PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ARNOLD B. ABALOS AND VIRGINIA A. UY, ACCUSED-APPELLANTS.

G.R. No. 261797, June 02, 2026

Ponente: INTING, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-261797/

INTING, J.:

Before the Court are the appeals[1] filed by Arnold B. Abalos (accused-appellant Abalos) and Virginia A. Uy (accused-appellant Uy) (collectively, the accused-appellants) assailing the Decision[2] dated October 22, 2021, and the Resolution[3] dated June 7, 2022, of the Sandiganbayan in Criminal Case No. SB-17-CRM-0979.

In the assailed issuances, the Sandiganbayan found accused-appellants guilty beyond reasonable doubt of violation of Section 3(e) of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act.

The Antecedents

The case stemmed from a letter-complaint[4] dated February 2, 2011, filed by Renato B. Friginal (Friginal), then a Sangguniang Bayan Member of the Municipality of San Sebastian Local Government Unit (San Sebastian [LGU]), Province of Samar, against accused-appellant Abalos, then Municipal Mayor of the San Sebastian LGU, and accused-appellant Uy, then Municipal Treasurer of the San Sebastian LGU, before the Office of the Ombudsman, for violation of Section 3(e) and other relevant provisions of Republic Act No. 3019; and for malversation of public funds under the Revised Penal Code.

Friginal alleged that accused-appellant Abalos, in connivance with accused-appellant Uy, did not remit the taxes owed by the San Sebastian LGU to the Bureau of Internal Revenue (BIR) for the years 2008 and 2009 amounting to PHP 525,954.65 and PHP 746,876.98, respectively.[5] To support his complaint, Friginal attached several documents, including a demand letter[6] dated November 17, 2010, purportedly issued by Revenue District Officer (RDO) Rolando B. Espina (RDO Espina), Revenue District No. 87.

RDO Espina's letter reads as follows:

> November 17, 2010
>
> The Honorable Mayor
>
> San Sebastian, Samar
>
> Sir/Madam:
>
> Please be informed that your 2009 Financial Statements showed that there appears as part of your Current Liabilities the listed tax payable as follows:
>
> 2008

2009

DUE TO BIR

[PHP] 525,954.65

[PHP] 746,876.98

In view thereof, you are hereby requested to pay the above amount, together with the penalties accruing thereto, not later than November 25, 2010, or submit proof of payment of the said amount, or any portion thereof, if the same were already paid. Failure on your part to remit and/or submit any proof of payment will make this office undertake necessary actions to protect the interest of the government.

Your immediate compliance is hereby enjoined.

Very truly yours,

(Sgd.)
ROLANDO B. ESPINA
Revenue District Officer

Refer to:

Certified Xerox Copy

(Sgd.)

RO EDNA C. UY

ROLANDO B. ESPINA

Examiner-Assessment

Revenue District Officer

Cert. Fee O.R. No.: _____

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Copy furnished:

Date: _____

The Vice-Mayor

The Municipal Accountant

(Sgd.)

The Municipal Treasurer

11/17/10

On May 8, 2014, the Office of the Ombudsman-Visayas (OMB-Visayas) Public Assistance and Corruption Prevention Office, through Graft Investigation and Prosecution Officer I Marites E. Banzali (Ombudsman Prosecutor Banzali),[7] filed a complaint[8] for malversation of public funds and violation of Section 3(e) of Republic Act No. 3019 against the accused-appellants. An administrative complaint for Grave Misconduct was also filed against them.

In a Joint Resolution[9] dated April 5, 2016, the Ombudsman dismissed the administrative case for Grave Misconduct; however, it found probable cause to charge the accused-appellants with violation of Section 3(e) of Republic Act No. 3019 and with malversation of public funds.

Accordingly, the Ombudsman filed two separate Informations against the accused-appellants on May 12, 2017, to wit:

> Criminal Case No. SB-17-CRM 0979[10]
> Violation of [Section] 3(e) of [Republic Act No.] 3019
> That on or about 17 November 2010, or sometime prior or subsequent thereto, in the Municipality of San Sebastian, Province of Samar, Philippines[,] and within the jurisdiction of this Honorable Court, accused ARNOLD B. ABALOS, being then the Mayor of San Sebastian with Salary Grade 27 and VIRGINIA A. UY, being then the Municipal Treasurer of San Sebastian with Salary Grade 24, both high-ranking public officials, while in the performance of their official functions, committing the offense in relation to their office and taking advantage of their official positions, through evident bad faith, manifest partiality and/or gross inexcusable negligence, conspiring, confederating and mutually helping one another, did then and there willfully, unlawfully, and criminally fail to remit the taxes due from the Municipality of San Sebastian for the years 2008 and 2009 to the Bureau of Internal Revenne amounting to PESOS: ONE MILLION TWO HUNDRED SEVENTY TWO THOUSAND EIGHT HUNDRED THIRTY ONE AND SIXTY-THREE CENTAVOS (Php 1,272,831.63), despite demand, thereby causing undue injury to the Government, having been deprived of the use of the said amount, and to the Municipality of San Sebastian representing the penalties incurred by the Municipality as a result of the continuous non-remittance.
>
> CONTRARY TO LAW.[11]
>
> Criminal Case No. SB-17-CRM 0980[12]
> Malversation of Public Funds
> [under Article 217 of the Revised Penal Code]

> That from 2008 to 2010, or sometime prior or subsequent thereto, in the Municipality of San Sebastian, Province of Samar, Philippines, accused ARNOLD B. ABALOS, being then the Mayor of San Sebastian with Salary Grade 27, and VIRGINIA A. UY, being then the Municipal Treasurer of San Sebastian with Salary Grade 24, both high-ranking public officials, and within the jurisdiction of this Honorable Court, who by reason of their respective offices are accountable for public funds or properties of the Municipality of San Sebastian, while in the performance of their official functions, committing the offense in relation to their office and taking advantage of their official positions, conspiring, confederating and mutually helping one another, did then and there, willfully, unlawfully and feloniously appropriate, take or misappropriate public funds representing the taxes due from the Municipality of San Sebastian for the years 2008 and 2009 amounting to PESOS: ONE MILLION TWO HUNDRED SEVENTY TWO THOUSAND EIGHT HUNDRED THIRTY ONE AND SIXTY-THREE CENTAVOS (Php 1,272,831.63), by failing to remit the same to the Bureau of Internal Revenue despite demand, to the damage and prejudice of the Government for the same amount.
>
> CONTRARY TO LAW.[13]

Upon arraignment, the accused-appellants pleaded "Not Guilty" to both charges.[14]

Trial on the merits ensued.

Evidence for the Prosecution

The following documentary exhibits were formally offered[15] by the prosecution regarding accused-appellants' alleged failure to remit taxes to the BIR:

Exhibit	Description
A	Ombudsman Prosecutor Banzali's Complaint Affidavit[16] dated May 8, 2014
B to B-1-a	Friginal's Letter-complaint[17] dated February 2, 2011
F	RDO Espina's demand letter[18] dated November 17, 2010
H	RDO Espina's letter[19] dated April 25, 2011, addressed to Assistant Ombudsman Virginia Palanca-Santiago, submitting a copy of the San Sebastian LGU's Consolidated Balance Sheet as of December 31, 2009
N	1[st] Indorsement[20] dated November 3, 2017 signed by RDO Romulo C. Regañon (RDO Romulo) forwarding the Consolidated Balance Sheet of the San Sebastian LGU as of December 31, 2009, with comparative figures for calendar year 2008, and a Certification for the unavailability of Espina's letter dated November 17, 2010
I,[21] N-2[22] N-2-a to N-2-b-1[23]	Consolidated Balance Sheet[24] of the San Sebastian LGU as of December 31, 2009, with comparative figures for calendar year (CY) 2008
N-1	

Certification[25] from the officer-in-charge (OIC) of the Collection Section, BIR District Office No. 87, Aida D. Gella (Collection Section OIC-Chief Gella), attesting to the unavailability of Espina's letter dated November 17, 2010, in their office files

N-3

Subpoena Duces Tecum[26] dated October 19, 2017, addressed to RDO Romulo, directing the submission of clear certified true copies of the original of the Consolidated Balance Sheet of the San Sebastian LGU and Espina's letter dated November 17, 2010

O

2[nd] Indorsement[27] dated January 11, 2018, signed by RDO Romulo, forwarding Collection Section OIC-Chief Gella's letter to Atty. Madonna Joy L. Ednaco-Tanyag (Atty. Ednaco-Tanyag), Assistant Special Prosecutor I

O-1

Letter[28] from Collection Section OIC-Chief Gella to Atty. Ednaco-Tanyag, stating that (1) RDO Espina's letter dated November 17, 2010, was not in the delinquent docket; (2) copies of the said letter might have been in the possession only of RDO Espina; (3) RDO Espina was transferred in 2013 and died in July 2014; and (4) the San Sebastian LGU might also have a copy of RDO Espina's letter

O-2

Letter[29] dated January 3, 2018, from Atty. Ednaco-Tanyag to RDO Romulo requesting the following details: (1) the efforts undertaken to locate RDO Espina's letter dated November 17, 2010; (2) the reason for its unavailability; and (3) other offices which may have a copy of the said letter

P and P-a P-1 and P-1-a P-2

Service Record,[30] Personal Data Sheet,[31] and Appointment Paper[32] of accused-appellant Uy

Q

Preliminary Collection Letter[33] dated August 22, 2018, signed by Atty. Edgar R. Quejada, OIC-Assistant Regional Director

Q-1, Q-1-a and S

Letter[34] dated June 18, 2014, addressed to the Municipal Mayor of the San Sebastian LGU pertaining to the Detailed Computation of Tax Liabilities in the amount of FHP 1,334,169.58 for CY 2009, signed by Atty. Diosdado R. Mendoza (Regional Director Mendoza), Regional Director of Revenue Region No. 14

Q-2

Audit Results/Assessment Notice[35] for CY 2009 issued by the BIR on June 18, 2014, pertaining to expanded/final withholding tax and withholding tax on compensation

R

Subpoena Duces Tecum and Ad Testificandum[36] dated December 4, 2018, to Policarpo Tangile[**] (Former Collection Section Chief Tangile) directing him to appear for case conference and to bring the original and certified true copies of Consolidated Balance Sheet of the San Sebastian LGU as of December 31, 2009, RDO Espina's letter dated November 17, 2010, and other documents pertaining to the San Sebastian LGU's non-remittance of taxes collected in 2008 and 2009

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Inventory of Account Receivables/Delinquent Accounts Table[37] pertaining to the San Sebastian LGU as of January 31, 2019

The prosecution presented five witnesses, namely: (1) Anne Sherly Odevillas (Odevillas), the Municipal Accountant of the San Sebastian LGU from September 1, 2014;[38] (2) Collection Section OIC-Chief Gella;[39] (3) Jesielz Abayan Babon (Babon), the Human Resources Manager of the San Sebastian LGU;[40] (4) Ombudsman Prosecutor Banzali; and (5) Former Collection Section Chief Tangile.

The prosecution's witnesses testified as follows:

a. Odevillas

Odevillas identified her Judicial Affidavit and affirmed its contents.[41] She testified that she was present when the staff of the BIR Regional Office No. 14 presented the original copy of the Preliminary Collection Letter dated August 22, 2018, and the audit results. She stated that accused-appellant Abalos received and signed the BIR file, then personally handed the photocopy to her for analysis and safekeeping.[42]

Accused-appellant Uy's counsel objected to the marking of the Preliminary Collection Letter dated August 22, 2018, and Regional Director Mendoza's Letter dated June 18, 2014, arguing they were not pre-marked during pre-trial. The prosecution explained the documents were discovered after the submission of the Joint Stipulation of Facts, following a conference with Odevillas. Over the defense's objection, the Sandiganbayan allowed the marking of the documents as part of Odevillas' testimony.[43]

On cross-examination, Odevillas testified that she could not produce records of unremitted taxes for 2008 and 2009 because former Municipal Accountant, Pepita Mabini (Mabini), failed to turn them over, and the records did not exist in her office.[44] Odevillas admitted that she knew the documents were missing as early as 2015 but she never demanded them from Mabini.[45] Her only basis for the LGU's financial status prior to her assumption to office was the 2013 financial statement, which she did not prepare.[46] She further confirmed that her Judicial Affidavit did not mention unremitted taxes or missing funds for CY 2008[47] and that she had no personal knowledge of the accuracy of the computations of the BIR. Her statements were based only on the Preliminary Collection Letter and audit report,[48] and she lacked the source documents to validate them.[49]

b. Collection Section OIC-Chief Gella

Gella identified and affirmed the truth of the contents of her Judicial Affidavit.[50] Thereafter, she produced and identified the following documents: (1) Subpoena dated October 19, 2017, from Atty. Ednaco-Tanyag;[51] (2) photocopy of the Letter dated January 3, 2018, of Atty. Ednaco-Tanyag to RDO Romulo;[52] and (3) certified true copy of the Consolidated Balance Sheet of the San Sebastian LGU as of December 31, 2009.[53]

On cross-examination, by counsel for accused-appellant Abalos, Collection Section OIC-Chief Gella testified that she was the official custodian of the District Office's records.[54] She stated that she first saw a photocopy of RDO Espina's demand letter only when it was attached to a subpoena she received in January 2019. She believed that that the original letter may haye remained with RDO Espina, who died in 2014.[55] Her office did not have a copy of the letter, and the photocopy she saw was provided by the Ombudsman.[56] She also testified that she does not know the complainant, Friginal.[57]

On cross-examination by accused-appellant Uy's counsel, Collection Section OIC-Chief Gella confirmed that she was the OIC-Chief of the Collection Section from 2011 to December 2017[58] and she did not participate in the Ombudsman proceedings[59] and had no personal knowledge of the contents of the Consolidated Balance

Sheet.[60] Collection Section OIC-Chief Gella further confirmed that she did not attempt to secure a copy of RDO Espina's letter from the San Sebastian LGU,[61] nor did she make any demands on accused-appellant Uy for the alleged delinquent taxes during her tenure.[62]

On re-direct examination, Collection Section OIC-Chief Gella stated that taxpayers are given an original copy of demand letters. On re-cross, she clarified she did not issue one against accused-appellant Uy.[63]

c. Babon

Babon identified the original and certified true copies of the Service Record, Personal Data Sheet, and Appointment Paper, of accused-appellant Uy taken from her 201 File.[64]

On cross-examination, Babon described her duties as Human Resources Manager, which include maintaining employee 201 Files, collecting daily time records, updating leave credits and service records, and performing other related tasks.[65] She confirmed that she was designated as the Human Resource Manager in 2013 and had no personal knowledge of entries made prior to her appointment.[66]

d. Ombudsman Prosecutor Banzali

The prosecution then called Ombudsman Prosecutor Banzali as its fourth witness. She testified that as a Graft Investigation and Prosecution Officer from 2013 to 2016, she was tasked with performing fact-finding investigations, which included field validations and conducting interviews.[67]

On cross-examination, Ombudsman Prosecutor Banzali admitted she never met accused-appellant Uy and did not require her to comment because the matter was still in the fact-finding stage.[68] She stated that her complaint was based not only on Friginal's letter but also on documents she gathered from various government agencies.[69] She did not interview any officers for this specific case, including Friginal, and thus, had no personal knowledge of the preparation of his complaint or the truthfulness of its contents.[70]

She confirmed her conclusion of unremitted taxes was based on the Consolidated Balance Sheet and RDO Espina's letter.[71] Although RDO Espina complied with a subpoena she had issued, he did not verify the demand letter.[72]

Ombudsman Prosecutor Banzali charged the accused-appellants with malversation of public funds due to their failure to pay despite demand, but she did not allege that funds were missing from the LGU's accounts.[73] As to the charge of violation of Section 3(e) of Republic Act No. 3019, Ombudsman Prosecutor Banzali opined that the failure to remit the taxes due to the BIR "speaks for itself."[74] Regarding the element of undue injury, she asserted it consisted of the unremitted taxes plus penalties, but admitted that she had no proof of these charges as the LGU was uncooperative.

e. Former Collection Section Chief Tangile

Former Collection Section Chief Tangile testified that despite diligent efforts, he was unable to produce a copy of RDO Espina's demand letter and only obtained a photocopy from the subpoena he received.[75] Tangile admitted that he had no personal knowledge of the preparation or accuracy of the Consolidated Balance Sheet. He also had no proof that the Inventory of Delinquent Accounts or Regional Director Mendoza's letter detailing tax liabilities were actually sent to the San Sebastian LGU.[76]

He further explained that his office, the Collection Division, only gets involved after the Assessment Division has issued a demand letter and a final assessment notice, and the tax liability remains unpaid.[77]

In its Resolution[78] dated April 10, 2019, the Sandiganbayan admitted all the prosecution's documentary exhibits

over the objections of accused-appellants, ruling that their objections pertained more to the evidence's probative value rather than to its admissibility.

Thereafter, both accused-appellants sought leave to file demurrers to evidence. The Sandiganbayan denied the separate motions of the accused-appellants after the prosecution registered its opposition.

Trial, thus, proceeded with the presentation of the evidence for the defense.[79]

Evidence for the Defense
The first defense witness was accused-appellant Abalos who testified through his Judicial Affidavit.

He denied ever receiving a demand letter from the BIR for CY 2008 and 2009. He contended that his obligation regarding the payment of municipal taxes was purely ministerial and asserted that the charges were a harassment suit by Friginal, his political rival.[80]

On cross-examination, Abalos affirmed that as mayor, he exercised general supervision over all LGU programs and approved all disbursements. He admitted that there were unremitted taxes for 2008 but maintained that his duty was ministerial. He contended that payment required supporting documents detailing the specific taxes and amounts due, which were never provided to him.[81]

When confronted with RDO Espina's demand letter, accused-appellant Abalos testified that he only saw it after the cases were filed. He admitted that he did not remit payment despite knowing taxes were due, justifying this by stating that he had been advised to vacate his position at the time due to a pending administrative case against him.[82]

On re-direct examination, accused-appellant Abalos explained that his office only learned of the PHP 525,000.00 liability in 2009, which was reflected as a carry-over amount in the 2009 Commission on Audit (COA) Annual Audit Report. He testified that he instructed the Finance Committee and the Municipal Treasurer to inquire with the BIR for specific details, but none were given. Accused-appellant Abalos maintained that while the LGU was willing to pay, the BIR could not specify the amount due, and he believed no injury resulted from the non-payment.[83] When questioned by the trial court, Abalos reiterated that the taxes remained unpaid because no details were provided; and he never received a formal demand letter from the BIR.[84]

The second defense witness was accused-appellant Uy.

She denied the charges, insisting that they were based on inaccurate findings by the BIR and COA, possibly due to an incomplete audit. She further stated that she was never informed of any tax liabilities for CY 2008 to 2009.[85]

Accused-appellant Uy testified that upon assuming the post of Municipal Treasurer in May 2008, she discovered irregularities in the LGU's finances. She claimed to have found unpaid taxes from 2007 and funds that were "inappropriately disbursed" by officials in 2006 and 2007, explaining this meant cash advances had been released without a specified purpose. She testified that she filed a complaint against the responsible officers, namely Mabini and Babon.[86]

Accused-appellant Uy also argued that the amounts in the charges were inconsistent with the 2009 COA Annual Audit Report, which showed significantly lower figures for unremitted taxes. She contended that a complete audit, which she had repeatedly requested from the COA, would have exonerated her.[87]

She further asserted that it was impossible for her to disburse the alleged amounts, explaining that as the Municipal Treasurer, she never received the corresponding disbursement vouchers from the Municipal Accountant. Without a voucher, she could not certify the availability of funds or prepare a check for payment.[88]

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Following her testimony, accused-appellant Uy filed her Formal Offer of Evidence. In its Comment, the prosecution objected to several exhibits.[89]

On February 4, 2020, the Sandiganbayan denied admission to most of accused-appellant Uy's key exhibits because the originally marked documents were not attached to the offer. After accused-appellant Uy submitted the originally marked 2009 COA Annual Audit Report, the Sandiganbayan resolved to admit it.[90]

Accused-appellant Abalos, for his part, did not file a formal offer of evidence.[91]

After the prosecution manifested that it would present no rebuttal evidence, the Sandiganbayan, deemed the case submitted for decision in its Resolution dated January 27, 2021.[92]

On June 11, 2021,[93] well after the case had been submitted for decision, the Sandiganbayan received an Urgent Manifestation with Motion Ad Cautelam to Admit Evidence[94] from accused-appellant Abalos. In his motion, Abalos sought to introduce new evidence, maintaining that after he was re-elected as mayor in 2019, his finance team discovered that BIR notices for the delinquent taxes were actually received during the administration of his successor.[95]

Abalos asserted that upon learning of the outstanding liability—which had grown to PHP 5,718,100.83—he immediately took action. He applied for and was granted a tax amnesty, and the San Sebastian LGU paid the reduced amount of PHP 2,346,030.72 on January 31, 2020. Abalos attached documentary proof of the tax amnesty and payment, attributing the motion's late filing to difficulties caused by the COVID-19 pandemic. He prayed for the court to admit this new evidence in the interest of substantial justice.[96] The Certificate of Tax Delinquencies/Tax Liabilities[97] submitted by Abalos would show that LGU's payment of PHP 2,346,030.72 consists of its basic tax liabilities only from CY 2009 to 2011, exclusive of the penalties which would have amounted to PHP 3,372,070.11.

In a Resolution dated June 11, 2021, the Sandiganbayan denied the motion, ruling that it was filed too late as the case had already been submitted for decision.[98]

The Ruling of the Sandiganbayan

In the assailed Decision dated October 22, 2021, the Sandiganbayan acquitted accused-appellants of the crime of malversation of public funds under Article 217 of the Revised Penal Code but convicted them of Section 3(e) of Republic Act No. 3019.

The dispositive portion of the Sandiganbayan's Decision provides:

> WHEREFORE, premises considered, this Court hereby rules in the following manner[:]
>
> In Criminal Case No. SB-17-CRM-0979, accused Arnold B. Abalos and accused Virginia A. Uy are hereby found GUILTY beyond reasonable doubt of a violation of Section 3 (e) of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, amended, and are each hereby sentenced to suffer an indeterminate penalty of imprisonment of Six (6) Years and One (1) Month as minimum to Eight Years as maximum. Additionally, each accused [is] sentenced to suffer perpetual disqualification to hold public office.
>
> In Criminal Case No. SB-17-CRM-0980, accused Arnold B. Abalos and Virginia A. Uy are hereby ACQUITTED of the crime of malversation defined in Article 217 of the Revised Penal Code, as amended, for failure of the prosecution to prove their guilt beyond reasonable doubt.
>
> The Hold Departure Orders issued against the aforementioned acquitted accused are hereby ordered RECALLED and SET ASIDE. Likewise, the cash bonds of the same acquitted accused are hereby ordered RELEASED subject to the usual accounting and auditing procedures.

Send a copy of this Decision to the Bureau of Immigration for their appropriate action.

SO ORDERED.[99]

The Sandiganbayan held that the prosecution established all elements of the offense. It noted that the first two elements—that the accused-appellants were public officers acting in the discharge of their official functions—were undisputed, as admitted during the pre-trial.[100]

The conviction hinged on the third element: that accused-appellants acted with gross inexcusable negligence. The graft court concluded that the accused-appellants were fully aware of the LGU's tax liabilities but willfully failed to act. The Sandiganbayan rejected accused-appellant Abalos' defense that his role was merely ministerial and that he lacked specific details for payment, citing his admission that he knew of the liabilities but failed to pay even under protest. As for accused-appellant Uy, the Court found her defense of an incomplete COA audit insufficient to excuse her neglect of duties as Municipal Treasurer.[101]

As to the fourth element, the Sandiganbayan found that the accused-appellants' inaction caused undue injury to the government. It cited the BIR's collection letters, which showed that the unpaid taxes for CY 2009 alone had accrued substantial penalties and interest, increasing the total liability to over PHP 1.3 million, which the graft court viewed as a clear prejudice to the San Sebastian LGU.[102]

Hence, these appeals.

Accused-Appellants' Arguments
a. Accused-appellant Uy

In her Appellant's Brief,[103] accused-appellant Uy argues that: (1) the Sandiganbayan lacked jurisdiction over her; (2) the prosecution failed to prove her guilt beyond a reasonable doubt; and (3) the evidence used for her conviction was inadmissible.[104]

First, Uy assails the Sandiganbayan's jurisdiction over her person and the offense.[105] She argues that as a Municipal Treasurer with a Salary Grade of 24, she does not fall under the jurisdictional threshold of the Sandiganbayan, which generally covers officials with Salary Grade 27 and above.[106]

Citing Section 4[107] of Republic Act No. 8249, she points out that while the law specifically enumerates certain positions under the Sandiganbayan's jurisdiction regardless of salary grade (such as provincial and city treasurers), the position of municipal treasurer is not among them. Applying the statutory construction principle of expressio unius est exclusio alterius (the express mention of one thing excludes all others), she contends that the law intended to leave officials of her rank—the so-called "small fry"—to the jurisdiction of the regular courts.[108]

Furthermore, she argues that the prosecution failed to establish its allegation of conspiracy—the very basis for trying her with her co-accused, a high-ranking official. Without this proven conspiracy, she asserts that the Sandiganbayan's exercise of jurisdiction over her was improper.[109]

Second, Uy argues that the Sandiganbayan erred in finding her guilty of violating Section 3(e) of Republic Act No. 3019.[110]

Her primary contention is that the prosecution never established that she acted with gross inexcusable negligence because there was no proof she ever received a demand for payment from the BIR. She asserts that unlike her co-accused, she never admitted to being aware of the specific tax liabilities, and none of the demand and collection letters from the BIR presented by the prosecution bore her signature. Without proof of notice or demand, she argues, her failure to act cannot be construed as willful, intentional, or consciously indifferent.[111]

Moreover, Uy argues that she could not release any payment without a corresponding disbursement voucher duly signed by the Municipal Accountant and the Mayor. She maintains that she was never given the necessary voucher to authorize the disbursement. She concludes that her failure to pay was due to a lack of authority, not negligence.[112]

Finally, Uy assails the admissibility and probative value of the prosecution's key documentary evidence. She argues that the Sandiganbayan erred in admitting mere photocopies of crucial documents, such as the BIR demand and collection letters, in violation of the Original Document Rule. She contends that the prosecution failed to authenticate these documents properly. The witnesses who identified them were not their authors and had no personal knowledge of their execution. She highlights the testimony of BIR officials who admitted they had only seen photocopies provided by the prosecutor's office and had not exerted sufficient effort to locate the originals. Because the prosecution failed to prove that any of the exceptions to the Original Document Rule applied, she argues that the photocopies are inadmissible. Since these inadmissible documents were the primary basis for proving the LGU's tax liability and the resulting undue injury to the government, she concludes that the conviction is unsupported by competent evidence.[113]

b. Accused-appellant Abalos

In his Brief for the Appellant,[114] accused-appellant Abalos likewise prays for his acquittal, arguing that the prosecution failed to prove his guilt beyond reasonable doubt. His arguments center on two main points: (1) tax remittance was not his function and he was entitled to rely on his subordinates; and (2) any lapse on his part did not amount to the gross and inexcusable negligence required for a conviction.

First, Abalos contends that as the Municipal Mayor, the preparation and remittance of taxes were not his direct responsibilities. He asserts that this duty falls squarely on the municipal treasurer under the law. He argues that he had no direct participation in the remittance of taxes and should not be held liable for the functions primarily assigned to other officials.[115] He also notes that his ability to function as mayor during the period in question was hampered by a pending administrative case against him.[116]

Second, Abalos argues that even assuming he was negligent, it did not rise to the level of gross inexcusable negligence. He claims his failure to ensure the timely remittance of taxes was, at most, a simple breach of duty, not a flagrant, willful, and intentional omission done with conscious indifference to the consequences.[117]

He concludes by reiterating that the prosecution bears the burden of overcoming the constitutional presumption of innocence with proof beyond a reasonable doubt. In the absence of proof beyond reasonable doubt, he argues that he must be acquitted.[118]

Prosecution's Arguments

In its Plaintiff-Appellee's Brief,[119] the People of the Philippines, urges the Court to affirm the conviction and deny the appeals. It argues that the Sandiganbayan had jurisdiction, that the evidence sufficiently proved the accused-appellants' guilt beyond reasonable doubt, and that the documentary exhibits were correctly admitted.[120]

The prosecution contends that the Sandiganbayan correctly found all elements of Section 3(e) of Republic Act No. 3019 to be present. It argues that both accused-appellants acted with gross inexcusable negligence.[121]

It asserts that the accused-appellants were fully aware of the LGU's tax liabilities. It points to Abalos's own testimony, where he admitted knowing about the unpaid taxes as early as 2009 from a COA Annual Audit Report and instructing Uy to inquire with the BIR. This knowledge, the prosecution argues, created a clear duty to act that Abalos willfully ignored.[122]

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Crucially, the prosecution argues that accused-appellant Uy was also undeniably aware of the obligation and the need for remittance. It highlights Uy's own documentary evidence—the 2009 COA Annual Audit Report—contained a finding about the unremitted taxes and included a specific recommendation that the "Municipal Treasurer remit immediately" the withheld collections. This directive from the COA, the prosecution contends, constituted a valid demand upon Uy, making her subsequent inaction inexcusable.[123]

The prosecution dismisses the accused-appellants' defenses as baseless. It argues that the obligation to pay taxes arises from law, and no formal demand letter from the BIR was necessary to trigger their duties. It posits that accused-appellants could have paid the taxes under protest if they disputed the details. Furthermore, it rejects accused-appellant Uy's claim that she lacked authority without a disbursement voucher, arguing that as the Municipal Treasurer and chief financial advisor, it was her duty to proactively process the payment and advise the mayor accordingly, not to passively wait for instructions.[124]

Finally, the prosecution maintains that the element of undue injury was clearly established. The non-payment of taxes deprived the government of funds and caused the San Sebastian LGU to incur substantial penalties and interest, as evidenced by the BIR collection letters.[125]

The Issues

The case presents two principal issues for the Court's resolution:

- Whether the Sandiganbayan validly exercised jurisdiction over accused-appellant Uy, considering her position as Municipal Treasurer with Salary Grade 24; and

- Whether the accused-appellants are guilty beyond reasonable doubt of violation of Section 3(e) of Republic Act No. 3019.

The Ruling of the Court

Before delving into the merits of the case, the Court must first resolve the jurisdictional challenge raised by accused-appellant Uy.

The Sandiganbayan validly exercised jurisdiction over accused-appellant Uy

Accused-appellant Uy's challenge to the Sandiganbayan's jurisdiction is devoid of merit.

It is settled rule that the jurisdiction of a court to try a criminal case is determined by the allegations in the complaint or information, not by the evidence adduced during trial.[126]

Here, the Information in Criminal Case No. SB-17-CRM-0979 explicitly alleged that accused-appellant Abalos, a Municipal Mayor with Salary Grade 27, was "conspiring, confederating and mutually helping" accused-appellant Uy. While accused-appellant Uy occupies a Salary Grade 24 position, her contention that this placed her outside the jurisdiction of the Sandiganbayan is fundamentally incorrect.

Section 4(a)(5) of Republic Act No. 8249[127] vests the Sandiganbayan with original jurisdiction over violations of Republic Act No. 3019 committed by local officials classified as Salary Grade 27 or higher. Crucially, the law does not require that all accused must be of this rank; it is sufficient that one of the accused is classified as Salary Grade 27 or higher.

Moreover, because the Information alleged conspiracy and charged accused-appellant Uy together with accused-appellant Abalos—a Salary Grade 27 local official—jurisdiction was squarely vested in the Sandiganbayan

over both accused-appellants. Section 4 of Republic Act No. 8249 expressly provides that even private individuals charged as co-principals, accomplices, or accessories with high-ranking public officers shall be tried jointly with them before the Sandiganbayan. This rule applies with even greater force to accused-appellant Uy, who is not a mere private individual but a public officer herself, charged in conspiracy with a co-accused who falls indisputably within the Sandiganbayan's exclusive original jurisdiction.

The prosecution's subsequent failure to prove the existence of conspiracy during trial is of no moment. Such failure to prove a material allegation in the course of the trial does not, and cannot, divest the Sandiganbayan of the jurisdiction it had validly acquired at the inception of the case based on the allegations in the Information. Jurisdiction, once vested by the allegations in the Information, remains with the court until the case is finally terminated.[128]

Having settled the issue of jurisdiction, the Court now proceeds on the merits of the case.

To secure a conviction for violation of Section 3(e) of Republic Act No. 3019, the prosecution must prove the following elements beyond reasonable doubt "(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.[129]

The failure to prove even one of these elements with moral certainty warrants an acquittal. Here, a judicious review of the records reveals that the prosecution failed to establish the third and fourth elements.

The prosecution failed to prove gross inexcusable negligence

The Sandiganbayan's finding of gross inexcusable negligence rests on a misappreciation of the evidence and the law, as the evidence on record does not support this conclusion.

As clarified in Martel v. People of the Philippines,[130] gross inexcusable negligence requires more than simple negligence—the prosecution must prove beyond reasonable doubt that the accused's breach of duty was not merely a lapse in judgment, but was flagrant, palpable, and with willful indifference.[131] The negligence must be so gross as to demonstrate a "want of even the slightest care" and a "conscious indifference" to the consequences of such failure.[132] The prosecution failed to meet this high standard of culpability.

The prosecution's case hinges on the general duties of a Mayor, Municipal Treasurer, and Municipal Accountant, to correctly withhold and remit taxes withheld under BIR Revenue Memorandum Order No. 8-2003,[133] coupled with the purported demand letter from RDO Espina. Neither, however, supports a criminal conviction for violation of Section 3(e) of Republic Act No. 3019 committed through gross inexcusable negligence which requires proof beyond reasonable doubt.

a.

The purported demand letter from RDO Espina is inadmissible, unauthenticated, and its issuance is procedurally void

The prosecution's reliance on the supposed demand letter from RDO Espina is fatally flawed.

First, the letter's source and authenticity are highly suspect. The prosecution's case is anchored on a document that did not even originate from the official files of the BIR. Rather, the document presented on record was a mere photocopy of a certified true copy that supposedly came from the private complainant, Friginal. Crucially, the prosecution never presented Friginal as a witness, leaving the origins of the document unverified and insulating it from cross-examination.

Second, the prosecution failed to establish that the letter was ever part of any official record. Prosecution witness Collection Section OIC-Chief Gella, the official custodian of the District Office's records, categorically testified that they had no copy of RDO Espina's supposed demand letter in their files.[134]

Third, the prosecution failed to observe the Original Document Rule (formerly the Best Evidence Rule). Under Rule 130, Section 3[135] of the Rules of Court, when the subject of inquiry is the content of a document, no evidence shall be admissible other than the original document itself, subject to specific exceptions. For secondary evidence, such as photocopy, to be admissible, the prosecution must first prove (1) the execution or existence of the original; and (2) the cause of its unavailability without bad faith on its part.[136]

In the present case, the prosecution failed on both counts.

To iterate, Collection Section OIC-Chief Gella testified that RDO Espina's purported demand letter was not in the BIR files and that the first time she saw this document was when it was attached to the subpoena she received from the Ombudsman in January 2019.[137]

Even RDO Espina, the purported author, did not verify said letter.[138] Record shows that he conspicuously did not produce a copy, original or otherwise, of the very demand letter he allegedly issued when he complied with the Ombudsman's subpoena. Despite this critical omission, the records are bereft of any evidence showing that Ombudsman Prosecutor Banzali even attempted to compel its production or made any further inquiry from either Friginal, who submitted RDO Espina's letter to the Ombudsman, or RDO Espina, the purported author.[139] Moreover, it does not appear that the prosecution even issued a subpoena to either the San Sebastian LGU or to accused-appellants for the production of the original letter in their possession, if any. Ombudsman Prosecutor Banzali even admitted that she did not interview any San Sebastian LGU officers for this case, including Friginal.[140]

Evidently, the prosecution did not exercise due diligence in accounting for the original, nor did it attempt to compel its production from other potential sources.

It must also be underscored that the prosecution did not present any competent evidence that RDO Espina's letter was ever actually served to the San Sebastian LGU. None of the prosecution witnesses presented testified to its service. Considering that this is a criminal case where the burden is proof beyond reasonable doubt, the service of RDO Espina's letter cannot be presumed from Collection Section OIC-Chief Gella's mere statement that taxpayers are given an original copy of demand letters.[141] Collection Section OIC-Chief Gella did not testify that San Sebastian LGU was specifically served an original copy, and considering that the first time she saw the document was in 2019 when she was served a subpoena by the Ombudsman,[142] she was incompetent to testify as to its service. This failure to prove service necessarily leads to the conclusion that it was never received by the San Sebastian LGU and consequently, by the accused-appellants.

Even assuming arguendo that RDO Espina indeed issued the said demand letter and that it was served to the San Sebastian LGU, the letter's issuance was procedurally irregular, stripping it of any legal force.

A perusal of the letter reveals that it was based solely on the San Sebastian LGU's Consolidated Balance Sheet as of December 31, 2009. It was not the result of a formal tax audit investigation, which is the standard and required

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procedure outlined in Section 228[143] of the National Internal Revenue Code (Tax Code). The record is devoid of any evidence that RDO Espina was ever issued a Letter of Authority to conduct a formal audit—a mandatory prerequisite for a valid assessment.[144] The prosecution's own witness, Former Collection Section Chief Tangile, testified that the Collection Division gets involved only after the Assessment Division has issued a demand letter and a final assessment notice, and the tax liability remains unpaid.[145] In other words, an assessment must precede a demand for collection for deficiency taxes.

This procedurally flawed issuance rendered the demand letter issued by RDO Espina void. Thus, assuming arguendo that it was issued and served, the accused-appellants could not be faulted for failing to heed its demands in view of the patent irregularity of its issuance. In Commissioner of Internal Revenue v. Bank of the Philippine Islands,[146] the Court stressed that collection cannot be enforced without first establishing a valid assessment, and that the taxpayer must be afforded a meaningful opportunity to be heard and to adduce evidence in their defense.[147]

It is settled that an assessment that fails to strictly comply with the due process requirements outlined in Section 228 of the Tax Code and its implementing rules is void and produces no effect.[148] With greater reason, a mere demand letter issued without the benefit of a formal assessment cannot give rise to any enforceable legal obligation. RDO Espina's demand letter is not a substitute for an assessment.

Absent the existence of an enforceable legal obligation against the San Sebastian LGU, there was no corresponding duty on the part of accused-appellants to remit payment based solely on a legally void demand.

b.

Accused-appellants were faced with a procedural impasse

With the primary evidence of RDO Espina's demand letter thoroughly discredited, the prosecution's case rests solely on the accused-appellants' general duties outlined in BIR Revenue Memorandum Order No. 8-2003.

The Court is not convinced.

To warrant a conviction, the prosecution must prove that the accused-appellants' omission was a willful and flagrant disregard of their duties. The evidence, however, establishes the opposite conclusion.

The disbursement of public funds follows a strict procedural chain of responsibility even if the payee is another government agency such as the BIR. As aptly raised by accused-appellant Uy, her role as Municipal Treasurer is to process payments; however, this function commences only upon receipt of a duly prepared disbursement voucher from the Office of the Municipal Accountant. Likewise, accused-appellant Abalos, as Municipal Mayor, could not approve any disbursement of public funds without the same prerequisite voucher.

The record shows that the Municipal Accountant at that time, Mabini, was separated from service without a proper turnover of records—a fact corroborated by the prosecution's own witness, Odevillas.[149] This lapse in the accounting office created an insurmountable procedural barrier. While the Local Government Code tasks the Municipal Treasurer with advising on the disposition of funds, this duty does not grant her the authority to usurp the distinct functions of the Municipal Accountant, specifically the preparation of disbursement vouchers.

The lack of a proper turnover from Mabini made it practically impossible for her successor, Odevillas, to prepare the necessary voucher. Odevillas was left with no documents or knowledge of the specific breakdown of the line item "Due to BIR" that Mabini had reported in the 2009 financial statements of the San Sebastian LGU.

Tax remittance is not a simple act of payment; it is a structured process requiring the submission of specific tax returns or forms depending on the type of tax being paid. The specific tax type determines the precise tax return to be filed (e.g., BIR Form No. 1601-C for income taxes withheld on compensation paid to employees, BIR Form No. 1601-EQ for income payments subject to expanded / creditable withholding taxes, BIR Fonn No. 1600-VT for value-added tax withheld, BIR Form No. 1600-PT for other percentage taxes withheld). Remittance of withholding taxes requires specific details-a lump-sum figure will not suffice. Even if the payment is made through BIR Form No. 0605,[150] the tax type must still be indicated, and the corresponding assessment notices and other collection letters must be attached to the return as payment references.

To the Court's mind, even if the accused-appellants were willing to pay, they had no viable means to do so based solely on the line item "Due to BIR" in the 2009 financial statements of the San Sebastian LGU. The duty of the accountable officers under BIR Revenue Memorandum Order No. 8-2003 cannot be performed in a vacuum, devoid of the essential information and documents required for its execution.

Absent the prerequisite disbursement voucher from the Municipal Accountant, the accused-appellants could not legally disburse public funds—Uy could not process the payment and Abalos could not approve it. This impasse, created by the lack of proper turnover of accounting records in the Office of the Municipal Accountant, a circumstance beyond the control of accused-appellants, is the very opposite of willful, intentional, and flagrant omission required for a finding of gross inexcusable negligence. Certainly, courts cannot convict a public official for violation of Section 3(e) of Republic Act No. 3019 for choosing not to make a highly irregular disbursement of public funds.

The Sandiganbayan's conclusion that accused-appellants should have paid under protest is untenable and overly simplifies the accused-appellants' conundrum.

Payment under protest is a remedy expressly provided under Section 252[151] of the Local Government Code in relation to local taxes. The Tax Code contains no equivalent provision. Under Section 228 of the Tax Code, a protest presupposes the existence and service of a valid assessment.

Although the crime was allegedly committed on November 17, 2010, the prosecution did not allege much less prove that the Commissioner of Internal Revenue or any authorized representative served an assessment against the San Sebastian LGU for unremitted taxes as of that date. Without a formal assessment, accused appellants had no legal or procedural mechanism to file a protest, much less pay under protest. Furthermore, the Sandiganbayan improperly foreclosed other equally valid remedies available to taxpayers, such as applying for a tax amnesty—a legal remedy which accused-appellant Abalos in fact successfully pursued.

In fine, the prosecution failed to prove beyond reasonable doubt that accused-appellants' failure to remit the taxes was characterized by the want of even slight care and conscious indifference to consequences that constitutes gross inexcusable negligence. Viewed in light of the absence of a formal assessment, the highly questionable origins of the purported demand letter from the RDO, procedural impasse they faced, and the subsequent tax amnesty obtained by the San Sebastian LGU, their omission cannot be characterized as the flagrant, palpable, and willful breach of duty required for criminal conviction for violation of Section 3(e) of Republic Act No. 3019 through gross inexcusable negligence.

The prosecution failed to prove undue injury to the San Sebastian LGU or Government

The prosecution's case also fails on the fourth element.

It is settled that undue injury in the context of Section 3(e) of Republic Act No. 3019, is akin to the civil law concept of actual damage.[152] Thus, undue injury cannot be merely presumed; it must be alleged with specificity and proven with competent evidence[153] and a reasonable degree of certainty.[154] It cannot be established by flimsy or non-substantial evidence, nor can it be founded upon speculation, conjecture, or damages that are too remote for a reliable estimation.[155] Lastly, undue injury in Section 3(e) cases entails damages that are more than necessary or are excessive, improper or illegal.[156]

The prosecution's theory of injury is twofold: that the San Sebastian LGU suffered undue injury in the form of penalties, and the Government was damaged by being deprived of the use of the unremitted taxes.

Neither meets the requirement of actual damage.

First, regarding the alleged penalties suffered by the San Sebastian LGU, the prosecution presented no concrete evidence that the LGU actually incurred or paid penalties as a result of the non-remittance on November 17, 2010. Ombudsman Prosecutor Banzali explicitly admitted that she had no proof of the actual charges against San Sebastian LGU because it was supposedly uncooperative.[157] Nevertheless, she proceeded to charge accused-appellants on the theory that their failure to remit "speaks for itself,"[158] an improper application of the doctrine of res ipsa loquitur to criminal law.

This is a grave error. In Llorente, Jr. v. Sandiganbayan,[159] the Court stressed that undue injury cannot be presumed even after a wrong or a violation of a right has been established; its existence must be proven beyond reasonable doubt as a distinct element of the crime.[160]

The speculative nature of the alleged injury is evident from the Information itself, which fails to quantify the penalties supposedly incurred. Furthermore, the timeline of the prosecution's evidence betrays its case. The Information alleges that the crime was committed on November 17, 2010, yet the BIR documents offered to quantify the injury—the BIR assessment and collection letters—were issued in 2014 and 2018, years after the alleged commission of the crime. The prosecution did not present any proof that the San Sebastian LGU incurred and paid penalties on November 17, 2010, the alleged date of the commission of the crime. At best, the BIR documents prove a subsequently computed liability years later, demonstrating that the filing of the Information was premature and the injury is entirely speculative.

Furthermore, any potential injury was legally extinguished by a supervening event: the San Sebastian LGU's availment of a tax amnesty. As held in Asia International Auctioneers, Inc. v. Commissioner of Internal Revenue,[161] a tax amnesty partakes of an absolute waiver by the government of its right to collect taxes and impose penalties on persons otherwise guilty of violating a tax law.[162] While the case was pending, the San Sebastian LGU secured a tax amnesty on delinquencies, evidenced by BIR Form No. 0621-DA.[163]

The Sandiganbayan's refusal to admit accused-appellant Abalos' evidence was a grave error, elevating technicality over the demands of substantive justice. The tax amnesty factually and legally obliterated the very basis of the alleged injury, making a finding of undue injury in the form of the alleged penalties suffered by the San Sebastian LGU impossible. Without proof of actual damage, the element of undue injury simply does not exist.

Second, anent the Government's deprivation of use of the unremitted taxes, the Court finds that this is a theoretical harm, not the real and quantifiable injury required by law.

In Llorente, the complainant testified that her family underwent financial difficulty as a result of the withholding of her salary and allowance; however, the Court held that such vague references to financial stress were unspecified and unquantified, and thus, failed to satisfy the element of undue injury.[164] In the same vein, a vague and generalized allegation that the Government was deprived of the use of the unremitted taxes is

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insufficient. To satisfy the actual damage test, the prosecution had the burden to present proof beyond reasonable doubt of the specific damage—for instance, showing a specific government project was delayed or a particular public service was halted. The record contains no such evidence.

Finally, the unremitted withholding taxes of San Sebastian LGU were eventually remitted to the BIR when the San Sebastian LGU availed of tax amnesty.[165]

In Llorente, the Court held that there was no basis for compensatory damages or undue injury, there being nothing more to compensate considering that the private complainant admitted that her money claims were eventually satisfied.[166] Similarly in Alejandro v. People,[167] the Court held that the complainants therein did not suffer undue injury because they were in fact paid their salaries.[168]

As in those cases, subsequent satisfaction of the San Sebastian LGU's tax liability negates the presence of actual damages to the Government.

Following the established rule in civil law, actual damages must be substantiated by competent evidence on record; where the prosecution fails to quantify or prove the extent of the injury to the Government with moral certainty, such an element cannot be sustained.[169]

A final note

The present case underscores the jurisprudential wisdom behind the stringent requirement of actual damage and the high threshold for gross inexcusable negligence in Section 3(e) cases. To convict an accused and deprive them of their liberty based on a procedural impasse beyond their control, and on purported injuries that ultimately did not materialize, would be the height of injustice. It is precisely to prevent such a scenario that the Court vehemently rejects speculative, theoretical, or contingent claims of injury from the prosecution.

The constitutional presumption of innocence can only be overcome by proof beyond reasonable doubt. Here, the prosecution built its case on a pyramid of presumptions and evidence that cannot withstand scrutiny. It failed to prove gross inexcusable negligence on the part of the accused-appellants and failed to present any evidence of actual and quantifiable injury to the San Sebastian LGU or Government.

The conviction of the accused-appellants was a grave error that the Court is duty-bound to correct.

ACCORDINGLY, the appeals are GRANTED. The Decision dated October 22, 2021, and the Resolution dated June 7, 2022, of the Sandiganbayan in Criminal Case No. SB-17-CRM-0979 are REVERSED and SET ASIDE insofar as it convicted accused-appellants Arnold B. Abalos and Virginia A. Uy.

Accused-appellants Arnold B. Abalos and Virginia A. Uy are hereby ACQUITTED of the charge of violation of Section 3(e) of Republic Act No. 3019 for failure on the part of the prosecution to prove their guilt beyond reasonable doubt.

Let entry of judgment be issued immediately.

SO ORDERED.

Caguioa (Chairperson), Dimaampao, and Singh, JJ., concur.
Gaerlan,[*] J., on leave.

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[*] On leave.

[1] Rollo, pp. 4-8, see Notices of Appeal dated June 14, 2022 and June 21, 2022. The Sandiganbayan approved

and gave due course to these notices of appeal and directed the Division Clerk of Court to forward and transmit the records of the case to the Court in its Resolutions dated June 15, 2022 and June 22, 2022; id. at 9-12.

[2] Id. at 13-41. Penned by Associate Justice Bernelito R. Fernandez and concurred in by Presiding Justice Amparo M. Cabotaje-Tang and Associate Justice Ronald Moreno of the Third Division, Sandiganbayan, Quezon City.

[3] Id. at 42-49. Penned by Associate Justice Bernelito R. Fernandez and concurred in by Presiding Justice Amparo M. Cabotaje-Tang and Associate Justice Ronald B. Moreno of the Third Division, Sandiganbayan, Quezon City.

[4] RTC records (Criminal Case No. SB-17-CRM-0979), vol. II, pp. 57-58.

[5] Id. at 58.

[6] Id. at 66.

[7] Marites E. Banzali Cullen in some parts of the rollo (see TSN, Marites E. Banzali Cullen, January 28, 2019, pp. 3-4).

[8] RTC records (Criminal Case No. SB-17-CRM-0979), vol. II, pp. 51-56.

[9] Rollo, pp. 147-151.

[10] RTC records (Criminal Case No. SB-17-CRM-0979), vol. I, pp. 1-2.

[11] Id. at 1.

[12] RTC records (Criminal Case No. SB-17-CRM-0980), pp. 1-2.

[13] Id. at 1.

[14] Rollo, p. 15.

[15] RTC records (Criminal Case No. SB-17-CRM-0979), vol. II, pp. 43-50.

[16] Id. at 51-56.

[17] Id. at 57-58.

[18] Id. at 66.

[19] Id. at 68.

[20] Id. at 85.

[21] Id. at 68.

[22] Id. at 87.

[23] Id. at 88-89.

[24] Id. at 69.

[25] Id. at 86.

[26] Id. at 90.

[27] Id. at 91.

[28] Id. at 92.

[29] Id. at 93.

[30] Id. at 94.

[31] Id. at 95-96.

[32] Id. at 97.

[33] Id. at 98.

[34] Id. at 99-101, 105-106.

[35] Id. at 102-103.

[36] Id. at 104.

[**] Also referred to as "Policarpio F. Tangile" and "Policarpio F. Tangile" in some parts of the record (see RTC records (Criminal Case No. SB-17-CRM-0979), vol. II, p. 104.

[37] Id. at 108.

[38] TSN, Anne Sherly Odevillas, January 10, 2019, p. 15.

[39] TSN, Aida Diagsay Gella, January 15, 2019, p. 8.

[40] TSN, Jesielz Abayan Babon, January 22, 2019, p. 7.

[41] TSN, Anne Sherly Odevillas, January 10, 2019, pp. 8-9.

[42] Id. at 12.

[43] Id. at 12-13.

[44] Id. at 15-18.

[45] Id. at 18-19.

[46] Id. at 20-21.

[47] Id. at 22.

[48] Id. at 22-23.

[49] Id. at 25.

[50] TSN, Aida Diagsay Gella, January 14, 2019, pp. 15-16.

[51] Id. at 17.

[52] Id. at 20-22.

[53] TSN, Aida Diagsay Gella, January 15, 2019, pp. 14, 16.

[54] Id. at 16-17.

[55] Id. at 14.

[56] Id. at 15-17.

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[57] Id. at 19-20.

[58] Id. at 23-24.

[59] Id. at 26.

[60] Id. at 27-28.

[61] Id. at 29.

[62] Id. at 31.

[63] Id. at 32-33.

[64] TSN, Jesielz Abayan Babon, January 21, 2019, pp. 8-11.

[65] TSN, Jesielz Abayan Babon, January 22, 2019, pp. 7-8.

[66] Id. at 11-12.

[67] TSN, Marites E. Banzali Cullen, January 28, 2019, p. 7.

[68] Id. at 21, 30.

[69] Id. at 23-29.

[70] Id. at 32-33.

[71] Id. at 35.

[72] Id. at 38.

[73] Id. at 43-48.

[74] Id. at 50-51.

[75] TSN, Policarpio Factuonim Tangile, January 29, 2019, pp. 22-23.

[76] Id. at 14-16.

[77] Id. at 22-27.

[78] RTC records (Criminal Case No. SB-I7-CRM-0979), vol. II, p. 143.

[79] Rollo, p. 23.

[80] Id.

[81] Id. at 23-24.

[82] Id. at 24.

[83] Id.

[84] Id. at 25.

[85] Id.

[86] Id. at 25-26.

[87] Id. at 27.

[88] Id. at 27-28.

[89] Id. at 28.

[90] Id.

[91] Id.

[92] RTC records (Criminal Case No. SB-17-CRM-0979), vol. III, p. 5.

[93] Id. at 70.

[94] Id. at 56-59.

[95] Id. at 56-57.

[96] Id. at 57-58.

[97] Id. at 166.

[98] Id. at 71.

[99] Rollo, pp. 39-40.

[100] Id. at 29.

[101] Id. at 32-33.

[102] Id. at 33.

[103] Id. at 86-109.

[104] Id. at 90.

[105] Id. at 91.

[106] Id. at 94.

[107] SECTION 4....

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 11, 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:

(1)

Officials of the executive branch occupying the positions of regional director and higher, otherwise classified as Grade '27' and higher, of the Compensation and Position Classification Act of 1989 (Republic Act No. 6758), specifically including:

(a)

Provincial governors, vice-governors, members of the sangguniang panlalawigan and provincial treasurers, assessors, engineers and other provincial department heads;

(b)

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

(c)

Officials of the diplomatic service occupying the position of consul and higher;

(d)

Philippine army and air force colonels, naval captains, and all officers of higher rank;

(e)

Officers of the Philippine National Police while occupying the position of provincial director and those holding the rank of senior superintendent or higher;

(f)

City and provincial prosecutors and their assistants, and officials and prosecutors in the Office of the Ombudsman and special prosecutor;

(g)

Presidents, directors or trustees, or managers of government-owned or -controlled corporations, state universities or educational institutions or foundations;

(2)

Members of Congress and officials thereof classified as Grade '27' and up under the Compensation and Position Classification Act of 1989;

(3)

Members of the judiciary without prejudice to the provisions of the Constitution;

(4)

Chairmen and members of the Constitutional Commissions, without prejudice to the provisions of the Constitution; and

(5)

All other national and local officials classified as Grade '27' and higher under the Compensation and Position Classification Act of 1989.

b.

Other offenses or felonies whether simple or complexed with other crimes committed by the public officials and employees mentioned in subsection a. of this section in relation to their office.

[108] Rollo, p. 91.

[109] Id. at 95-97.

[110] Id. at 98.

[111] Id. at 98-99.

[112] Id. at 102-103.

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[113] Id. at 102-106.

[114] Id. at 71-84.

[115] Id. at 79.

[116] Id. at 81.

[117] Id. at 81-82.

[118] Id. at 82.

[119] Id. at 174-206.

[120] Id. at 193-194.

[121] Id. at 194.

[122] Id. at 196.

[123] Id. at 197.

[124] Id. at 198-199.

[125] Id. at 200.

[126] Navaja v. Hon. de Castro, 761 Phil. 142, 150-151 (2015) [Per J. Peralta, Third Division], citing People v. Hon. Galano, 166 Phil. 205, 208 (1977) [Per J. Teehankee, First Division], and People v. Delfin, 112 Phil. 807, 817 (1961) [Per J.B.L. Reyes, En Banc].

[127] Republic Act No. 8249 (1997). An Act Further Defining the Jurisdiction of the Sandiganbayan, Amending for the Purpose Presidential Decree No. 1606, As Amended, Providing Funds Therefor, and For Other Purpose.

[128] Spouses Maliga v. Spouses Tingao, 944 Phil. 162, 170 (2023) [Per J. Zalameda, En Banc].

[129] People v. Bacaltos, 878 Phil. 591, 612 (2020) [Per J. Lazaro-Javier, First Division].

[130] 895 Phil. 270 (2021) [Per J. Caguioa, En Banc].

[131] Id. at 304-305.

[132] Id. at 287.

[133] Compliance of Local Government Units (LGUs), National Government Agencies (NGAS) and Other Government Offices to Withholding Tax Laws, Rules and Regulations and to Clarify and Identify the Officials Responsible for Withholding of Tax and its Remittance. Approved on March 3, 2003.

[134] TSN, Aida Diagsay Gella, January 15, 2019, pp. 15-17.

[135] SECTION 3. Original document must be produced; exceptions. – When the subject of inquiry is the contents of a document, writing, recording, photograph or other record, no evidence is admissible other than the original document itself, except in the following cases:

(a)

When the original is lost or destroyed, or cannot be produced in court, without bad faith on the part of the offeror;

(b)

When the original is in the custody or under the control of the party against whom the evidence is offered, and the latter fails to produce it after reasonable notice, or the original cannot be obtained by local judicial processes or procedures;

(c)

When the original consists of numerous accounts or other documents which cannot be examined in court without great loss of time and the fact sought to be established from them is only the general result of the whole;

(d)

When the original is a public record in the custody of a public officer or is recorded in a public office; and

(e)

When the original is not closely-related to a controlling issue.

[136] RULES OF COURT, Rule 130, sec. 5:

SECTION 5. When original document is unavailable. – When the original document has been lost or destroyed, or cannot be produced in court, the offeror, upon proof of its execution or existence and the cause of its unavailability without bad faith on his or her part, may prove its contents by a copy, or by recital of its contents in some authentic document, or by the testimony of witnesses in the order stated. (5a)

[137] TSN, Aida Diagsay Gella, January 15, 2019, pp. 14-l5.

[138] TSN, Marites E. Banzali Cullen, January 28, 2019, p. 38.

[139] Id. at 32-33.

[140] Id.

[141] TSN, Aida Diagsay Gella, January 15, 2019, pp. 32-33.

[142] Id. at 14-15.

[143] SECTION 228. Protesting of assessment. – When the Commissioner or his duly authorized representative finds that proper taxes should be assessed, he shall first notify the taxpayer of his findings: Provided, however, That a pre-assessment notice shall not be required in the following cases:

(a)

When the finding for any deficiency tax is the result of mathematical error in the computation of the tax as appearing on the face of the return; or

(b)

When a discrepancy has been determined between the tax withheld and the amount actually remitted by the withholding agent; or

(c)

When a taxpayer who opted to claim a refund or tax credit of excess creditable withholding tax for a taxable period was determined to have carried over and automatically applied the same amount claimed against the estimated tax liabilities for the taxable quarter or quarters of the succeeding taxable year; or

(d)

When the excise tax due on excisable articles has not been paid; or

(e)

When the article locally purchased or imported by an exempt person, such as, but not limited to, vehicles, capital equipment, machineries and spare parts, has been sold, traded or transferred to non-exempt persons.

The taxpayers shall be informed in writing of the law and the facts on which the assessment is made; otherwise, the assessment shall be void.

Within a period to be prescribed by implementing rules and regulations, the taxpayer shall be required to respond to said notice. If the taxpayer fails to respond, the Commissioner or his duly authorized representative shall issue an assessment based on his findings.

Such assessment may be protested administratively by filing a request for reconsideration or reinvestigation within thirty (30) days from receipt of the assessment in such form and manner as may be prescribed by implementing rules and regulations. Within sixty (60) days from filing of the protest, all relevant supporting documents shall have been submitted; otherwise, the assessment shall become final.

If the protest is denied in whole or in part, or is not acted upon within one hundred eighty (180) days from submission of documents, the taxpayer adversely affected by the decision or inaction may appeal to the Court of Tax Appeals within thirty (30) days from receipt of the said decision, or from the lapse of one hundred eighty (180)-day period; otherwise, the decision shall become final, executory and demandable.

[144] See Commissioner of Internal Revenue v. McDonald's Philippines Realty Corporation, 902 Phil. 473, 483 (2021) [Per J. J. Lopez, Third Division].

[145] TSN, Policarpio Factuonim Tangile, January 29, 2019, pp. 12, 22-27.

[146] 833 Phil. 97 (2018) [Per J. Peralta, Second Division].

[147] Id. at 109.

[148] Prime Steel Mill, Inc. v. Commissioner of Internal Revenue, 929 Phil. 644, 654 (2022) [Per J. Dimaampao, Third Division].

[149] TSN, Anne Sherly Odevillas, January 10, 2019, pp. 18-20.

[150] This form is accomplished every time a tax payment or penalty is due or an advance payment is to be made; and upon receipt of a demand letter / assessment notice and/or collection letter from the BIR. <https://bir-cdn.bir.gov.ph/local/pdf/0605version1999_09.02.2022_copy.pdf>

[151] SECTION 252. Payment Under Protest. –

(a) No protest shall be entertained unless the taxpayer first pays the tax. There shall be annotated on the tax receipts the words "paid under protest". The protest in writing must be filed within thirty (30) days from payment of the tax to the provincial, city treasurer or municipal treasurer, in the case of a municipality within Metropolitan Manila Area, who shall decide the protest within sixty (60) days from receipt.

(b) The tax or a portion thereof paid under protest, shall be held in trust by the treasurer concerned.

(c) In the event that the protest is finally decided in favor of the taxpayer, the amount or portion of the tax protested shall be refunded to the protestant, or applied as tax credit against his existing or future tax liability.

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(d) In the event that the protest is denied or upon the lapse of the sixty day period prescribed in subparagraph (a), the taxpayer may avail of the remedies as provided for in Chapter 3, Title II, Book II of this Code.

[152] Coloma, Jr. v. Sandiganbayan, 744 Phil. 214, 232 (2014) [Per J. Mendoza, Second Division].

[153] Camp John Hay Development Corporation v. Office of the Ombudsman, 893 Phil. 728, 751 (2021) [Per J. Leonen, Third Division], Soriano v. Ombudsman, 597 Phil. 308, 317-319 (2009) [Per J. Austria-Martinez, Third Division].

[154] Llorente, Jr. v. Sandiganbayan, 350 Phil. 820, 838 (1998) [Per J. Panganiban, First Division].

[155] Id. at 839.

[156] Id. at 840.

[157] TSN, Marites E. Banzali Cullen, January 28, 2019, pp. 52-53.

[158] Id. at 50-51.

[159] 350 Phil. 820 (1998) [Per J. Panganiban, First Division].

[160] Id. at 837-838.

[161] 695 Phil. 852 (2012) [Per J. Perlas-Bernabe, Second Division].

[162] Id. at 858.

[163] RTC records (Criminal Case No. SB-17-CRM-0979), vol. III, p. 64.

[164] Llorente, Jr. v. Sandiganbayan, supra note 154, at 839.

[165] See RTC records (Criminal Case No. SB-17-CRM-0979), vol. III, p. 167.

[166] Llorente, Jr. v. Sandiganbayan, supra note 154, at 839.

[167] 252 Phil. 412 (1989) [Per J. Padilla, En Banc].

[168] Id. at 420.

[169] See Llorente, Jr. v. Sandiganbayan, supra note 154, at 839.

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