was penned by Associate Justice Sarah Jane T. Fernandez and concurred in by Presiding Justice Amparo M. Cabotaje-Tang and Associate Justice Bernelito R. Fernandez of the Third Division, Sandiganbayan, Quezon City.

[5] Id. at 91-104. The January 25, 2018 Resolution was penned by Associate Justice Sarah Jane T. Fernandez and concurred in by Presiding Justice Amparo M. Cabotaje-Tang and Associate Justice Bernelito R. Fernandez of the Third Division, Sandiganbayan, Quezon City.

[6] Id. at 105-122. The January 17, 2018 Resolution was signed by Presiding Justice Amparo M. Cabotaje-Tang and Associate Justices Bernelito R. Fernandez and Zaldy V. Trespeces of the Third Division, Sandiganbayan, Quezon City.

[7] Id. at 70.

[8] Id.

[9] Id. at 70-71.

[10] Id. at 71.

[11] Id.

[12] Id.

[13] Id. at 71-72.

[14] Id. at 72.

[15] Id.

[16] Id.

[17] Id. The Sandiganbayan did not discuss the particulars of the issuance of SSMP PLW No 39.1.

[18] Id. at 73

[19] People's Small-scale Mining Act of 1991.

[20] Rollo, p. 73.

[21] Id.

[22] Id. at 62-A.

[23] Id.

[24] Id. at 74.

[25] Id. at 62-90.

[26] Republic Act No. 3019 (1960), sec. 3 provides:

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

....

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

[27] Rollo, p. 89.

[28] Id. at 77.

[29] Id. at 77-78.

[30] 735 Phil. 54 (2014) [Per J. Del Castillo, Second Division].

[31] Establishing Small-Scale Mining as a New Dimension in Mineral Development (1984).

[32] Rollo, pp. 79-82.

[33] Id. at 83.

[34] Id. at 82-83.

[35] Id. at 84.

[36] Id. at 85-86.

[37] Id. at 87.

[38] Id. at 91-104.

[39] Id. at 3-61. A Comment (rollo, pp. 624-642) was filed on July 16, 2018 while a Reply (rollo, pp. 695- 716) was filed on December 7, 2018.

[40] Id. at 23-32.

[41] Id. at 46-48.

[42] Id. at 105-122.

[43] Id. at 49-50.

[44] Id. at 50-52.

[45] Id. at 52.

[46] Id. at 52-55.

[47] Id. at 629-636.

[48] Id. at 636-638.

[49] Id. at 638-639.

[50] Id. at 695-697.

[51] Id. at 697-702.

[52] Soriano v. Marcelo, 610 Phil. 72, 80 (2009) [Per J. Carpio, First Division].

[53] DENR Administrative Order No. 96-40 (1996), Revised Implementing Rules and Regulations of Republic Act No. 7942, Otherwise Known as the "Philippine Mining Act of 1995".

[54] See Fonacier v. Sandiganbayan, 308 Phil. 660 (1994) [Per J. Vitug, En Banc].

[55] 599 Phil. 439 (2009) [Per J. Carpio, First Division],

[56] Id. at 450-451 citing Uriarte v. People, 540 Phil. 477 (2006) [Per J. Callejo, Sr., First Division].

[57] Rollo, p. 77.

[58] Id. at 77-78.

[59] Establishing Small-Scale Mining as a New Dimension in Mineral Development.

[60] Pres. Decree No. 1899 (1984), sec. 8.

[61] Mines Administrative Order No. MRD-41 (1984) as cited in *SR Metals v. Reyes*, 735 Phil. 54, 62-63 (2014) [Per J. Del Castillo, Second Division].

[62] Republic Act No. 7076 (1991), sec. 3(b).

[63] See *SR Metals v. Reyes*, 735 Phil. 54 (2014) [Per J. Del Castillo, Second Division]

[64] Id.

[65] Id.

[66] Id. at 59.

[67] Id. at 60.

[68] Id. at 66.

[69] Rollo, p. 236.

[70] Id. at 71-72.

[71] Id. at 65-A.

[72] Id. at 66.

[73] Id.

[74] Id. at 214-221.

[75] *SR Metals v. Reyes*, 735 Phil. 54, 69-70 (2014) [Per J. Del Castillo, Second Division].

[76] *People v. Follantes*, 63 Phil. 474, 475 (1936) [Per J. Diaz, En Banc].

[77] Rollo, p. 510.

[78] Id.

[79] Id. at 512-514:

[80] Id. at 512.

[81] Id. at 105-122.

[82] Id. at 116 and 120.

[83] Id. at 117.

[84] Id. at 120.

[85] 117 Phil. 650 (1963) [Per J. Regala, En Banc].

[86] Id. at 654 citing 8 C.J.S. pp. 69-70.

[87] Rollo, pp. 533-556. See *Reyes v. Regional Trial Court of Puerto Princesa City, Palawan*, Branch 52,

CA-G.R. SP No. 132847, January 4, 2018. The Decision was penned by Court of Appeals Associate Justice Normandie B. Pizarro, who has since been found guilty of conduct unbecoming a member of the judiciary for gambling in casinos (Re: Anonymous Letter Complaint against Justice Pizzaro, A.M. No. 17-11-06-CA, March 13, 2018, < <http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64024> > [Per J. Martires, En Banc]).

In *De Lima v. Reyes*, 776 Phil. 623 (2016) [Per J. Leonen, Second Division], this Court was confronted with the issue of whether Mario Joel T. Reyes could still question the finding of probable cause for murder by the Special Panel of Prosecutors despite the trial court's issuance of a warrant of arrest. Reyes had filed a Petition before the Court of Appeals questioning the Department of Justice's creation of the Second Special Panel of Prosecutors and a separate Petition with the Court of Appeals questioning the Resolution of the Special Panel of Prosecutors. This Court, however, held that all petitions before the Court of Appeals questioning the executive determination of probable cause have, become moot due to the trial court's finding of probable cause and subsequent issuance of the warrant of arrest.

Reyes, however, filed another Petition with the Court of Appeals, docketed as CA-G.R. SP No. 132847, assailing the trial court's finding of probable cause. In the Decision dated January 4, 2012, the Court of Appeals Division of Five acquitted Reyes due to lack of evidence.

[88] *Id.* at 121.

[89] 334 Phil. 253 (1997) [Per J. Panganiban, Third Division].

[90] *Id.* at 273-274 citing RULES OF COURT, Rules 110-127.

[91] *Rollo*, p. 121.

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