

ALBERT G. AMBAGAN, JR., PETITIONER, V. PEOPLE OF THE PHILIPPINES, RESPONDENT.*G.R. Nos. 233443-44. November 28, 2018*

Ponente: A. REYES, JR., J.

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Before this Court is a Petition for Review on Certiorari[1] filed by Albert G. Ambagan, Jr. (petitioner) under Rule 45 of the 1997 Rules of Civil Procedure seeking to annul and set aside the Decision[2] dated April 5, 2017 and Resolution[3] dated August 8, 2017 of the Sandiganbayan in SB-11-CRM-0366 to 0367. The assailed rulings adjudged the petitioner guilty of violating Section 3(e) of Republic Act (R.A.) No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act.

The Antecedent Facts

On September 25, 1998, the Sangguniang Bayan (SB) of Amadeo, Cavite issued Resolution No. 57, Series of 1998, declaring Balite Falls a tourist spot, barangay park, and a reserved area. The resolution was issued to preserve Balite Falls as a potential source of potable water. Among those who signed the resolution is the petitioner, in his capacity as Sangguniang Kabataan (SK) Federation Chairman.[4]

On October 19, 1998, Resolution No. 402-S-98 was passed by the Sangguniang Panlalawigan (SP) of Cavite approving Resolution No. 57.[5]

Located near Balite falls is a lot owned by Simplicio S. Lumandas (Simplicio) as evidenced by Transfer Certificate of Title (TCT) No. T-158087 (40069). The land is also where his ancestral house is built. Upon Simplicio's death, the property passed on to his heirs, one of which is Revina C. Lumandas (Revina), the private complainant in the case before the Sandiganbayan.[6]

Sometime in October 2007, Councilor Marlon Ambion (Ambion) informed Revina that the municipal government planned to temporarily rent their ancestral house for office purposes. Revina agreed as the house was then vacant.[7]

During the same time, the petitioner, then Mayor of Amadeo Cavite, called for a meeting to discuss the project to be undertaken near Balite Falls. Calixto Lumandas (Calixto), cousin of Revina and owner of the adjacent property TCT No. T-158086 (40068), attended the gathering.[8]

On January 31, 2008, the SB of Amadeo issued Resolution No. 58 approving the operating guidelines relating to the establishment of the Balite Falls as an eco-tourism area. On even date the SB also issued Resolution No. 59 authorizing the petitioner to enter into agreement with interested parties for the development of Balite Falls and the adjoining vicinity which covers Barangays Banaybanay, Halang and Tamakan. The resolution was signed by the SB members and approved by the petitioner as Municipal Mayor.[9]

Sometime in February 2008, the house on the subject lot owned by the heirs of Simplicio was demolished, while

the property of Calixto was levelled. Thereafter, Revina and Calixto saw construction activities being done on their property.[10]

On March 2, 2008, a meeting was called by the petitioner and attended by the owners of the lots near the Balite Falls. Revina therein asked why their house was demolished without notice, to which the staff of the petitioner replied "tao lamang sya na nagkakamali." Calixto, who was also present handed the petitioner a letter demanding the cessation of construction activities.[11]

Revina's brother, witnessing that construction activities are being conducted on the property, also demanded the immediate cessation thereof, but his request was ignored. He together with other relatives attempted to mark the boundaries of the land, but was prevented by the petitioner, who together with armed men threatened to have them arrested.[12]

On March 6, 2008, Calixto met with the petitioner who proposed to lease the land for a period of 25 years, to which the former formally declined on March 24, 2008.[13]

On March 25, 2008, a meeting was called by the Barangay Chairman of Banaybanay in which the plans to expand and widen the road towards the Balite Falls were related to the affected property owners. The owners opposed as the project necessitate that they give up three (3) meters of their land.[14] On May 15, 2008, the SB of Amadeo passed Resolution No. 72, which ratified the levying of park maintenance fees on the residents of Amadeo.[15]

On July 1, 2008, two separate complaints were filed by Revina for and in behalf of the heirs of Simplicio, and Calixto, against the petitioner before the Deputy Ombudsman for Luzon for violation of Section 3(e) of R.A. No. 3019 and misconduct.[16]

On March 17, 2017, the Deputy Ombudsman for Luzon dismissed the case for misconduct.[17] However, the petitioner was charged with violation of Section 3(e) of R.A. No. 3019, as amended, in two separate Informations, the accusatory portions of which read:

SB-11-CRM-0366

That on 28 February 2008 or sometime prior or subsequent thereto, in Barangay Halang, Amadeo, Cavite, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, a public officer, being the Municipal Mayor of Amadeo, Cavite, acting in relation to his office, through evident bad faith, manifest partiality or gross inexcusable negligence, did then and there, willfully, unlawfully, and criminally cause undue injury to the Heirs of Simplicia Lumandas by ordering construction works to be undertaken upon the latter's private land covered by Transfer Certificate of Title No. T-158087 (40069) thereby depriving them of the enjoyment and use of three thousand eight hundred and ninety-two square meters (3,892), more or less, of their land, which affected area is valued at approximately SEVEN HUNDRED SEVENTY-EIGHT THOUSAND FOUR HUNDRED PESOS (Php778,400.00) to the damage and prejudice of the Heirs of Simplicia Lumandas in the afore-stated amount.[18]

SB-11-CRM-0367

That on 28 February 2008 or sometime prior or subsequent thereto, in Barangay Halang, Amadeo, Cavite Philippines and within the jurisdiction of this Honorable Court, the above-named accused, a public officer, being the Municipal Mayor of Amadeo, Cavite, acting in relation to his office, through evident bad faith, manifest partiality or gross inexcusable negligence, did then and there, willfully, unlawfully and criminally cause undue injury to Calixto C. Lumandas by ordering construction works to be undertaken upon the latter's private land covered by Transfer Certificate of Title No. T-158086 (40068) thereby depriving him of the enjoyment and use of three thousand nine hundred eighty-nine square meters (3,989), more or less, of his land, which affected area is valued at approximately SEVEN HUNDRED NINETY-SEVEN THOUSAND EIGHT

HUNDRED PESOS (Php797,800.00) to the damage and prejudice of Calixto C. Lumandas in the afore-stated amount.[19]

On April 5, 2017, the Special Fourth Division of the Sandiganbayan rendered the herein assailed Decision,[20] the dispositive portion of which reads:

ACCORDINGLY, and in view of the foregoing, this Court finds [the petitioner]:

a. GUILTY beyond reasonable doubt in Criminal Case No. SB-11-CRM-0366 and applying the Indeterminate Sentence Law (ISL), there being no aggravating and mitigating circumstance to be appreciated, he is hereby ordered to suffer the penalty of imprisonment for Six (6) years and One (1) Month as minimum to Ten (10) Years as maximum and perpetual disqualification from holding public office.

b. GUILTY beyond reasonable doubt in Criminal Case No. SB-11-CRM-0367 and applying the Indeterminate Sentence Law (ISL), there being no aggravating and mitigating circumstance to be appreciated, he is hereby ordered to suffer the penalty of imprisonment for Six (6) years and One (1) month as minimum to Ten (10) years, as maximum and perpetual disqualification from holding public office.

c. No Costs.

SO ORDERED.[21]

Both parties filed their respective Motion for Reconsideration of the Decision dated April 5, 2017. On August 8, 2017, the Sandiganbayan issued a Resolution[22] denying both motions, viz.:

WHEREFORE, the following:

- 1.) Motion for Reconsideration (of the DECISION dated 05 April 2017) dated 20 April 2017 received by mail on 8 May 2017 by [the petitioner]; and
- 2.) Motion for Reconsideration (of Decision dated April 5, 2017) dated 20 April 2017 and received by mail on 8 May 2017 filed by private complainants, Heirs of Simplicio Lumandas and Rev. Fr. Calixto C. Lumandas;

are hereby DENIED.

SO ORDERED.[23]

Issues

Thus, this petition for review for certiorari whereby the petitioner submits, in sum, first, that he should be charged only for a single offense, which is in the nature of a continuous crime; and second, that he cannot be held liable for the crimes charged as a) the Informations failed to sufficiently allege the element of "performance of the act in the discharge of official functions;" and b) all the other elements of the offense have not been proven.

Ruling of the Court

The petition is partly meritorious.

Anent the issue, the petitioner claims that he cannot be held liable for two separate offenses as the acts referred to the Informations arise out of a single act constituting of a single continuing offense.

The petitioner submits that in determining the multiplicity of an offense, "[i]t is not really the number of properties and private parties that matters but x x x the singularity of intent and purpose in the commission of the complained act." [24]

Finally, the petitioner argues that his prosecution of a continuing offense under two separate Informations, calls for the dismissal of both cases on the ground of double jeopardy.[25]

In *Gamboa v. CA*,^[26] the Court defined *delito continuado*, or continuous crime as-

[A] single crime consisting of a series of acts arising from a single criminal resolution or intent not susceptible of division. For *Cuello Calon*, when the actor, there being unity of purpose and of right violated, commits diverse acts, each of which although of a delictual character, merely constitutes a partial execution of a single particular delict, such concurrence or delictual acts is called a "*delito continuado*". In order that it may exist, there should be "plurality of acts performed separately during a period of time: unity of penal provision infringed upon or violated and unity of criminal intent and purpose, which means that two or more violations of the same penal provision are united in one and the same intent leading to the perpetration of the same criminal purpose or aim."^[27]

The concept is distinguished from the so-called complex crimes, contemplated under Article 48 of the Revised Penal Code, which arise (a) when a single act constitutes two or more grave or less grave felonies (described as "*delito compuesto*" or compound crime); and (b) when an offense is a necessary means for committing another offense (described as "*delito complejo*" or complex proper).^[28]

Tested against the attendant circumstances in this case, the Court is inclined to rule that what is involved in this case is a continuous crime, and as such, there should only be one Information to be filed against the petitioner.

In *Santiago v. Hon. Justice Garchitorena*,^[29] the Court made an instructive disquisition on the concept of *delito continuado* or continuous crimes, viz.:

[I]t should be borne in mind that the concept of *delito continuado* has been a vexing problem in Criminal Law — difficult as it is to define and more difficult to apply.

According to *Cuello Calon*, for *delito continuado* to exist there should be a plurality of acts performed during a period of time; unity of penal provision violated; and unity of criminal intent or purpose, which means that two or more violations of the same penal provisions are united in one and same instant or resolution leading to the perpetration of the same criminal purpose or aim (*II Derecho Penal*, p. 520; *I Aquino*, Revised Penal Code, 630, 1987 ed.).

According to *Guevarra*, in appearance, a *delito continuado* consists of several crimes but in reality there is only one crime in the mind of the perpetrator (*Commentaries on the Revised Penal Code*, 1957 ed., p. 102; *Penal Science and Philippine Criminal Law*, p. 152).

Padilla views such offense as consisting of a series of acts arising from one criminal intent or resolution (*Criminal Law*, 1988 ed. pp. 53-54).

Applying the concept of *delito continuado*, we treated as constituting only one offense the following cases:

- (1) The theft of 13 cows belonging to two different owners committed by the accused at the same time and at the same period of time (*People v. Tumlos*, 67 Phil. 320 [1939]).
- (2) The theft of six roosters belonging to two different owners from the same coop and at the same period of time (*People v. Jaranillo*, 55 SCRA 563 [1974]).
- (3) The theft of two roosters in the same place and on the same occasion (*People v. De Leon*, 49 Phil. 437 [1926]).
- (4) The illegal charging of fees for services rendered by a lawyer every time he collects veteran's benefits on behalf of a client, who agreed that the attorney's fees shall be paid out of said benefits (*People v. Sabbun*, 10 SCRA 156 [1964]). The collection of the legal fees was impelled by the same motive, that of collecting fees for services rendered, and all acts of collection were made under the same criminal impulse (*People v. Lawas*, 97 Phil. 975 [1955]).

On the other hand, we declined to apply the concept to the following cases:

(1) Two estafa cases, one of which was committed during the period from January 19 to December 1955 and the other from January 1956 to July 1956 (*People v. Dichupa*, 113 Phil. 306 [1961]). The said acts were committed on two different occasions.

(2) Several malversations committed in May, June and July, 1936, and falsifications to conceal said offenses committed in August and October 1936. The malversations and falsifications "were not the result of only one purpose or of only one resolution to embezzle and falsify ..." (*People v. Cid*, 66 Phil. 354 [1938]).

(3) Two estafa cases, one committed in December 1963 involving the failure of the collector to turn over the installments for a radio and the other in June 1964 involving the pocketing of the installments for a sewing machine (*People v. Ledesma*, 73 SCRA 77 [1976]).

(4) 75 estafa cases committed by the conversion by the agent of collections from customers of the employer made on different dates (*Gamboa v. Court of Appeals*, 68 SCRA 308 [1975]).

The concept of *delito continuado*, although an outcry of the Spanish Penal Code, has been applied to crimes penalized under special laws, x x x.

x x x x

The original information also averred that the criminal act: (i) committed by petitioner was in violation of a law—Executive Order No. 324 dated April 13, 1988, (ii) caused an undue injury to one offended party, the Government, and (iii) was done on a single day, i.e., on or about October 17, 1988.

The 32 Amended Informations reproduced verbatim the allegation of the original information, except that instead of the word "aliens" in the original information each amended information states the name of the individual whose stay was legalized.

x x x x

The 32 Amended Informations aver that the offenses were committed on the same period of time, i.e., on or about October 17, 1988. The strong probability even exists that the approval of the application or the legalization of the stay of the 32 aliens was done by a single stroke of the pen, as when the approval was embodied in the same document.[30] (Underscoring Ours)

From the foregoing, it is evident that the primary considerations in adjudging whether a series of criminal acts should be considered a continuous crime, are: the singularity in criminal intent and penal law violation, and the period of time the act was committed. Verily, when the criminal acts are performed on various dates, the presumption is that every act is performed on the motivation of separate criminal intents. Thus, the tendency is for the Court to treat each act as a separate and independent criminal violation. However, this is not a hard and fast rule but are merely guidelines. Ultimately, whether or not a continuous crime exists depends on the circumstances of each case.

The two (2) Informations charging the petitioner for violation of Section 3(e), R.A. No. 3019 are strikingly identical except with respect to the name of the property owner, TCT No., affected area, and its value. The place, time, and manner of the commission of the offense are the same. The petitioner in the performance of the alleged criminal act is impelled by a singular purpose— the realization of the Balite Falls development project. Consequently, the acts alleged in the two (2) Informations constitute only one offense which should have been consolidated in one Information.

This does not mean however that both cases must be dismissed as petitioner suggests. Considering that there is but one offense, there is no place for the issue of double jeopardy to arise in the first place. The only implication of this pronouncement would be that the accused should, if found guilty, be meted with penalty for a single offense.

Moving forward to the second issue, the petitioner claims that he cannot be held liable for the crime charged.

Foremost, he argues that the third element of the crime charged, i.e., that the act was performed by the accused in the discharge of his official functions, has not been alleged in the Informations.

Next, the petitioner submits that the element of "undue injury" is not present. He theorizes that "undue injury" is not merely simple injury, but one that invites the punishment of imprisonment or deprivation of liberty for months and years,[31] none of which is present in this case. At any rate, petitioner suggests that improvements were actually introduced that resulted in the increase in the value of the subject properties.[32]

Lastly, the petitioner also argues the absence of the elements of evident bad faith or manifest partiality and pecuniary benefit. He posits that the Balite Falls project is conceived only of good intentions. Consequently, he submits that he cannot be held administratively liable therefor.[33]

The Rules of Court requires that the Information allege ultimate facts constituting the elements of the crime charged, with the end that the accused is informed of the nature and cause of the accusation against him.[34]

An Information is deemed sufficient if it complies with Sections 6 and 9, Rule 110 of the Rules of Court, viz.:

Sec. 6. Sufficiency of complaint or information. - A complaint or information is sufficient if it states the name of the accused; the designation of the offense given by the statute; the acts or omissions complained of as constituting the offense; the name of the offended party; the approximate date of the commission of the offense; and the place where the offense was committed.

When an offense is committed by more than one person, all of them shall be included in the complaint or information.

x x x x

Sec. 9. Cause of the accusation. - The acts or omissions complained of as constituting the offense and the qualifying and aggravating circumstances must be stated in ordinary and concise language and not necessarily in the language used in the statute but in terms sufficient to enable a person of common understanding to know what offense is being charged as well as its qualifying and aggravating circumstances and for the court to pronounce judgment.

In this case, the petitioner was charged with violation of Section 3(e) of R.A. No. 3019,[35] the elements of which are the following:

- a) The accused must be a public officer discharging administrative, judicial or official functions;
- b) He must have acted with manifest partiality, evident bad faith or inexcusable negligence; and
- c) That his action caused any undue injury to any party, including the government, or giving any private party unwarranted benefits, advantage or preference in the discharge of his functions.[36]

The petitioner argues that the allegation in the Information that he was "acting in relation to his office" does not sufficiently define the offense charged. He claims that the phrase is too broad, and that what should have been indicated was that the act was "in the discharge of his official administrative or judicial functions."

The Court finds that the Informations sufficiently allege the elements for violation of Section 3(e) of R.A. No. 3019. While the words used vary, the implication remains the same, that the acts alleged therein were performed by the petitioner in pursuance of, and that the same necessarily related to his functions as Mayor.[37] In fact, it is undisputed that the petitioner, as then municipal mayor of Amadeo, Cavite was then performing public functions at the time of the acts complained of. Consequently, it is of no moment that the exact nomenclature of the law has

not been used in the Information, considering that the statements therein clearly indicate what offense has been committed, and enable the court to make proper judgment.[38] This is particularly true as the Informations did not simply allege that the offense was committed in relation to petitioner's office or that he took advantage of his position, but as well contain specific factual allegations that would indicate the close intimacy between the discharge of the offender's official duties and the commission of the offense charged.[39]

Similarly, the Court finds no merit in the petitioner's submissions that the second and third elements of the offense, previously enumerated, are not present. To merit conviction under Section 3(e) of R.A. No. 3019, it is not enough that undue injury was caused, the act must be performed through manifest partiality, evident bad faith, or gross inexcusable negligence.[40] Pertinent to the issue at hand, "bad faith" in this sense, 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.[41]

Petitioner's violation is manifested by his act of ordering that construction works be done on the property belonging to the Heirs of Simplicio and that of Calixto prior to any agreement with the said parties[42] or expropriation proceedings.[43]

The petitioner does not dispute that no expropriation proceeding was initiated. In fact, it is the petitioner's submission that expropriation was never intended by the SB. This was corroborated by Municipal Councilor Joel V. Iyaya (Iyaya), submitting that the local government merely intended to enter into joint ventures with the owners of the subject properties. However, he later affirmed that the joint venture never materialized but the municipal government nonetheless proceeded with the project and is solely profiting therefrom.[44]

The position is erroneous. It has been established that there was "taking" of portions of the subject properties which therefore demands the institution of expropriation proceedings. Records establish that of the 24,000 square meters of the property, around 3,900 sq m form the pavilion, while an unknown portion of it was made into a parking lot.[45] The testimony of Geodetic Engineer Herminigildo L. Vidallon, confirmed that the construction works initiated by the petitioner was within the subject registered owners' property lines. In his sketch plans, submitted in evidence and identified by him during his testimony, 3,892 sq m were bulldozed and scraped, while 3,898 sq m of the subject properties were affected by the construction.[46] Clearly, this constitutes undue injury.

In the recent case of *Roberto P. Fuentes v. People of the Philippines*,[47] the Court speaking through Associate Justice Estela M. Perlas-Bernabe, reiterated prevailing case law in that in proving undue injury, "[p]roof of the extent of damage is not essential, it being sufficient that the injury suffered or the benefit received is perceived to be substantial enough and not merely negligible." [48]

Evident bad faith on the part of the petitioner is, on the other hand, manifested by his active participation in the Balite Falls Development Project and that despite meetings conducted wherein he was directly and personally informed by the owners of the subject properties of their disagreement to the utilization and/or inclusion of their properties, he nonetheless consciously proceeded with the project.

Petitioner's defense that the development of the Balite Falls is a project of the Department of Tourism and not of the Local Government does not absolve him for liability. Regardless of who authored the project, the fact remains that it is the petitioner who supervised and administered the construction on the subject properties, and continue to benefit therefrom as established by the testimonies of Municipal Councilors Donn Clarence L. Bayot and Iyaya,[49] that the facility is operated by the Municipal Government.

With respect to the proper penalty, Section 9(a)[50] of R.A. No. 3019 provides that the penalty for violation of Section 3(e) of the same law includes, inter alia, imprisonment for a period of six (6) years and one (1) month to

fifteen (15) years, and perpetual disqualification from public office. Thus, the Sandiganbayan correctly sentenced petitioner to suffer the penalty of imprisonment for an indeterminate period of six (6) years and one (1) month, as minimum, to ten (10) years, as maximum, with perpetual disqualification from public office.[51] Nonetheless, in light of the previous discussion, stating that only one offense has been committed, the decision of the Sandiganbayan should be modified in that this penalty should only be imposed once.

While it has been proven that undue injury on the part of the subject property owners have been proven, the Sandiganbayan refused to grant in their favor, damages, on account of their failure to provide adequate proof to support the same. In this regard, while it is true that it is only the petitioner who appealed therefrom, the nature of the pending action justifies a review of the same. It is fundamental principle that in criminal cases, an appeal throws the whole case wide open for review and the reviewing tribunal can correct errors or even reverse the trial court's decision on grounds other than those that the parties raise as errors.[52]

In the same case of Fuentes,[53] the Court held that temperate damages should be awarded when it has been established that the private complainant or respondent suffered a loss but the amount thereof cannot be proven with certainty. The determination of the amount of temperate damages is left to the sound discretion of the Court subject to the standard of reasonableness, in that temperate damages should be more than nominal but less than compensatory.

In this controversy, while the subject property owners offered proof as to the area affected by the construction works and the Balite falls project, they however failed to adduce competent proof of valuation of their properties and the damages they suffered. In this regard, considering the attendant facts, particularly the property owners admission that the value of their properties increased,[54] and that they together with their relatives and friends enjoy a lifetime privilege to enjoy the resort for free,[55] the Court finds that an award of temperate damages in the amount of Php 400,000.00 to each of the property owners is just and reasonable under the circumstances.[56]

WHEREFORE, in view of the foregoing, judgment is hereby rendered finding petitioner Albert G. Ambagan, Jr. GUILTY beyond reasonable doubt of one (1) count of violation of Section 3(e) of Republic Act No. 3019.

As such, petitioner Albert G. Ambagan, Jr. is hereby sentenced to an indeterminate penalty of imprisonment for six (6) years and one (1) month, as minimum, to ten (10) years, as maximum, and the accessory penalty of perpetual disqualification from holding public office.

In addition, petitioner Albert G. Ambagan, Jr. is hereby ordered to pay the Heirs of Simplicia Lumandas, and Calixto Lumandas, temperate damages in the amount of Php 400,000.00 each. The amount of damages shall earn interest at the rate of six percent (6%) per annum from the date of the finality of this Decision until fully paid.

SO ORDERED.

Carpio (Chairperson), Caguioa, and J. Reyes, Jr.,[*] JJ., concur.

Perlas-Bernabe, J., on wellness leave.

[*] Designated as Acting Member per Special Order No. 2587 dated August 28, 2018.

[1] Rollo, pp. 9-50.

[2] Penned by Associate Justice Geraldine Faith A. Econg, with Associate Justices Alex L. Quiroz and Reynaldo P. Cruz concurring; id. at 55-77.

[3] Id. at 115-119.

- [4] Id. at 67.
- [5] Id.
- [6] Id.
- [7] Id. at 67-68.
- [8] Id.
- [9] Id. at 68.
- [10] Id.
- [11] Id. at 69.
- [12] Id.
- [13] Id.
- [14] Id.
- [15] Id. at 70.
- [16] Id.
- [17] Id.
- [18] Id. at 55-56.
- [19] Id. at 56.
- [20] Id. at 55-78.
- [21] Id. at 76-77.
- [22] Id. at 115-119.
- [23] Id. at 119.
- [24] Id. at 24.
- [25] Id. at 28-30.
- [26] 160-A Phil. 962 (1975).
- [27] Id. at 969.
- [28] Id. at 970.
- [29] 298-A Phil. 164 (1993).
- [30] Id. at 174-178.
- [31] Rollo, p. 36.
- [32] Id. at 38-39, 41.
- [33] Id. at 45.
- [34] *People v. Sandiganbayan, et al.*, 769 Phil. 378, 387 (2015).

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

x x x x

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

[36] *Consigna v. People, et al.*, 731 Phil. 108, 123-124 (2014).

[37] *Id.* at 114.

[38] *Id.* at 119-120, citing *People v. Dimaano*, 506 Phil. 630, 649-650 (2005).

[39] *Guy v. People*, 601 Phil. 105, 113 (2009).

[40] *Rivera v. People*, 749 Phil. 124, 141-142 (2014).

[41] *Coloma, Jr. v. Sandiganbayan, et al.*, 744 Phil. 214, 229 (2014), citing *Fonacier v. Sandiganbayan*, 308 Phil. 660, 693-694 (1994).

[42] *Rollo*, p. 74.

[43] *Id.* at 70.

[44] *Id.* at 63, 74.

[45] *Id.* at 59.

[46] *Id.* at 61.

[47] G.R. No. 186421, April 17, 2017.

[48] *Id.*, citing *Garcia and Brizuela v. Sandiganbayan and People*, 730 Phil. 521, 542 (2014) and *Reyes v. People of the Philippines*, 641 Phil. 91, 107 (2010).

[49] *Rollo*, pp. 63-64.

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

[51] Sec. 1 of Act No. 4103 reads:

Section 1. Hereafter, in imposing a prison sentence for an offense punished by the Revised Penal Code, or its amendments, the court shall sentence the accused to an indeterminate sentence the maximum term of which shall be that which, in view of the attending circumstances, could be properly imposed under the rules of the said Code, and the minimum which shall be within the range of the penalty next lower to that prescribed by the Code for the offense; and if the offense is punished by any other law, the court shall sentence the accused to an indeterminate

sentence, the maximum term of which shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same. (Underscoring Ours)

[52] Guy v. People, supra note 39.

[53] Supra note 47.

[54] Rollo, p. 39.

[55] Id. at 41.

[56] See Asilo, Jr. v. People, 660 Phil. 329 (2011), where the Court, in the absence of valuation of the store erroneously demolished by officials of the Municipality of Nagcarlan, Laguna, granted temperate damages in the amount of Php 200,000.00.

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