

THE PEOPLE OF THE PHILIPPINES, Plaintiff-Appellee, VS. LIONEL ECHAVEZ BACALTOS, Accused-Appellant.

G.R. No. 248701. July 28, 2020

Ponente: LAZARO-JAVIER, J.

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LAZARO-JAVIER, J.:

The Case

Appellant Lionel Echavez Bacaltos seeks to reverse and set aside the Decision[1] dated May 17, 2019 of the Sandiganbayan in SB-18-CRM-0010 finding him guilty of violation of Section 3(e) of RA 3019, the Anti-Graft and Corrupt Practices Act.

Antecedents

The charge and plea

By Information dated January 12, 2018, appellant was charged before the Sandiganbayan with violation of Section 3(e) of RA 3019, viz.:

That in February 2015, or sometime prior or subsequent thereto, in the Municipality of Sibonga, Province of Cebu, Philippines and within the jurisdiction of this Honorable Court, LIONEL ECHAVEZ BACALTOS, a high-ranking public officer, being the Mayor of the Municipality of Sibonga, Cebu, in such capacity, committing the crime in relation to office, acting with manifest partiality, evident bad faith and/or gross inexcusable negligence, did then and there willfully, unlawfully and criminally cause undue injury to the government by receiving an honorarium from the Philippine Health Insurance Corporation (PhilHealth) in the amount of Php17,512.50, despite the fact that he was not entitled to receive it since the said honorarium was exclusively given and intended for the municipal health personnel, and accused was not a member of the municipal health personnel, thereby causing undue injury to the government in the aforesaid amount.

CONTRARY TO LAW.[2]

On arraignment, appellant pleaded not guilty.[3] During the pre-trial, the parties stipulated, thus:[4]

JOINT STIPULATIONS

The PEOPLE, represented by the Office of the Special Prosecutor and accused LIONEL ECHAVEZ BACALTOS, represented by ATTY. JULIUS CEASAR S. ENTISE, unto this Honorable Court, most respectfully stipulate on the following:

1.

At the time material to the allegation in the Information, the accused is a public officer holding the position of the Municipal Mayor of Sibonga, Province of Cebu;

2.

That whenever referred to orally or in writing by the Honorable Court and the Prosecution and/or its witnesses the accused admits that he is the same person being referred to in this case;

3.

Under its program, Philhealth Regional Office VII released the fund for Per Family Payment Rate (PFPR) for the provision of primary care benefit services to the Municipal Health Office of Sibonga, Cebu for the years 2012, 2013, 2014, and 2015;

4.

Under the prescribed disposition and allocation of the PFPR, twenty percent (20%) of the fund shall be exclusively utilized as honoraria of the staff of the health facility and in the improvement of their capability to be able to provide better health services:

(a)

Ten percent (10%) for the physician;

(b)

Five percent (5%) for the other health professional staff of the facility;

(c)

Five percent (5%) for non-health professional/staff including volunteers;

5.

In February 2015, accused Bacaltos certified the Obligation Request No. 0499-02-15-300 (Exhibit "E") for the payment of the twenty percent (20%) PhilHealth honoraria to health personnel in the amount of Php280,197.00;

6.

From the 20% Philhealth Capitation Fund for Personnel Honorarium, accused Bacaltos received the amount of Php17,512.50 as honorarium in 2015 and signed payrolls (EXHIBIT "F") for this purpose;

7.

Accused Bacaltos is not a physician, or a health or non-health professional staff, nor a volunteer of Municipal Health Office of Sibonga, Cebu from 2014-2015.

II

ISSUES

1. Whether accused Bacaltos acted with manifest partiality, evident bad faith or gross inexcusable negligence in receiving an honorarium from the Philippine Health Insurance Corporation (PhilHealth) in the amount P17,512.50, despite the fact that he was not entitled thereto since the said honorarium was exclusively given and intended for the municipal health personnel, and accused was not a member thereof or not;
2. Whether accused Bacaltos caused undue injury to the government by receiving the honorarium;
3. Whether accused Bacaltos violated Section 3(e) of Republic Act No. 3019, as amended in receiving an honorarium from the Philippine Health Insurance Corporation (PhilHealth) in the amount of P17, 512.50, despite the fact that he was not entitled to receive it since the said honorarium was exclusively given and intended for the municipal health personnel, and accused was not a member thereof, causing undue injury to the government in the aforesaid amount;
4. Whether accused is entitled to the honorarium being the Municipal Mayor of Sibonga, Cebu.[5] xxx xxx xxx

On the basis thereof, the prosecution and the defense manifested that they would dispense with the presentation of evidence.[6] The Sandiganbayan then ordered the prosecution and the defense to formally offer their exhibits and file their respective comments thereon. Both parties complied and filed their respective memoranda.[7]

The Prosecution's Version

In line with the government's Kalusugang Pangkalahatan Program, the Philippine Health Insurance Corporation (PhilHealth), by Board Resolution No. 1587, s. 2012, approved the Primary Care Benefit (PCB) Package, designed to provide Filipinos access to quality health services. The PCB Package was offered through government health facilities registered with PhilHealth. In exchange for their services, these PCB Providers were paid incentives on a Per Family Payment Rate (PFPR).[8]

On May 28, 2012, PhilHealth Regional Vice President William O. Chavez sent a letter to appellant informing him of Section V (G) of PhilHealth Circular No. 010 s. 2012 which prescribed the allocation of the PFPR, thus:"[9]

G. The disposition and allocation of the PFPR shall be, as follows:

1. Eighty percent (80%) of PFPR is for operational cost and shall be divided, as follows:
 - a. Minimum of forty percent (40%) for drugs and medicines (PNDF) (to be dispensed at the facility) including drugs and medicines for Asthma, AGE and pneumonia; and
 - b. Maximum of forty percent (40%) for reagents, medical supplies, equipments (i.e., ambulance, ambubag, stretcher, etc.), information technology (IT equipment specific for facility use needed to facilitate reporting and database build-up), capacity building for staff, infrastructure or any other use related, necessary for the delivery of required service including referral fees for diagnostic services if not able in the facility.
2. The remaining twenty percent (20%) shall be exclusively utilized as honoraria of the staff of the PCB facility and for the improvement of their capabilities as would enable them to provide better health services:
 - a. Ten percent (10%) for the physician;
 - b. Five percent (5%) for other health professional staff of the facility; and
 - c. Five percent (5%) for non-health professionals/staff, including volunteers and community members of health

teams (e.g., Women's Health Team, Community Health Team). (Emphases supplied)

The Municipal Health Office of Sibonga, Cebu was registered as a PCB provider and had been allocated PFPRs from 2012 to 2015.[10]

In February 2015, appellant, then Municipal Mayor of Sibonga, Cebu, certified Obligation Request No. 0499-02-15-300[11] for the release of the twenty percent (20%) honoraria for health personnel in the amount of P280,197.00. Based on Item 16 of the 2015 payroll summary, appellant received P17,512.50 of the amount as honorarium.[12] The same payroll summary bore the Municipal Accountant's annotation, expressing reservation for Item 16 to the effect that payment thereof was still subject to the PhilHealth's existing rules and regulations. Appellant admitted during the pre-trial that he was not a physician, health or non-health staff, nor volunteer of the Municipal Health Office in the years 2014 and 2015. Neither did his name appear on its list of personnel.[13]

Hence, appellant was not entitled to the honorarium. He clearly acted with manifest partiality, evident bad faith, or gross inexcusable negligence when he requested and accepted the honorarium over the Municipal Accountant's reservation. Appellant's unwarranted receipt of the honorarium caused undue injury to the government in the amount of P17,512.50.[14]

The prosecution offered in evidence appellant's Service Record (Exhibit B), Municipal Health Office's List of Personnel (Exhibit C), Letter dated August 24, 2015 to Mary Jojie P. Chan (Exhibit D), Obligation Request No. 0499-02-15-300 (Exhibit E), payroll summary with attached list (Exhibit F), disbursement voucher dated March 2, 2015 (Exhibit G), PhilHealth Regional Vice President William O. Chavez' letter dated May 28, 2012 (Exhibit HH), performance commitment dated December 16, 2014 (Exhibit H), PFP's summary released to LGU Sibonga (Exhibit I), Disbursement Vouchers and Official Receipts issued by the Office of the Treasurer, Sibonga, Cebu.[15]

The Version of the Defense

Appellant admitted having received P 17,512.50 as honorarium from the PhilHealth Capitation Fund but denied having acted with manifest partiality, evident bad faith, or gross inexcusable negligence in his receipt thereof. Owing to his exercise of control and supervision over the Municipal Health Office and its personnel, he honestly believed he was entitled to the five percent (5%) honorarium for non-health personnel. In fact, the Commission on Audit (COA) did not even issue a Notice of Disallowance on the release of the subject honorarium.[16] Lastly, the prosecution failed to adduce evidence that the PhilHealth suffered injury as a result thereof.[17]

The defense formally offered the following exhibits: the Committee Report Re: Administrative Complaint dated April 5, 2017 of Mary Jojie P. Chan docketed as Administrative Case No. SP CBU 2015-30 by the Complaints and Investigation Committee of the Sangguniang Panlalawigan of Cebu Province (Exhibit 1), Resolution No. 1225-2017 Adopting and Approving the Committee Report dated April 5, 2017 of the Committee on Complaints and Investigation of the Sangguniang Panlalawigan of Cebu Province (Exhibit 2), and Certification dated September 3, 2018 issued by the Municipal Accountant of the Municipality of Sibonga, Cebu (Exhibit 3).[18]

The Sandiganbayan's Ruling:

As borne by its Decision[19] dated May 17, 2019, the Sandiganbayan Fourth Division rendered a verdict of conviction, thus:

WHEREFORE, premises considered, judgment is hereby rendered finding accused Lionel Echavez Bacaltos GUILTY beyond reasonable doubt of violation of Section 3(e) of R.A. No. 3019 and is hereby sentenced to suffer an indeterminate penalty of imprisonment of six (6) years and one (1) day, as minimum, to eight (8) years, as maximum, with perpetual disqualification from holding public office. Accused Lionel Echavez Bacaltos is also ORDERED to indemnify the Municipality of Sibonga, Cebu, the amount of Seventeen

Thousand Five Hundred Twelve Pesos and Fifty Centavos (PhP17,512.50).

SO ORDERED.[20]

According to the Sandiganbayan, the prosecution had sufficiently established appellant's guilt for violation of Section 3(e) of RA 3019. Appellant was then Municipal Mayor of Sibonga, Cebu when he approved and received P17,512.50 as honorarium despite the fact that he was ineligible to receive it. The Sandiganbayan rejected appellant's defense of good faith and held that his receipt of the honorarium deprived other personnel of the Municipal Health Office of the benefit and caused undue injury to the government.

Appellant's Omnibus Motion for Reconsideration was denied by Resolution dated July 12, 2019.[21]

The Present Appeal

Appellant now seeks affirmative relief from the Court and prays anew for his acquittal. In his Supplemental Brief,[22] appellant essentially argues:

First, the Sandiganbayan had no jurisdiction over the case. He allegedly caused undue injury to the government in the amount of P17,512.50 which is within jurisdictional threshold of the Regional Trial Court (RTC) under RA 10660.[23] Too, the summary payroll is unclear as to the date of actual payment which is crucial in determining whether RA 10660 would apply to the present case. At any rate, the assailed decision was based on pure speculation and conjectures.

Second, the Office of the Special Prosecutor failed to prove that he received P17,512.50 because it failed to indicate from which PFPR fund (2012, 2013, 2014 and 2015) appellant's honorarium was sourced. The Obligation Request merely stated that he approved the release of P280,187.00 while the summary payroll enumerated its recipients. Approval of the release of payment is not the same as receiving the amount of P17,512.50 in 2015. The Office of the Special Prosecutor likewise failed to prove that he received P17,512.50 in February 2015 since the corresponding disbursement voucher was dated March 2, 2015.

Third, he never admitted having received P17,512.50 from the PFPR as honorarium. In the Pre-Trial Order dated November 26, 2018, what he admitted on February 2015 he certified the Obligation Request for payment of the PhilHealth honoraria.

Fourth, he was deprived of his right to due process of law when the Sandiganbayan directed him to submit his memorandum after the termination of the pre-trial. This was clearly an involuntary waiver of his right to present evidence. The Sandiganbayan brushed aside his defense of good faith and decided in such a way that mere presentation of the pertinent documents was sufficient to declare him to have acted with manifest partiality and evident bad faith.

Lastly, he immediately refunded subject amount upon his receipt of the COA's notice of disallowance.

On the other hand, the People of the Philippines, through the Office of the Ombudsman-Office of the Special Prosecutor defends the Sandiganbayan's verdict of conviction. In its Supplemental Brief,[24] the People counters:

First. The Sandiganbayan had jurisdiction since the crime charged was committed before the effectivity of RA 10660. Contrary to appellant's claim that the prosecution failed to prove the exact time he received the honorarium, appellant himself admitted in his memorandum that he received P17,512.50 in February 2015.

Second. All the elements of the crime of violation of Sec 3(e) of RA 3019 were sufficiently established. Appellant was then Municipal Mayor of Sibonga, Cebu when he, with manifest partiality, evident bad faith or gross inexcusable negligence, accepted honoraria from the PhilHealth's Capitation Fund despite the fact that he was not qualified to receive it. His unwarranted receipt thereof caused undue injury to the government.

Third. Appellant was not deprived of his right to present evidence. The Sandiganbayan merely adhered to the Revised Guidelines for Continuous Trial of Criminal Cases when it narrowed down the issues based on the parties' stipulations during the pre-trial. Thereafter, the Sandiganbayan deemed it proper to simply require the parties to submit their respective memoranda, to which the parties did not object.

Lastly. Restitution or refund of the honorarium does not exonerate appellant from criminal liability.

Threshold Issues

1. Did the Sandiganbayan have jurisdiction over the case?
2. Was appellant's right to due process violated?
3. Is appellant guilty of violation of Sec 3(e) of RA 3019?

Ruling

The Sandiganbayan correctly assumed jurisdiction over the case

The jurisdiction of the Sandiganbayan is outlined in Section 4 of PD 1606, as amended by Section 2 of RA 10660,[25] viz.:

SEC. 4. Jurisdiction. - The Sandiganbayan shall exercise exclusive original jurisdiction in all cases involving:

a. Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII, Book II of the Revised Penal Code, where one or more of the accused are officials occupying the following positions in the government, whether in a permanent, acting or interim capacity, at the time of the commission of the offense:

xxx xxx xxx

(b) City mayors, vice-mayors, members of the sangguniang panlungsod, city treasurers, assessors, engineers, and other city department heads;

xxx xxx xxx

Provided, That the Regional Trial Court shall have exclusive original jurisdiction where the information: (a) does not allege any damage to the government or any bribery; or (b) alleges damage to the government or bribery arising from the same or closely related transactions or acts in an amount not exceeding One million pesos (P1,000,000.00). (Emphases supplied)

Prior to its amendment, Section 4 of PD 1606 did not set a threshold amount of damage or damages allegedly suffered by the government which would vest the Sandiganbayan with jurisdiction over the offense. The amendment was introduced in RA 10660 which took effect on May 5, 2015.

Generally, the jurisdiction of a court to try a criminal case is determined at the time it was filed.[26] By way of exception, however, Section 5 of RA 10660 ordains:

SECTION 5. Transitory Provision. - This Act shall apply to all cases pending in the Sandiganbayan over which trial has not begun: Provided, That: (a) Section 2, amending Section 4 of Presidential Decree No. 1606, as amended, on "Jurisdiction"; and (b) Section 3, amending Section 5 of Presidential Decree No. 1606, as amended, on "Proceedings, How Conducted; Decision by Majority Vote" shall apply to cases arising from offenses committed after the effectivity of this Act. (Emphases added)

Verily, the amended jurisdiction of the Sandiganbayan only covers offenses committed only after RA 10660 took effect on May 5, 2015. This has already been settled in *Ampongan v. Sandiganbayan*,[27] viz.:

It is clear from the transitory provision of R.A. No. 10660 that the amendment introduced regarding the

jurisdiction of the Sandiganbayan shall apply to cases arising from offenses committed after the effectivity of the law. Consequently, the new paragraph added by R.A. No. 10660 to Section 4 of Presidential Decree (P.P.) No. 1606, as amended, transferring the exclusive original jurisdiction to the RTC of cases where the information: (a) does not allege any damage to the government or any bribery; or (b) alleges damage to the government or bribery arising from the same or closely related transactions or acts in an amount not exceeding One million pesos, applies to cases which arose from offenses committed after the effectivity of R.A. No. 10660.

Here, the Information charged appellant with violating Section 3(e) of RA 3019 around February 2015. Appellant himself categorically admitted in his memorandum[28] that he received honoraria of P17,512.50 in February 2015. Thus, when the alleged crime was committed, RA 10660 had yet to take effect, hence, the same is inapplicable here.

Appellant was afforded his right to due process of law.

Too, appellant was afforded his right to due process of law. The following circumstances negate appellant's claim of due process violation:

First, appellant waived his right to question the proceedings before the Sandiganbayan. He did not raise this issue before the court below. In fact, by his own deliberate act, appellant voluntarily waived his right to present evidence. Per the minutes[29] of the session held by the Sandiganbayan Fourth Division dated August 31, 2018, the parties manifested they were no longer presenting their respective evidence, thus:

The parties upon conferring on their joint stipulation of facts manifested that they are ready to submit their joint stipulation/narration of facts, thus the pre-trial was declared terminated without prejudice to the issuance of a Pre-Trial Order by the Court. Upon manifestation of the parties that they are no longer presenting their respective evidence, the parties were given 15 days, 1) from date for the prosecution to file its offer of exhibits; 2) the defense, from receipt of its copy of the prosecution's offer., to file its comment/opposition thereto, and upon resolution of the prosecution's offer by the Court; 3) for the defense to file its offer of exhibits, and lastly, 4) from receipt of copy, for the prosecution to file its comment or opposition thereto. The parties upon receipt of the Court's resolution on the accused's offer of exhibits were given 30 days within which to file their respective Memorandum. Thereafter, the case will be submitted for decision. By agreement of the parties, the promulgation of judgment was set on FEBRUARY 22, 2019 at 1:30 P.M. (Emphases added).

At any rate, appellant still was able to formally offer his documentary exhibits.[30]

Second, appellant actively participated in the proceedings before the Sandiganbayan as in fact he entered a plea of not guilty, entered into joint stipulation of facts, filed his memorandum, and formally offered his documentary exhibits. *SSK Parts Corporation v. Camas*[31] held that active participation[32] in the proceedings a quo are all part and parcel of right to due process. As appellant had all the opportunities to be heard, he may not complain that he was denied due process.

Finally, Section 4, Rule 118 decrees that trial shall be limited to matters not disposed of during the pre-trial:

SECTION 4. Pre-trial Order. - After the pre-trial conference, the court shall issue an order reciting the actions taken, the facts stipulated, and evidence marked. Such order shall bind the parties, limit the trial to matters not disposed of, and control the course of the action during the trial, unless modified by the court to prevent manifest injustice.[33] (Emphasis supplied)

The Revised Guidelines for Continuous Trial of Criminal Cases[34] ordains that proposals for stipulations shall be done with the active participation of the court itself and shall not be left alone to the counsel. Thus, the

Sandiganbayan here endeavored to facilitate a joint stipulation of facts between the prosecution and the defense. As a result, the only remaining question left to be resolved was one of law - whether appellant was entitled to honorarium from the PhilHealth's Capitation Fund.

Appellant did not act with manifest partiality, evident bad faith, and or inexcusable negligence when he received the honorarium

Appellant was charged with violation of Sec. 3(e) of RA 3019 otherwise known as the Anti-Graft and Corrupt Practices Act, viz.:

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:

xxx xxx xxx

(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.

xxx xxx xxx

To sustain a conviction for violation of Sec. 3(e) of RA 3019, the prosecution must sufficiently establish the following elements: (1) the offender is a public officer; (2) the act was done in the discharge of the public officer's official, administrative, or judicial functions; (3) the act was done through manifest partiality, evident bad faith, or gross inexcusable negligence; and (4) the public officer caused any undue injury to any party, including the government, or gave any unwarranted benefits, advantage or preference.[35]

Here, the first and second elements are undisputed. Appellant was then Municipal Mayor of Sibonga, Cebu. He was performing his official functions when he certified Obligation Request No. 0499-02-15-300 for the payment of the twenty percent (20%) PhilHealth honoraria in 2015.

We focus on the third element.

A violation of Section 3(e) of RA 3019 may be committed in three (3) ways, i.e., through manifest partiality, evident bad faith or gross inexcusable negligence. Proof of any of these three (3) in connection with the prohibited acts mentioned in Section 3(e) is enough to convict.[36] *Fonacier v. Sandiganbayan*[37] expounded on the different modes of committing the offense penalized under Section 3(e), viz.:

"Partiality" is synonymous with "bias" which "excites a disposition to see and report matters as they are wished for rather than as they are." "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." "Gross negligence has been so defined as negligence characterized by the want of even slight care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but wilfully and intentionally with a conscious indifference to consequences in so far as other persons may be affected. It is the omission of that care which even inattentive and thoughtless men never fail to take on their own property." These definitions prove all too well that the three modes are distinct and different from each other. Proof of the existence of any of these modes in connection with the prohibited acts under Section 3(e) should suffice to warrant conviction. (Emphases supplied).

Here, appellant allegedly violated Section 3(e) when he, with manifest partiality, evident bad faith, and/or gross inexcusable negligence, received P17,512.50 from the PhilHealth Capitation Fund as honorarium despite his alleged non-entitlement thereto.

Section V (G) of PhilHealth Circular No. 010 s. 2012 provides the disposition and allocation of the PhilHealth honoraria as follows:

2. The remaining twenty percent (20%) shall be exclusively utilized as honoraria of the staff of the PCB facility and for the improvement of their capabilities as would enable them to provide better health services:
 - a. Ten percent (10%) for the physician;
 - b. Five percent (5%) for other health professional staff of the facility; and
 - c. Five percent (5%) for non-health professionals/staff, including volunteers and community members of health teams (e.g., Women's Health Team, Community Health Team). (Emphases added)

Hence, five percent (5%) of the total PhilHealth honoraria was allocated to the non - health professionals OR staff of the PCB Provider. As to who these non-health or professionals mentioned, they were not specifically identified. The rule does not expressly indicate whether they need be part of the official roll of employees of the Municipal Health Office.

Non-health professionals include the rank and file employees or administrative staff of the Municipal Health Office who are not among the front liners providing access to health care. It also covers volunteers and community members of health teams. This led appellant to honestly believed, albeit mistakenly, that the office of the municipal mayor which exercises control and supervision over the Municipal Health Office and its personnel, may likewise be covered by the term "non-health professional." Consequently, he acted in good faith when he received the P17,512.50 honorarium, anchored as it was on the honest belief that he was legally entitled to the benefit.[38] Otherwise stated, appellant did not act in bad faith when he mistakenly interpreted Section V (G) of PhilHealth Circular No. 010 s. 2012.

At any rate, bad faith per se is not enough for one to be held criminally liable for violation of Section 3(e) of RA 3019; bad faith must be evident. It must partake the nature of fraud. It contemplates a state of mind affirmatively operating with furtive design or some motive or ill will for ulterior purposes.[39] In short, it is a manifest deliberate intent on the part of the accused to do wrong or to cause damage[40] unlike here.

In *Ysidoro v. Leonardo-De Castro*,[41] the Court decreed that an erroneous interpretation of a provision of law, absent any showing of some dishonest or wrongful purpose, does not constitute and does not necessarily amount to bad faith.

Neither could appellant's receipt of the honorarium amount to manifest partiality. There is manifest partiality when there is a clear, notorious, or plain inclination or predilection to favor one side or person rather than another.[42] Appellant could not have been predisposed to favor himself when his basis for his receipt of the honorarium was his honest belief of his entitlement thereto.

Lastly, appellant did not act with gross inexcusable negligence. 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.[43] Here, gross inexcusable negligence cannot be imputed on appellant for his erroneous interpretation of the provision of the law. He did not carve out from empty space his supposed entitlement thereto because he had legal basis, albeit, it was a mistaken interpretation of Section V (G) of PhilHealth Circular No. 010 s. 2012.

In Ysidoro,[44] the Court upheld Mayor Ysidoro's acquittal of violation of Section 3(e) of RA 3019 for the prosecution's failure to discharge its burden of proving that Ysidoro acted in bad faith and the presence of the exculpatory proof of good faith. There, Mayor Ysidoro ordered the deletion of private complainant's name in the payroll for RATA and productivity pay. In acquitting him, the Court held that the presence of badges[45] of good faith on the part of Mayor Ysidoro negated his alleged bad faith.

Lastly, appellant's subsequent restitution of the honorarium upon receipt of the COA notice of disallowance all the more bolsters his claim of good faith. In Zamboanga City Water District v. Commission on Audit,[46] the

Court held that lack of knowledge of a similar ruling by this Court prohibiting a particular disbursement is a badge of good faith.

All told, appellant is acquitted for two (2) reasons, one, absence of the third element on the modes of committing the offense under Sec. 3(e) of RA 3019, and two, the exculpatory proof of good faith.

ACCORDINGLY, the appeal is GRANTED and the Decision[47] dated May 17, 2019 of the Sandiganbayan in SB-18-CRM-0010, REVERSED and SET ASIDE.

Appellant Lionel Echavez Bacaltos is ACQUITTED of violation of Sec. 3(e) of RA 3019. Let the corresponding entry of final judgment be immediately issued.

SO ORDERED.

Peralta, C.J., (Chairperson), Caguioa, Reyes, Jr. and Lopez, JJ., concur.

[1]Rollo, pp. 5-19.

[2]Id. at 5-6.

[3]Id. at 6.

[4]Sandiganbayan Crim. Case No. SB-18-CRM-0010, record, pp. 148-154.

[5]Id. at 7.

[6]Id. at 6.

[7]Sandiganbayan Crim. Case No. SB-18-CRM-0010, record, p. 139.

[8]Rollo, p.

[9]Id.

[10]Id.

[11]Sandiganbayan Crim. Case No. SB-18-CRM-0010, record, p. 183.

[12]Rollo, p. 13.

[13]Id.

[14]Id.

[15]Disbursement Voucher No. 140940 (Exhibit J), Official Receipt No. 7221579 issued by the Office of the Treasurer, Sibonga, Cebu (Exhibit K), Disbursement Voucher No. 160141 (Exhibit L), Official Receipt No.

11396017 issued by the Office of the Treasurer, Sibonga, Cebu (Exhibit M), Disbursement Voucher No. 160137 (Exhibit N), Official Receipt No. 11396018 issued by Office of the Treasurer, Sibonga, Cebu (Exhibit O), Disbursement Voucher No. 160277 (Exhibit P), Official Receipt No. 113998919 issued by the Office of the Treasurer, Sibonga, Cebu (Exhibit Q), Disbursement Voucher No. 140914 (Exhibit T), Official Receipt No. 7221578 issued by the Office of the Treasurer, Sibonga, Cebu (Exhibit U), Disbursement Voucher No. 150032 (Exhibit V), Official Receipt No. 8206356 issued by the Office of the Treasurer, Sibonga, Cebu (Exhibit W), Disbursement Voucher No. 140939 (Exhibit X), Official Receipt No. 7221580 issued by the Office of the Treasure, Sibonga, Cebu (Exhibit Y), Disbursement Voucher No. 160140 (Exhibit Z), Official Receipt No. 11396020 issued by the Treasurer's Office, Sibonga, Cebu (Exhibit AA), Disbursement Voucher No. 150367 (Exhibit BB), and Official Receipt No. 10293273 (Exhibit CC); *id.* at 8-9.

[16]*Id.* at 13.

[17]*Id.* at 14.

[18]*Id.* at 10; Sandiganbayan Crim. Case No. SB-18-CRM-0010, record, pp. 262-263.

[19]Rollo, pp. 5-19.

[20]*Id.* at 18.

[21]*Id.* at 133.

[22]*Id.* at 59-73.

[23]AN ACT STRENGTHENING FURTHER THE FUNCTIONAL AND STRUCTURAL ORGANIZATION OF THE SANDIGANBAYAN, FURTHER AMENDING PRESIDENTIAL DECREE NO. 1606, AS AMENDED, AND APPROPRIATING FUNDS THEREFOR.

[24]Rollo, pp. 123-148.

[25]AN ACT STRENGTHENING FURTHER THE FUNCTIONAL AND STRUCTURAL ORGANIZATION OF THE SANDIGANBAYAN, FURTHER AMENDING PRESIDENTIAL DECREE NO. 1606, AS AMENDED, AND APPROPRIATING FUNDS THEREFOR. (Amendment to P.D. No. 1606 (Functional and Structural Organization of the Sandiganbayan), Republic Act No. 10660, April 16, 2015).

[26]See *People v. Sandiganbayan*, 613 Phil. 407, 419 (2009).

[27]G.R. Nos. 234670-71, August 14, 2019.

[28]Sandiganbayan Crim. Case No. SB-18-CRM-0010, record, pp. 287-293.

[29]*Id.* at 137.

[30]*Id.* at 262-263.

[31]260 Phil. 730-734(1990).

[32]*i.e.* by filing its answer to the complaint, presenting a position paper to the Regional Director, submitting evidence in support of its claim, and appealing the decision of the Regional Director to the Secretary of Labor.

[33]Revised Rules of Criminal Procedure, A.M. No. 00-5-03-SC, October 3, 2000.

[34]A.M. No. 15-06-10-SC, April 25, 2017.

[35]See *Sabio v. Sandiganbayan* (First Division), G.R. Nos. 233853-54, July 15, 2019.

[36]See *Sison v. People*, 628 Phil. 573, 583 (2010).

[37]308 Phil. 660, 693-694 (1994).

[38]See *Silang v. Commission on Audit*, 769 Phil. 327, 348 (2015).

[39]See *Antonino v. Hon. Ombudsman Desierto, et al*, 595 Phil. 18, 42 (2008).

[40]See *Republic of the Philippines v. Hon. Desierto*, 516 Phil. 509, 516 (2006).

[41]See 681 Phil. 1, 19(2012).

[42]See *Albert v. Sandiganbayan*, 599 Phil. 439, 450 (2009).

[43]Id.

[44]Supra note 41.

[45]First, the investigation of the alleged anomalies by Ysidoro was corroborated by the physical transfer of Doller and her subordinates to the Office of the Mayor and the prohibition against outside travel imposed on Doller. Second, the existence of the Ombudsman's cases against Doller. And third, Ysidoro's act of seeking an opinion from the COA Auditor on the proper interpretation of Section 317 of the Government Accounting and Auditing Manual before he withheld the RATA.

[46]779 Phil. 225(2016).

[47]Rollo, pp. 5-19.

CONCURRING OPINION

CAGUIOA, J.:

I concur with the ponencia that the accused-appellant should be acquitted. I submit this separate concurring opinion if only to stress anew that a violation of a regulation that is not penal in nature does not, as it cannot, automatically translate into a violation of Section 3(e) of Republic Act No. (RA)3019.

Brief review of the facts

Pursuant to the government's Kalusugang Pangkalahatan Program, the Philippine Health Insurance Corporation (PhilHealth) approved the Primary Care Benefit (PCB) Package which was intended to provide Filipinos access to quality health services. The PCB Package was offered through government health facilities registered with PhilHealth.

The Municipal Health Office of Sibonga, Cebu was registered as a PCB provider. In exchange for its service, the said Municipal Health Office had been allocated incentives on a Per Family Payment Rate (PFPR) from 2012 to 2015.

In May 2012, PhilHealth Regional Vice President William O. Chavez (Regional Vice President Chavez) sent a letter to accused-appellant Lionel Echavez Bacaltos (Bacaltos), then mayor of the Municipality of Sibonga, Cebu, informing him of Section V (G) of PhilHealth Circular No. 010 s. 2012 (PhilHealth Circular) which prescribed the allocation of the PFPR, thus:

G. The disposition and allocation of the PFPR shall be, as follows:

1. Eighty percent (80%) of PFPR is for operational cost and shall be divided, as follows:

a. Minimum of forty percent (40%) for drugs and medicines (PNDF) (to be dispensed at the facility) including drugs and medicines for Asthma, AGE and pneumonia; and

b. Maximum of forty percent (40%) for reagents, medical supplies, [equipment] (i.e., ambulance, ambubag, stretcher, etc.), information technology (IT equipment specific for facility use needed to facilitate reporting and database build[-]up), capacity building for staff, infrastructure or any other use related, necessary for the delivery of required service including referral fees for diagnostic services if not able in the facility.

2. The remaining twenty percent (20%) shall be exclusively utilized as honoraria of the staff of the PCB facility and for the improvement of their capabilities as would enable them to provide better health services:

a. Ten percent (10%) for the physician;

b. Five percent (5%) for other health professional staff of the facility; and

c. Five percent (5%) for non-health professionals/staff, including volunteers and community members of health teams (e.g., Women's Health Team, Community Health Team).[1]

In February 2015, Bacaltos certified Obligation Request No. 0499-02-15-300 for the release of the twenty percent (20%) honoraria for health personnel in the amount of P280,197.00. Based on Item 16 of the 2015 payroll summary, Bacaltos received P17,512.50 representing his five percent (5%) honorarium. The said payroll summary bore the Municipal Accountant's reservation to the effect that payment of the P17,512.50 is still subject to PhilHealth's existing rules and regulations.

An Information[2] was filed against Bacaltos for violation of Section 3(e) of RA 3019, the accusatory portion of which reads:

That in February 2015, or sometime prior or subsequent thereto, in the Municipality of Sibonga, Province of Cebu, Philippines and within the jurisdiction of this Honorable Court, LIONEL ECHAVEZ BACALTOS, a high-ranking public officer, being the Mayor of the Municipality of Sibonga, Cebu, in such capacity, committing the crime in relation to office, acting with manifest partiality, evident bad faith and/or gross inexcusable negligence, did then and there willfully, unlawfully and criminally cause undue injury to the government by receiving an honorarium from the Philippine Health Insurance Corporation (PhilHealth) in the amount of Php17,512.50, despite the fact that he was not entitled to receive it since the said honorarium was exclusively given and intended for the municipal health personnel, and accused was not a member of the municipal health personnel, thereby causing undue injury to the government in the aforesaid amount.

CONTRARY TO LAW.[3]

Bacaltos admitted that he received the P17,512.50 but averred that he believed in good faith that he was entitled thereto as the municipal mayor exercising control and supervision over the Municipal Health Office and its personnel.

The Sandiganbayan found Bacaltos guilty of violation of Section 3(e) of RA 3019. It rejected Bacaltos's defense of good faith, holding that he acted with evident bad faith and manifest partiality when he received the honorarium.

The ponencia reverses and rules that Bacaltos should be acquitted of the charge against him.

As stated at the outset, I fully concur with the ruling of the ponencia.

The element of evident bad faith was absent

To be found guilty of violating Section 3(e) of RA 3019, the following elements must concur:

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

The existence of the first two elements - that Bacaltos was a public officer and the act in question was done in the discharge of his official functions - are not disputed. The controversy lies in the existence of the third and fourth elements, particularly whether his act of receiving the honorarium was done through manifest partiality or evident bad faith, and resulted in undue injury to the Government.[5]

I agree with the view of the ponencia that Bacaltos did not act in bad faith when he received the honorarium based on his honest belief that he was entitled to it based on an erroneous interpretation of the PhilHealth Circular.

It is well-established that evident bad faith "does not simply connote bad judgment or negligence"[6] but of having a "palpably and patently fraudulent and dishonest purpose to do moral obliquity or conscious wrongdoing for some perverse motive or ill will. It contemplates a state of mind affirmatively operating with furtive design or with some motive or self-interest or ill will or for ulterior purposes."[7] Simply put, it partakes of the nature of fraud.[8]

The presence of evident bad faith requires that the accused acted with a malicious motive or intent, or ill will. It is not enough that the accused violated a provision of a government circular. To constitute evident bad faith, it must be proven that the accused acted with fraudulent intent.

As explained by the Court in *Sistoza v. Desierto*,[9] "mere bad faith or partiality and negligence per se are not enough for one to be held liable under the law since the act of bad faith or partiality must in the first place be evident or manifest."[10]

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."[11] It connotes "a manifest deliberate intent on the part of the accused to do wrong or to cause damage. It contemplates a breach of sworn duty through some perverse motive or ill will."[12]

Because evident bad faith entails manifest deliberate intent on the part of the accused to do wrong or to cause damage, it must be shown that the accused was "spurred by any corrupt motive[.]"[13] Mistakes, no matter how patently clear, committed by a public officer are not actionable "absent any clear showing that they were motivated by malice or gross negligence amounting to bad faith."[14]

In *Jacinto v. Sandiganbayan*,[15] evident bad faith was not appreciated by the Court because

x x x the actions taken by the accused were not entirely without rhyme or reason; he refused to release the complainant's salary because the latter failed to submit her daily time record; he refused to approve her sick-leave application because he found out that she did not suffer any illness; and he removed her name from the plantilla because she was moonlighting during office hours. Such actions were measures taken by a superior against an erring employee who studiously ignored, if not defied, his authority.[16]

In *Alejandro v. People*,[17] evident bad faith was ruled out "because the accused therein gave his approval to the questioned disbursement after relying on the certification of the bookkeeper on the availability of funds for such disbursement."[18]

In the case at bar, as pointed out by the ponencia, Bacaltos honestly believed that as municipal mayor exercising control and supervision over the Municipal Health Office and its personnel, he is a non-health professional

entitled to a five percent honorarium under the PhilHealth Circular.

Certainly, Bacaltos's interpretation of the law is not completely unfounded. The relevant provision of the PhilHealth Circular states:

2. The remaining twenty percent (20%) shall be exclusively utilized as honoraria of the staff of the PCB facility and for the improvement of their capabilities as would enable them to provide better health services:
x x x x
- c. Five percent (5%) for non-health professionals/staff, including volunteers and community members of health teams (e.g., Women's Health Team, Community Health Team).[19]

Clearly, the regulation did not provide a definition of who may be considered as "non-health professionals." It only gave a few examples and left the rest open to interpretation.

When a law or circular leaves room for interpretation, misinterpretation is inevitable. While learned members of the bench and bar can easily discern that a municipal mayor is not covered by the said provision, an ordinary layman like Bacaltos cannot be faulted for incorrectly interpreting the ambiguous category of "non-health professionals" in the PhilHealth Circular. Even the municipal accountant was not certain how to interpret the subject provision as evidenced by his annotation in the payroll summary. Indeed, as the municipal mayor, Bacaltos is a non-health professional who exercises control and supervision over the Municipal Health Office. If volunteers and community members of health teams are entitled to honoraria, it is not farfetched to believe that a mayor who controls and supervises the operations of the entire Municipal Health Office and its personnel would likewise be considered a non-health professional. In fact, even PhilHealth Regional Vice President Chavez recognized the authority of Bacaltos over the Municipal Health Office when he sent a letter to Bacaltos, prescribing the allocation and distribution of the PFPR. Thus, when Bacaltos included himself in the category of non-health professionals entitled to five percent honoraria, this action cannot be considered as having been done without basis.

Bacaltos's genuine belief that he was entitled to an honorarium negates dolo or wrongful or malicious intent. To stress, when the accused is alleged to have acted with evident bad faith under Section 3(e) of RA 3019, which is the case here, the crime alleged is a crime of dolo[20] - an offense committed with wrongful or malicious intent.[21] The same cannot be said of Bacaltos who believed in good faith, albeit erroneously, that he was covered by the PhilHealth circular.

The element of manifest partiality was absent

There is manifest partiality when there is a clear, notorious, or plain inclination or predilection to favor one side or person rather than another. "Partiality" is synonymous with "bias" which "excites a disposition to see and report matters as they are wished for rather than as they are." [22] Similar to the modality of evident bad faith, mere partiality is not sufficient - the same must be manifest.

Here, there is no ground to support a finding that Bacaltos acted with manifest partiality. As discussed, Bacaltos cannot be faulted for misinterpreting the ambiguous provision in the PhilHealth Circular. His interpretation is not entirely baseless as to amount to a deliberate misapplication of the said circular. Furthermore, Bacaltos knew that his entitlement to the honorarium was still contingent on PhilHealth's approval in view of the reservation expressed by the Municipal Accountant with respect to his receipt of the honorarium. Thus, even without a Notice of Disallowance from the Commission on Audit (COA), he returned P33,478.12,[23] representing all the moneys he received pursuant to the PhilHealth Circular, which amount is P15,965.62 more than the honorarium subject of this case. To my mind, these are badges of good faith proving that Bacaltos honestly believed that he was entitled

to an honorarium.

Based on the foregoing, no manifest partiality can be imputed to Bacaltos. When the language of the law or regulation is not clear, as in this case, there is all the more basis to give the accused the benefit of the doubt for his erroneous interpretation and acquit him of the charge for violation of Section 3(e) of RA 3019.

The element of gross inexcusable negligence was absent

While the Sandiganbayan did not premise its conviction on this ground, it may nonetheless be apropos to discuss this element.

Neither is the element of gross negligence present in this case. Gross negligence has been defined as negligence characterized by the want of even slight care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally with a conscious indifference to consequences in so far as other persons may be affected. It is the omission of that care which even inattentive and thoughtless men never fail to take on their own property.[24]

In Yapyuco v. Sandiganbayan,[25] the Court stated that "[i]n criminal negligence, the injury caused to another should be unintentional, it being the incident of another act performed without malice," and "that a deliberate intent to do an unlawful act is essentially inconsistent with the idea of reckless imprudence"[26] which is a form of negligence.

Bacaltos's act of receiving an honorarium under the mistaken belief that he is entitled thereto is one of dolo, not culpa. He is charged with "willfully, unlawfully, criminally,"[27] causing undue injury to the government. A crime alleged to be willfully committed is contrary to an act predicated on negligence or culpa. Hence, there could not have been gross inexcusable negligence or culpa in this case.

To stress, Bacaltos's violation of a provision in a PhilHealth Circular that is not penal in nature, does not, as it should not, automatically translate into evident bad faith, manifest partiality, or gross inexcusable negligence that makes one guilty of a violation of Section 3(e) of RA 3019. For it to amount to a violation of Section 3(e) of RA 3019 through the modality of evident bad faith, established jurisprudence demands that the prosecution must prove the existence of factual circumstances that point to fraudulent intent.

The prosecution was not able to prove beyond

reasonable doubt the element of causing undue injury

The element of causing undue injury to the government is likewise absent in the present case.

RA 3019 was crafted as an anti-graft and corruption measure. The crux of the acts punishable under RA 3019 is corruption. As explained by one of the sponsors of the law, Senator Arturo M. Tolentino, "[w]hile we are trying to penalize, the main idea of the bill is graft and corrupt practices, x x x Well, the idea of graft is the one emphasized." [28] Graft entails the acquisition of gain in dishonest ways.[29]

Thus, in charging a public officer of "causing undue injury," it is not enough that damage was actually inflicted in violation of laws, rules, and regulations. The damage must have been effected with corrupt intent, a dishonest design, or some unethical interest. This is in keeping with the purpose of RA 3019, at the heart of which is the concept of graft.

I realize that this is not the understanding under the current state of jurisprudence. In Guadines v. Sandiganbayan,[30] the Court defined undue injury this way:

The term "undue injury" in the context of Section 3 (e) of the Anti-Graft and Corrupt Practices Act punishing the act of "causing undue injury to any party," has a meaning akin to that civil law concept of "actual damage." The Court said so in *Llorente vs. Sandiganbayan*, thus:

In jurisprudence, "undue injury" is consistently interpreted as "actual damage." Undue has been defined as "more than necessary, not proper, [or] illegal;" and injury as "any wrong or damage done to another, either in his person, rights, reputation or property [; that is, the] invasion of any legally protected interest of another." Actual damage, in the context of these definitions, is akin to that in civil law.[31]

Under current jurisprudence, in order to be found guilty of causing undue injury, it is enough that the public officer has inflicted damage to another.[32] Proof of the extent or quantum of damage is not essential, it being sufficient that the injury suffered or benefit received could be perceived to be substantial enough and not merely negligible.[33]

I respectfully submit that this line of reasoning should no longer be followed.

The aforementioned understanding of "undue injury" is too broad that every single misstep committed by public officers that result in injury to any party falls under the definition and would thus possibly be criminally punishable. Every error - no matter how minor - would satisfy the fourth element as the threshold is simply that an injury be inflicted on another. For instance, an allowance withheld in good faith based on an interpretation of the law that is subsequently judicially declared incorrect would be sufficient basis for affirming the existence of the fourth element, which may lead to the incarceration of a public officer simply because he misunderstood a provision that is only later on revealed to be clear and unambiguous by members of the bench who are well-versed in principles of statutory construction and the law.

Granted that the maxims "ignorance of the law excuses no one" and "public office is a public trust" are true, the Court should refrain from interpreting laws without heed to its practical consequences. By maintaining the threshold for the fourth element at the bare minimum of inflicting damage to another, the Court will effectively discourage individuals from joining public service. It is simply unreasonable to criminally punish every little mistake that incidentally caused damage to another even when these acts were not done with corrupt intent.

In the instant case, for example, Bacaltos's act of receiving an honorarium was motivated not by any corrupt intent to cause injury to the government or to unduly receive any illegal pecuniary benefit. Based on the evidence, his actuations were simply founded on his honest belief that he was a non-health professional exercising control and supervision over the Municipal Health Office and its personnel, that therefore entitled him to receive an honorarium. Hence, no graft and corruption actually transpired. There was no showing that Bacaltos had fraudulent, much less corrupt, intent to cause damage to the Government. Again, he even returned more than what he actually received.

I reiterate my position in *Villarosa v. People*[34] that not all violations of a law or regulation are equivalent to evident bad faith, manifest partiality, or gross inexcusable negligence even if they cause undue injury to any party. For an act to fall under Section 3(e) of RA 3019, the same must be done with fraudulent and corrupt intent. Such is the purpose of RA 3019 which this Court is mandated to uphold.

Based on the foregoing, I vote to ACQUIT accused-appellant Lionel Echavez Bacaltos of the crime of violation of Section 3(e) of RA 3019.

[1]Emphasis supplied. See Records, p. 188.

[2]See Rollo, pp. 5-6.

- [3]Records, p. 1. Emphasis and underscoring supplied.
- [4]Sison v. People, 628 Phil. 573, 583 (2010).
- [5]The Sandiganbayan found that Bacaltos acted with manifest partiality and evident bad faith only.
- [6]Fonacier v. Sandiganbayan, 308 Phil. 660, 693 (1994). Emphasis supplied
- [7]Fuentes v. People, 898 Phil. 586, 594 (2017).
- [8]Fonacier v. Sandiganbayan, *supra* note 6.
- [9]437 Phil. 117(2002).
- [10]Id. at 130. Italics in the original.
- [11]Air France v. Carrascoso, 124 Phil. 722, 737 (1966).
- [12]Reyes v. People, 641 Phil. 91, 104 (2010).
- [13]Republic v. Desierto, 516 Phil. 509, 516 (2006).
- [14]Collantes v. Marcelo, 556 Phil. 794, 806 (2007).
- [15]258-A Phil. 20(1989).
- [16]Llorente, Jr. v. Sandiganbayan, 350 Phil. 820, 843-844 (1998).
- [17]252 Phil. 413 (1989).
- [18]Llorente, Jr. v. Sandiganbayan, *supra* note 16 at 844.
- [19]Emphasis supplied.
- [20]Uriarte v. People, 540 Phil. 477, 494 (2006).
- [21]Beradio v. Court of Appeals, 191 Phil. 153, 163 (1981).
- [22]Villarosa v. Ombudsman, G.R. No. 221418, January 23, 2019, accessed at .
- [23]Rollo, p. 144.
- [24]Roy III v. Ombudsman, G.R. No. 225718, March 4, 2020, accessed at .
- [25]689 Phil. 75(2012).
- [26]Id. at 123.
- [27]See Rollo, p.5.
- [28]Senate Deliberations of RA 3019 dated July 1960.
- [29]Black's Law Dictionary 794 (9th ed. 2009).
- [30]665 Phil. 563(2011).
- [31]Id. at 577. (Emphasis and citation omitted)
- [32]The mode of of giving unwarranted benefit, advantage or preference to another does not require damage. Sison v. People, *supra* note 4 (damage is not required under the mode of giving unwarranted benefit. advantage or

preference to another), with *Guadines v. Sandiganbayan*, supra note 30 (damage is required under the mode of causing undue injury which is consistently interpreted as similar to the civil concept of actual damage).

[33]*Soriquez v. Sandiganbayan* (Fifth Division). 510 Phil. 709, 718 (2005), citing *Fonacier v. Sandiganbayan*, supra note 6. But see *Tiongco v. People* (accessed at) where the Court held that the undue injury must be specified, quantified and proven to the point of moral certainty.

[34]*Villarosa v. People*, G.R. No. 233155-63, June 23, 2020.

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