EN BANC

G.R. Nos. 233155-63 — JOSE TAPALES VILLAROSA, *petitioner,* ***versus*** **PEOPLE OF THE PHILIPPINES,** *respondents.*

Promulgated:

June 23, 2020

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CONCURRING OPINION

CAGUIOA, *J.*:

I concur with the *ponencia* that the accused-petitioner should be acquitted. A violation of a law that is not penal in nature does not, as it cannot, automatically translate into a violation of Section 3(e) of Republic Act No. (RA) 3019.

Brief review of the facts

The accused-petitioner, Jose Tapales Villarosa (Villarosa), was the Mayor of the Municipality of San Jose, Occidental Mindoro. Believing, albeit erroneously, that he had the power to do so, Villarosa issued extraction permits to a number of quarry operators in the area. Before issuing a permit, however, the Office of the Municipal Environment and Natural Resources — created pursuant to Section 443(b) in relation to Section 484 of RA 7160 or the Local Government Code (LGC) — would accept and evaluate applications for extraction permits of gravel and sand. The Municipal Environment and Natural Resources Officer (MENRO) would evaluate individual applications for extraction permits, and if the application is qualified based on his evaluation, he would then endorse it to the Mayor for his approval after the payment of extraction fees.

The controversy in this case arose when the provincial government received reports that quarrying operations in the area were being conducted without the operators having secured the necessary permits. Some officers of the provincial government conducted an investigation, and the quarry operators showed them receipts issued by the Municipal Treasurer's Office (MTO) of San Jose and extraction permits signed by Villarosa. Because of this, Mr. Ruben P. Soledad (Soledad), the Provincial Environment and Natural Resources Officer (PENRO), issued Cease and Desist Orders (CDOs) against the quarry operators.

Villarosa sent a letter to Soledad objecting to the CDOs. Soledad, meanwhile, wrote back to insist that under Section 138 of the LGC, only the

Provincial Governor may issue extraction permits for quarry resources. Section 138 of the LGC provides:

> SECTION 138. *Tax on Sand, Gravel and Other Quarry Resources.* — The province may levy and collect not more than ten percent (10%) of fair market value in the locality per cubic meter of ordinary stones, sand, gravel, earth, and other quarry resources, as defined under the National Internal Revenue Code, as amended, extracted from public lands or from the beds of seas, lakes, rivers, streams, creeks, and other public waters within its territorial jurisdiction.
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> **The permit to extract sand, gravel and other quarry resources shall be issued exclusively by the provincial governor**, pursuant to the ordinance of the sangguniang panlalawigan.
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> The proceeds of the tax on sand, gravel and other quarry resources shall be distributed as follows:
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> (1) Province — Thirty percent (30%);
> (2) Component City or Municipality where the sand, gravel, and other quarry resources are extracted — Thirty percent (30%); and
> (3) Barangay where the sand, gravel, and other quarry resources are extracted — Forty percent (40%). (Emphasis and underscoring supplied)

The provincial government averred that it passed an ordinance pursuant to the above provision of the LGC, namely Provincial Tax Ordinance No. 2005-004 (Tax Ordinance).

Villarosa, however, was of the belief that the Tax Ordinance was invalid and did not take effect because the said ordinance was not published as required by law. Thus, in the initial letter Villarosa wrote to the provincial government, he insisted that the municipal government "shall not recognize [the] cease-and-desist order until such time that a proper legal process is adhered to by the Provincial Government" and he also asked Soledad to "properly respect the inherent powers vested upon the Local Government Unit which was unmistakably and distinctly defined in the Local Government Code (LGC) of 1991 as a political subdivision" which "has substantial control of local affairs."[1]

In response to the second letter that Soledad sent him, Villarosa replied and insisted that the municipal government has the power to organize its own environment and natural resources office and to enforce its own regulatory powers.[2]

As the CDOs went unheeded, Soledad then filed a complaint against Villarosa in the Office of the Ombudsman (Ombudsman) for Usurpation of

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1 *Ponencia,* p. 2, citing Exhibit "H," *rollo,* p. 74.
2 Id. at 3.

Authority, violation of Section 138 of the LGC, Grave Abuse of Authority in Office, Grave Misconduct, Dishonesty, Conduct Prejudicial to the Best Interest of the Service, and Violation of RA 6713.[3]

The Ombudsman thereafter filed with the Sandiganbayan 10 Informations charging Villarosa with violations of Section 3(e), RA 3019. Except as to the dates of the commission of the offense and the recipients of the extraction permits, the accusatory portions of the Informations similarly read as follows:

> That on or about [*relevant date*], in San Jose, Occidental Mindoro, and within the jurisdiction of this Honorable Court, the above-named accused, JOSE T. VILLAROSA, a public officer, being then the Municipal Mayor of San Jose, taking advantage of his official position and committing the crime in relation to his office, did then and there willfully, criminally and with evident bad faith, give unwarranted benefits, advantage or preference to private party, by unlawfully issuing an Extraction Permit to [*relevant grantee of extraction permit*], contrary to the provisions of Section 138 of Republic Act No. 7160, which vests on the Provincial Governor the exclusive power to regulate and levy taxes on extraction activities conducted within the Province, thereby allowing said private party to benefit from and take advantage of the privilege to extract quarry resources without legal authority and official support.[4]

The Sandiganbayan convicted Villarosa of nine counts[5] of violation of Section 3(e), RA 3019.

Upon appeal to the Court, Villarosa's convictions were initially affirmed by a minute resolution. However, upon due consideration,[6] the Court reinstated the case ratiocinating that it should not have dismissed the case by minute resolution only considering that the Court's review is merely the second — but already the last — level of review for the case.

The *ponencia* now rules that Villarosa should be acquitted of the charges.

As stated at the outset, I concur with the *ponencia.*

The prosecution was not able to prove beyond reasonable doubt the element of evident bad faith

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

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3 Otherwise known as CODE OF CONDUCT AND ETHICAL STANDARDS FOR PUBLIC OFFICIALS AND EMPLOYEES.

4 *See Rollo,* pp. 46-49.

5 One of the Informations was withdrawn by the Ombudsman because what was attached was not an extraction permit but a business permit which was not illegally issued.

6 After Villarosa filed a second motion for reconsideration.

(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.[7]

The existence of the first two elements — that Villarosa was a public officer and the acts in question were done in the discharge of his official functions — are not disputed. The disagreement lies in the existence of the third and fourth elements, particularly whether his act of granting extraction permits was done in evident bad faith and resulted in giving any private party unwarranted benefits.

The Sandiganbayan answered in the affirmative and convicted Villarosa of the charges, holding that there was evident bad faith because Section 138 of the LGC was clear and unambiguous and there was no room for interpretation.[8] Therefore, Villarosa's act of issuing extraction permits was a stubborn and outright defiance of the clear directive of the LGC. As regards the last element, the Sandiganbayan ruled that Villarosa's act resulted in unwarranted benefits on the part of the quarry operators since they were able to conduct operations without securing the proper authorization under the law.[9]

The *ponencia,* however, disagrees. According to the *ponencia,* there was no sufficient evidence to prove that he was guilty of evident bad faith. The *ponencia* took the following instances as evidence of good faith on the part of Villarosa:

> *First,* since he was not furnished copies of the CDOs nor was he previously notified of their issuance, petitioner was the one who took initiative in clarifying the validity of the said CDOs by writing a letter to Soledad and informing him of his position on the issue and the legal bases of such position.
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> *Second,* from the tenor of his letter to Soledad and the *Sangguniang Panlalawigan* of Occidental Mindoro, petitioner was very emphatic in his belief and reasoning, albeit mistakenly, that, under the Local Government Code, he wields authority, as Municipal Mayor, to issue the questioned permits. In fact, he even raised a legitimate question on the validity of the Provincial Tax Ordinance of Occidental Mindoro which governs, among

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7 *Sison v. People*, 628 Phil. 573, 583 (2010).
8 *Rollo,* p. 56.
9 Id. at 59.

> others, the issuance of permits to extract and dispose of resources of the province. In other words, his claim and argument are not without any legal basis. However, he was mistaken in his reliance on the provisions of the Local Government Code as to his authority to issue the subject extraction permits. Such mistake, nonetheless, is not tantamount to evident bad faith, manifest partiality or gross inexcusable negligence as contemplated under the law as to make him liable under Section 3(e) of RA 3019.
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> *Third,* there is no showing that petitioner personally gained anything by his issuance of the questioned extraction permits. In fact, it was not disputed that all the pertinent taxes and fees in the issuance of the said permits were collected and the respective shares of the Provincial Government and the *barangay* were properly remitted and appropriated by them.
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> *Fourth,* there could have been no furtive design to issue the questioned permits because it is likewise undisputed that the application, the processing and the approval of the said permits went through the regular process. The applications were filed with the MENRO, which were then forwarded to the Municipal Administrator who then recommended its approval to the Mayor. Upon approval by the Mayor, the applicant paid the extraction fee to the Municipal Treasurer who issued Official Receipts. There was no evidence to show that there were favored applicants whose permits were surreptitiously issued for any ulterior motive or purpose.
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> Hence, the foregoing instances cast doubt on the culpability of petitioner for the crime charged. The prosecution was unable to present sufficient evidence to prove that in issuing the questioned extraction permits, petitioner was moved by a clear, notorious, or plain inclination or predilection to favor one side or person rather than another or of a palpably and patently fraudulent and dishonest purpose operating with furtive design to do moral obliquity or conscious wrongdoing.[10]

Associate Justice Marvic Marvio Victor F. Leonen (Justice Leonen), on the other hand, is of the view similar to the Sandiganbayan that all the elements of the crime were proven by the prosecution. According to Justice Leonen, ignorance of the law excuses no one from compliance therewith, and Villarosa's acts were a blatant disregard of the letter of the law. Moreover, according to Justice Leonen, "a public officer's brazen act of granting permits without any basis in law gives rise to a presumption of bad faith."[11] and Villarosa's actions belie his claim of good faith.

Similarly, Associate Justice Amy C. Lazaro-Javier (Justice Lazaro-Javier) is of the position that Villarosa acted in bad faith because he violated "the clear, unmistakable and elementary rule in Section 138 of the *Local Government Code* vesting the power to issue extraction permits and allow private persons to extract quarry resources exclusively in the Provincial Governor" and "subject[ed] State resources to illegal private gain of the private persons so allowed."[12]

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10 *Ponencia*, pp. 9-10.
11 Dissenting Opinion of Justice Leonen, p. 10.
12 Dissenting Opinion of Justice Lazaro-Javier, p. 12.

My own review of the facts and the records of the case, however, leads me to the conclusion that not all the elements of the crime were proven by the prosecution.

The element of evident bad faith was not present

I do not disagree with the view that Section 138 is clear and unambiguous and that Villarosa violated the said provision of law. Nevertheless, it is my view that the said violation, on its own, does not automatically translate into the element of "evident bad faith" contemplated by Section 3(e) or RA 3019.

It is settled by a plethora of cases that evident bad faith "does not simply connote bad judgment or negligence"[13] but of having a "palpably and patently **fraudulent** and **dishonest** purpose to do moral obliquity or conscious wrongdoing for some **perverse motive or ill will**. It contemplates a state of mind affirmatively operating with **furtive design or with some motive or self-interest or ill will or for ulterior purposes.**"[14] Simply put, it partakes of the nature of fraud.[15]

The presence of evident bad faith requires that the accused acted with a malicious motive or intent, or ill will. **It is not enough that the accused violated a provision of law. It is not enough that the provision of law is "clear, unmistakable and elementary."** ***To constitute evident bad faith, it must be proven that the accused acted with fraudulent intent.***

As explained by the Court in *Sistoza v. Desierto*[16] (*Sistoza*), "mere bad faith or partiality and negligence *per se* are not enough for one to be held liable under the law since the act of bad faith or partiality must in the first place be *evident* or *manifest*."[17]

To stress anew the jurisprudential pronouncements, evident bad faith "contemplates a state of mind affirmatively operating with furtive design or with some motive or self-interest or ill will or for ulterior purposes."[18] It connotes "a manifest deliberate intent on the part of the accused to do wrong or to cause damage. It contemplates a breach of sworn duty through some perverse motive or ill will."[19]

Because evident bad faith entails manifest deliberate intent on the part of the accused to do wrong or to cause damage, it must be shown that the

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13 *Fonacier v. Sandiganbayan*, 308 Phil. 660, 693 (1994). (Emphasis supplied)
14 *Fuentes v. People*, 808 Phil. 586, 594 (2017).
15 *Fonacier v. Sandiganbayan*, supra note 13.
16 437 Phil. 117 (2002).
17 Id. at 130. (Italics in the original)
18 *Air France v. Carrascoso*, 124 Phil. 722, 737 (1966).
19 *Reyes v. People*, 641 Phil. 91, 104 (2010).

accused was "spurred by any corrupt motive[.]"[20] **Mistakes, no matter how patently clear, committed by a public officer are not actionable "absent any clear showing that they were motivated by malice or gross negligence amounting to bad faith."**[21]

In *Jacinto v. Sandiganbayan*,[22] evident bad faith was not appreciated by the Court because

> x x x the actions taken by the accused were not entirely without rhyme or reason; he refused to release the complainant's salary because the latter failed to submit her daily time record; he refused to approve her sick-leave application because he found out that she did not suffer any illness; and he removed her name from the plantilla because she was moonlighting during office hours. Such actions were measures taken by a superior against an erring employee who studiously ignored, if not defied, his authority.[23]

In *Alejandro v. People*,[24] evident bad faith was ruled out "because the accused therein gave his approval to the questioned disbursement after relying on the certification of the bookkeeper on the availability of funds for such disbursement."[25]

Here, as pointed out by the *ponencia,* the records are **replete** with facts negating the existence of bad faith on the part of Villarosa. Specifically, in doing the acts in question, Villarosa was relying — albeit mistakenly — that he had the power to do so under Section 444 of the LGC, which states:

> SECTION 444. *The Chief Executive: Powers, Duties, Functions and Compensation.* — (a) The municipal mayor, as the chief executive of the municipal government, shall exercise such powers and perform such duties and functions as provided by this Code and other laws.
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> (b) For efficient, effective and economical governance the purpose of which is the general welfare of the municipality and its inhabitants pursuant to Section 16 of this Code, **the municipal mayor shall:**
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> x x x x
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> (3) **Initiate and maximize the generation of resources and revenues**, and apply the same to the implementation of development plans, program objectives and priorities as provided for under Section 18 of this Code, particularly those resources and revenues programmed for agro-industrial development and country-wide growth and progress, and relative thereto, shall:
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> x x x x

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20 *Republic v. Desierto*, 641 Phil. 91, 104 (2010).
21 *Collantes v. Marcelo*, 516 Phil. 509, 516 (2006).
22 258-A Phil. 20 (1989).
23 *Llorente, Jr. v. Sandiganbayan*, 350 Phil. 820, 843-844 (1998).
24 252 Phil. 413 (1989).
25 *Llorente, Jr. v. Sandiganbayan*, supra note 23 at 844.

> (iv) **Issue licenses and permits** and suspend or revoke the same for any violation of the conditions upon which said licenses or permits had been issued, pursuant to law or ordinance; (Emphasis and underscoring supplied)

In this connection, I agree with the *ponencia* that the circumstances it mentioned ***negate*** a finding of any dishonest purpose or perverse motive constituting evident bad faith on the part of Villarosa. In particular, (1) that Villarosa did not personally gain from anything as a result of the issuance of the extraction permits, (2) that the permits were awarded only to the applicants who went through the regular process, *i.e.*, applying with the MENRO, and (3) that the municipality religiously remitted to the provincial government the required portions of the fees paid by the quarry operators — all of these established facts negative any finding of Villarosa having been motivated by self-interest, ill will, or any ulterior purpose in the issuance of the extraction permits.

The clear language of Section 138 of the LGC notwithstanding, Villarosa's zeal in generating income for his municipal government on the basis of Section 444 cannot simply be brushed aside or labeled as a "brazen" act that gives rise to a presumption of bad faith. That this zeal was premised on a wrong understanding of Villarosa that Section 444 trumped Section 138 does not equate to evident bad faith especially where, as here, the evidence shows that all the monies and fees collected went to the coffers of the municipal and provincial governments. **In other words, there is no corruption here; there is no self-interest or ill will.**

Moreover, even as the Courts, steeped in the law, can now claim, with the benefit of 20-20 hindsight, that Section 138 is "clear," this is not necessarily so with an ordinary layman.

In fact, as acknowledged by Justice Lazaro-Javier herself in her Dissenting Opinion, Villarosa had "issued the extraction permits thinking that he was not subjected to Section 138, because it was his position that as Municipal Mayor he was exempt from Section 138 and that he was merely following the practice of precedents."[26] This precisely and only shows that Villarosa was ***not*** *motivated by any malicious intent and evil design* in issuing the extraction permits. While his belief was incorrect, he was nonetheless in good faith in believing that his actions were duly supported by law. To stress, when the accused is alleged to have acted with evident bad faith under Section 3(e) of RA 3019, which is the case here, the crime alleged is a crime of ***dolo***[27] — an offense committed with *wrongful or malicious intent*.[28] The admitted fact that Villarosa acted on the genuine, albeit erroneous, belief that his acts

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26 Dissenting Opinion of Justice Lazaro-Javier, p. 13.

27 *Uriarte v. People*, 540 Phil. 477, 494 (2006).

28 *Beradio v. Court of Appeals*, 191 Phil. 153, 163 (1981).

were based on law and past precedents negates *dolo* or wrongful or malicious intent.

Villarosa cannot be convicted under Section 3(e), RA 3019 for alleged "gross inexcusable negligence"

In this connection, Senior Associate Justice Estela M. Perlas-Bernabe (Justice Perlas-Bernabe) argues in her own Dissenting Opinion that Villarosa should still be convicted for violating Section 3(e) of RA 3019, not because there was evident bad faith, but because there was gross inexcusable negligence. Relying primarily on *Sistoza,* Justice Perlas-Bernabe argues that even if the Informations filed against Villarosa only contain the words "with evident bad faith," it "does not preclude a conviction for violation of Section 3 (e) through the modality of gross inexcusable negligence."[29]

I strongly disagree.

The portion of *Sistoza* relied upon by Justice Perlas-Bernabe is as follows:

> We note that the *Information* against petitioner Sistoza, while specifying *manifest partiality* and *evident bad faith*, does not allege *gross inexcusable negligence* as a modality in the commission of the offense charged. An examination of the resolutions of the Ombudsman would however confirm that the accusation against petitioner is based on his alleged omission of effort to discover the supposed irregularity of the award to Elias General Merchandising which it was claimed was fairly obvious from looking casually at the supporting documents submitted to him for endorsement to the Department of Justice. And, while not alleged in the *Information*, it was evidently the intention of the Ombudsman to take petitioner to task for *gross inexcusable negligence* in addition to the two (2) other modalities mentioned therein. At any rate, it bears stressing that Sec. 3, par. (e), *RA 3019*, is committed either by *dolo* or *culpa* and although the *Information* may have alleged only one (1) of the modalities of committing the offense, the other mode is deemed included in the accusation to allow proof thereof.[30]

It is important to note, however, that *Sistoza* was a case where the accused therein questioned the Ombudsman's finding of probable cause against him. The sufficiency of the Information filed against the accused therein was never the issue, as the main issue in the case was the ***propriety of the findings of the Ombudsman in the preliminary investigation.*** The absence of the phrase "gross inexcusable negligence" in the Information filed against him was not a material issue. "Gross inexcusable negligence" was only brought up in the discussion to drive home the point that the Ombudsman erred in finding probable cause for violation of Section 3(e), RA 3019, as the

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29 Reflections of Justice Perlas-Bernabe, p. 2.

30 *Sistoza v. Desierto*, supra note 16 at 130-131.

acts of the accused therein could not be considered to have been committed with evident bad faith or manifest partiality, *or even* gross inexcusable negligence.

Simply put, the paragraph in question is *obiter dictum.*

I thus disagree that Villarosa can be convicted through the modality of "gross inexcusable negligence" when the same was not alleged in the Informations. To recall, the Informations only accused Villarosa of doing certain acts "with evident bad faith." It will be utterly unfair, and will be offensive to his right to due process for him to suddenly be convicted under "gross inexcusable negligence" when it was not even part of the Informations, nor was he given any opportunity to be heard on the same. To emphasize, "Section 3 (e) of RA 3019 may be committed either by *dolo,* as when the accused acted with evident bad faith or manifest partiality, or by *culpa,* as when the accused committed gross inexcusable negligence."[31] In simple terms, "evident bad faith" entails willfulness to do something wrong, whereas "gross inexcusable negligence" entails *failure to exercise the required diligence* that either results in a wrong or in the failure to prevent the occurrence of a wrongdoing. Thus, "gross inexcusable negligence" and "evident bad faith" are separate and distinct from each other. Alleging one in an Information should not, and does not, mean that the other is likewise alleged.

In the recent landmark ruling of *People v. Solar*,[32] the Court *en banc* emphasized the importance of specificity in Informations:

> The Court stresses that the starting point of every criminal prosecution is that the accused has the constitutional right to be presumed innocent. Further to this, the courts, in arriving at their decisions, are instructed by no less than the Constitution to bear in mind that no person should be deprived of life or liberty without due process of law. An essential component of the right to due process in criminal proceedings is the right of the accused to be sufficiently informed, *in writing*, of the cause of the accusation against him. x x x
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> x x x x
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> It is thus **fundamental that every element of which the offense is composed must be alleged in the Information.** No Information for a crime will be sufficient if it does not accurately and clearly allege the elements of the crime charged. The test in determining whether the information validly charges an offense is whether the material facts alleged in the complaint or information will establish the essential elements of the offense charged as defined in the law. In this examination, matters *aliunde* are not considered. **To repeat, the purpose of the law in requiring this is to enable the accused to suitably prepare his defense, as he is presumed to have no independent knowledge of the facts that constitute the offense.**

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31 *Albert v. Sandiganbayan*, 599 Phil. 439, 450 (2009).

32 G.R. No. 225595, August 6, 2019, accessed at <http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65742>.

> In addition, the Court remains mindful of the fact that the State possesses vast powers and has immense resources at its disposal. Indeed, as the Court held in *Secretary of Justice v. Lantion*, the individual citizen is but a speck of particle or molecule *vis-a-vis* the vast and overwhelming powers of government and his only guarantee against oppression and tyranny are his fundamental liberties under the Bill of Rights which shield him in times of need.
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> In the particular context of criminal prosecutions, therefore, **it is the State which bears the burden of sufficiently informing the accused of the accusations against him so as to enable him to properly prepare his defense.** (Emphasis and underscoring supplied)

Here, the Informations charged Villarosa only with "evident bad faith." Again, he was **not** charged with "gross inexcusable negligence." Following the ultimate purpose laid down above — that is, to enable the accused to properly prepare his defense — it cannot be said here that Villarosa was given the proper opportunity to prepare his defense as regards the element of "gross inexcusable negligence." As *Dela Chica v. Sandiganbayan*[33] reminds, "manifest partiality, evident bad faith or gross inexcusable negligence **must be alleged with particularity in the information sufficiently to inform the accused of the charge against him and to enable the court properly to render a decision.**"[34]

It will thus be grossly unfair for the Court to now rule that he is guilty of a charge that he has not been even given the opportunity to defend himself against.

Justice Perlas-Bernabe, however, in arguing for Villarosa's conviction for violation of Section 3(e) under the modality of gross inexcusable negligence, reasons that:

> When a person assumes a particular public office, he has the responsibility to equip himself with the basic knowledge of his fundamental duties, as well as the clear limits of his authority under the law. To fail in this regard is, to my mind, tantamount to gross inexcusable negligence, for which he or she may be rendered culpable. Case law exhorts that "[u]pon appointment to a public office, an officer or employee is required to take his oath of office whereby **he solemnly swears to** support and defend the Constitution, bear true faith and allegiance to the same; **obey the laws,** legal orders and decrees promulgated by the duly constituted authorities; and **faithfully discharge to the best of his ability the duties of the position he will hold**." Thus, unless a mistake is founded upon a doubtful or difficult question of law, or upon an honest mistake of fact, a public official should not be permitted to simply feign ignorance to the essential aspects of his office. Otherwise, the Constitutional provision, which states that "[p]ublic office is a public trust" and that all government officials and employees "must at all times be accountable to the people x x x," would easily lose its fortitude and fervor.

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33 462 Phil. 712 (2003).

34 Id. at 722.

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> As I see it, the government would do well if greater vigilance is expected from its public servants, especially those charged with the duty of granting privileges and licenses to private persons. In this regard, We ought to be circumspect in discerning legitimate defenses from convenient excuses, and mulling over the consequences of flagrant ineptitude to the faith of our people.[35]

While I am in full agreement with the call to hammer the point that "public office is a public trust," I cannot, in good conscience, agree to punishing with **imprisonment** any and all violations of non-penal laws. It is true that public servants have a duty to know the limits of the authority granted to them. Yet, I cannot subscribe to the thinking that to do an act outside of those limits already constitutes "gross inexcusable negligence" that is criminally punishable. If that is the case, then we might as well dispense with administrative proceedings — whether in the Civil Service Commission or in the Ombudsman — against public officials, for what is the sense of having a distinction between administrative and criminal cases when every single misstep merits a criminal sanction.

It is also true that every person is presumed to know the law, and that ignorance of the law excuses no one from compliance therewith.[36] However, it is likewise true that it is unjust to automatically punish someone with a **criminal sentence** by virtue of his non-compliance with a **non-penal rule**.

The absurdity of it all becomes all the more apparent once the call for Villarosa's head for his non-compliance in this case is compared with the Court's attitude towards members of the judiciary who do the exact same thing.

To be sure, the Court, in the exercise of its disciplinary power over *members of the judiciary* — persons who are expected to have a much deeper knowledge and understanding of the law and the rules — normally punishes "gross ignorance of the law" with only a fine accompanied by a warning, admonition, or reprimand.[37] Acts committed by judges that the Court deemed

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35 Dissenting Opinion of Justice Perlas-Bernabe, pp. 3, 6.

36 CIVIL CODE, Art. 3.

37 *See* the rulings in the following cases: *Boston Finance and Investment Corp. v. Gonzalez,* A.M. No. RTJ-18-2520, October 9, 2018, accessed at <http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64627>; *Carbajosa v. Patricio*, 718 Phil. 534 (2013); *Perfecto v. Desales-Esidera*, 682 Phil. 397 (2012); *Medina v. Canoy*, 682 Phil. 397 (2012); *Bautista v. Causapin, Jr.*, 667 Phil. 574 (2011); *Ricablanca v. Barillo*, 658 Phil. 135 (2011); *Tan v. Usman*, 658 Phil. 145 (2011); *Office of the Court Administrator v. Estrada*, 654 Phil. 638 (2011); *Heirs of Piedad v. Estrera*, 623 Phil. 178 (2009); *Untalan v. Sison*, 567 Phil. 420 (2008); *Enriquez v. Caminade*, 519 Phil. 781 (2006); *Abbariao v. Beltran*, 505 Phil. 510 (2005); *Ruiz v. Beldia, Jr.*, 491 Phil. 581 (2005); *Mina v. Vianzon*, 469 Phil. 896 (2004); *Victory Liner, Inc. v. Bellosillo*, 469 Phil. 15 (2004); *Baldado v. Bugtas*, 460 Phil. 516 (2003); *Abella v. Calingin*, 457 Phil. 488 (2003); *Adriano v. Villanueva*, 445 Phil. 675 (2003); *Guyud v. Pine*, 443 Phil. 33 (2003); *Martinez, Sr. v. Paguio*, 442 Phil. 516 (2002); *Jaucian v. Espinas*, 431 Phil. 597 (2002); *Guillen v. Cañon*, 424 Phil. 81 (2002); *Tabao v. Lilagan*, 416 Phil. 710 (2001); *Pascual v. Dumlao*, 414 Phil 1 (2001); *Vercide v. Hernandez*, 386 Phil. 245 (2000); *Spouses Dumo v. Perez*, 379 Phil. 588 (2000); *Enojas, Jr. v. Gacott, Jr.*, 379 Phil. 277 (2000); *Garcia v. Pasia*, 375 Phil. 571 (1999); *Spouses Almeron v. Sardido*, 346 Phil. 424 (1997); *Spouses Bacar v. De Guzman, Jr.*, 338 Phil. 41 (1997); *Del Rosario, Jr. v. Bartolome*, 337

as "gross ignorance of the law" such as (1) granting bail without a standing warrant of arrest against the accused, and in a case pending in another court without ascertaining the unavailability of the judge therein;[38] or (2) incorrect application of the Indeterminate Sentence Law,[39] were simply punished by a comparatively small fine accompanied by a warning or admonition.

In *Vercide v. Hernandez*,[40] for instance, the judge dismissed a civil case on the ground that the case was immediately filed without having been previously referred to the *Lupong Tagapamayapa* in accordance with the *Katarungang Pambarangay Law*. Despite the plaintiff raising the law's "clear," "unmistakable" and "elementary" language, along with Court decisions on the matter, supporting the argument that prior conciliation is not needed when the parties are residents of *barangays* situated in different cities or municipalities, the judge still insisted on her own interpretation that prior conciliation proceedings were needed and then dismissed the case. Because of this, an administrative complaint was filed against the judge by the aggrieved party — the plaintiff whose case was dismissed. The Court, in ruling on the administrative case, made the following observations against the judge:

> The ruling in *Tavora v. Veloso*, reiterated in other cases, should be familiar to the bench and the bar. As we have held in *Espiritu v. Jovellanos*, the phrase "Ignorance of the law excuses no one" has a special application to judges who, under the injunction of Canon 1.01 of the Code of Judicial Conduct, "should be the embodiment of competence, integrity, and independence." In *Bacar v. De Guzman,* it was held that when the law violated is basic, the failure to observe it constitutes gross ignorance. Reiterating this ruling, it was emphasized in *Almeron v. Sardido* that the disregard of an established rule of law amounts to gross ignorance of the law and makes the judge subject to disciplinary action.
>
> In the case at bar, respondent showed **patent ignorance** — if not **disregard** — of this Court's rulings on the jurisdiction of the Lupong Tagapamayapa by her **erroneous quotations of the provisions** of the Katarungang Pambarangay Rules implementing R.A. No. 7160. While a judge may not be held administratively accountable for every erroneous order or decision he renders, his error may be so gross or patent that he should be administratively disciplined for gross ignorance of the law and incompetence.
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> In this case, respondent at first cited P.D. No. 1508, §3 as basis of her action. When her attention was called to the fact that this had been repealed by §409(c) of R.A. No. 7160, respondent, who obviously was more intent in justifying her previous order than correcting her error, **quoted out of context the provisions** of the Katarungang Pambarangay Rules implementing the Katarungang Pambarangay provisions of R.A. No. 7160. She thus violated Canon 3 of the Code of Judicial Conduct which

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Phil. 330 (1997); *Carpio v. De Guzman*, 331 Phil. 115 (1996); *Mamolo, Sr. v. Narisma*, 322 Phil. 670 (1996); *Tucay v. Domagas*, 312 Phil. 135 (1995).

38 See *Tejano v. Marigomen*, 818 Phil. 781 (2017).

39 See *Spouses Bacar v. De Guzman, Jr.*, 338 Phil. 41 (1997).

40 386 Phil. 245 (2000).

> provides that "In every case, a judge shall endeavor diligently to ascertain the facts and the applicable law unswayed by partisan interest, public opinion or fear of criticism."[41]

Despite finding the judge's actions to be contrary to the "clear" "unmistakable" and "elementary" letter of the law and the jurisprudence on the matter — **along with findings of the judge even misquoting the law** — the Court only imposed a "FINE of TWO THOUSAND (₱2,000.00) PESOS with a WARNING that repetition of the same or similar acts will be dealt with more severely."[42]

If one were to make a deeper analysis, however, all the elements of Section 3(e), *as currently formulated*, are present. The judge was a public officer, and the act committed was done in the discharge of official judicial functions, thereby satisfying the first two elements. The third element would also be present as there was arguably evident bad faith or gross inexcusable negligence, given that the judge stubbornly stuck with her interpretation of the *Katarungang Pambarangay Law* despite having been confronted with the express letter of the law and jurisprudence that both say otherwise. The fourth element was likewise present, as the judge also caused undue injury to the party whose case was dismissed and/or gave the opposing party unwarranted benefits by dismissing the case filed against them. **In spite of these, the judge was not even dismissed from the service. A mere fine with a warning sufficed.**

This happens to a lot of cases of gross ignorance of the law[43] despite the Court's recognition in another case that judges "are not common individuals" and that their errors have a far larger implication on the public's confidence in the judiciary as a whole:

> Respondent judge fell short of these standards when he failed in his duties to follow elementary law and to keep abreast with prevailing jurisprudence. Service in the judiciary involves continuous study and research from beginning to end.
>
> Exacting as these standards may be, judges are expected to be personifications of justice and rule of the law and, as such, to have more than just a modicum acquaintance with statutes and procedural rules. Essential to every one of them is faithfulness to the laws and maintenance of professional competence.
>
> **Judges are not common individuals whose gross errors "men forgive and time forgets." For when they display an utter lack of familiarity with the rules, they erode the confidence of the public in the competence of our courts. Such lack is gross ignorance of the law. Verily, failure to follow basic legal commands and rules constitutes**

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41 *Vercide v. Hernandez*, 386 Phil. 245, 253-254.
42 Id. at 256.
43 *See* footnote 37.

> **gross ignorance of the law, of which no one is excused, and surely not a judge.**[44] (Emphasis and underscoring supplied)

I raise this to make two points.

First, if the Court can impose only light administrative sanctions on erring judges who are "expected to exhibit more than just cursory acquaintance with statutes and procedural laws,"[45] I do not see any reason why the Court cannot afford the same, if not more, understanding to other public servants who are not learned in the law.

Second, punishing Villarosa criminally would create a dangerous atmosphere for public servants, particularly judges, because, as demonstrated, all the elements of Section 3(e) are present in most cases of gross negligence committed by judges. If the Court were to convict someone of violating Section 3(e), RA 3019 simply because "elementary" rules were not followed, it is only a matter of time before judges are saddled with criminal cases filed against them for simple violations of "elementary" rules. I thus invite the Court to steer away from this path as it is fraught with unwarranted peril.

In this light, I reiterate that Villarosa's violation of a law that is **not** penal in nature does not, as it should not, ***automatically*** translate into evident bad faith or gross inexcusable negligence that makes one guilty of a violation of Section 3(e) of RA 3019. For it to amount to a violation of Section 3(e) of RA 3019 through the modality of evident bad faith, established jurisprudence demands that ***the prosecution must prove the existence of factual circumstances that point to fraudulent intent.***

Here, the prosecution was unable to adduce evidence proving such fraudulent intent. On the contrary, there is an abundance of evidence on record negating the presence of evident bad faith.

Similarly, as already discussed, there is also no gross inexcusable negligence that can be appreciated because it was not alleged in the Information. Moreover, Villarosa's act of granting permits is one of *dolo,* not *culpa.* The entire case was litigated on the charge that Villarosa *willfully and purposefully* did the acts under the impression that he had authority to do so. That he even replied to the cease and desist order from the provincial government in order to assert his authority is a fact that has been harped on numerous times to support his conviction. In *Yapyuco v. Sandiganbayan,*[46] the Court stated that "[i]n criminal negligence, the injury caused to another **should be unintentional, it being the incident of another act performed without malice,**" and "that a deliberate intent to do an unlawful act is essentially inconsistent with the idea of reckless imprudence"[47] which is a form of negligence.

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44 *Enriquez v. Caminade*, 519 Phil. 781, 788 (2006).
45 *QBE Insurance Phils., v. Laviña*, 562 Phil. 355, 371 (2007).
46 689 Phil. 75 (2012).
47 Id. at 123.

In Villarosa's case, all the questioned acts were willful in nature. Hence, there is no gross inexcusable negligence or *culpa,* as there could not have been any. Again, to convict him for violating Section 3(e), RA 3019 under the modality of gross inexcusable negligence — simply because he violated a "clear," "unmistakable," and "elementary" provision of law — would be to set a dangerous precedent that would send a chilling effect to all public servants, particularly members of the judiciary, that working in the government would more likely lead to their imprisonment. Because of the all-encompassing nature of the argument, *i.e.*, that failure to follow an "elementary" rule constitutes gross inexcusable negligence, then mistakes, no matter how small, as long as the rule violated is *later on* considered to be "elementary," would automatically merit a criminal punishment under RA 3019. I once again implore the Court to avoid this path so as not to unduly punish public servants, and thereby discourage even the good people from joining the public service.

Having established that there is no evident bad faith or gross inexcusable negligence in this case, it is now clear that one of the elements of the crime was not proven. Hence, Villarosa should perforce be acquitted.

The prosecution was also not able to prove beyond reasonable doubt the element of giving unwarranted benefits, advantage, or preference

The element of evident bad faith is not the only element absent in the present case. Regarding the last element, the *ponencia* held that there was likewise no sufficient evidence that the quarry operators received unwarranted benefits. Similar to its ratiocination on the third element, the *ponencia* took into consideration Villarosa's honest belief that he had power to issue the extraction permits, along with the fact that the quarry operators went through the regular process of applying for the issuance of the permits, including the payment of extraction fees.

In this regard, I fully concur with the *ponencia.*

As its name implies, and as what can be gleaned from the deliberations of Congress, RA 3019 was crafted as an anti-graft and corruption measure. At the heart of the acts punishable under RA 3019 is *corruption.* As explained by one of the sponsors of the law, Senator Arturo M. Tolentino, "[w]hile we are trying to penalize, the main idea of the bill is graft and corrupt practices. x x x Well, the idea of graft is the one emphasized."[48] Graft entails the acquisition of gain in *dishonest* ways.[49]

Hence, in saying that a public officer gave "unwarranted benefits, advantage or preference," it is not enough that the benefits, advantage, or

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48 Senate Deliberations of RA 3019 dated July 1960.

49 BLACK'S LAW DICTIONARY 794 (9th ed. 2009).

preference was obtained in transgression of laws, rules, and regulations. Such benefits must have been given by the public officer to the private party with *corrupt intent, a dishonest design, or some unethical interest.* This is in alignment with the spirit of RA 3019, which centers on the concept of graft.

I recognize that this is not the understanding under the current state of jurisprudence. Jurisprudence has defined the term "*unwarranted*" as simply lacking adequate or official support; unjustified; unauthorized or without justification or adequate reason. "*Advantage*" means a more favorable or improved position or condition; benefit, profit or gain of any kind; benefit from some course of action. "*Preference*" signifies priority or higher evaluation or desirability; choice or estimation above another.[50] The term "private party" may be used to refer to persons other than those holding public office,[51] which may either be a private person or a public officer acting in a private capacity to protect his personal interest.[52]

Thus, under current jurisprudence, in order to be found guilty for giving any unwarranted benefit, advantage, or preference, it is enough that the public officer has given an unauthorized or unjustified favor or benefit to another, in the exercise of his official, administrative or judicial functions.[53] By giving any private party unwarranted benefit, advantage, or preference, *damage is not required.* It suffices that the public officer has given unjustified favor or benefit to another in the exercise of his official functions.[54] Proof of the extent or quantum of damage is not even essential, it being sufficient that the injury suffered or benefit received could be perceived to be substantial enough and not merely negligible.[55]

I respectfully submit, and evidently the majority agrees, that it is high time for the Court to revisit this line of reasoning.

The foregoing understanding of "unwarranted benefit, advantage, or preference" is too broad that every single misstep committed by public officers that result in benefits to private parties falls under the definition and would thus possibly be criminally punishable. Every little error — no matter how minor — would satisfy the fourth element as the threshold is simply that the benefit be "unjustified," "unauthorized," or "without justification." For instance, a contract awarded in good faith based on an interpretation of the law that would later on be judicially declared incorrect would be sufficient basis for affirming the existence of the fourth element, which may lead to the incarceration of a public officer simply because a private party received a benefit "without justification," yet was revealed to be so only in hindsight.

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50 *Cabrera v. Sandiganbayan*, 484 Phil. 350, 364 (2004).
51 *Bautista v. Sandiganbayan*, 387 Phil. 872, 884 (2000)
52 *Ambil, Jr. v. Sandiganbayan*, 669 Phil. 32 (2011).
53 *Gallego v. Sandiganbayan*, 201 Phil. 379, 384 (1982).
54 *Sison v. People*, 628 Phil. 573, 585 (2010).
55 *Soriquez v. Sandiganbayan (Fifth Division)*, 510 Phil. 709, 718 (2005).

While it is true that public office is a public trust, the Court is called upon to likewise play its part in not interpreting the laws to effectively be a disincentive to individuals in joining the public service. It is simply absurd to criminally punish every minute mistake that incidentally caused a benefit to private parties even when these acts were **not** done with ***corrupt intent***.

In the instant case, for example, Villarosa's act of issuing the extraction permits was motivated, not by any corrupt intent to favor one operator over another or to unduly receive any pecuniary benefit. Based on the evidence, his actuations were simply based on his honest belief that he had the authority to issue the permits. To be sure, the evidence in fact shows that all the pertinent taxes and fees in the issuance of the said permits were collected, creating revenue for the provincial government, the municipality, and the barangay. No pecuniary benefit went to the wrong person or entity — **in other words, the evidence clearly showed that no graft and corruption actually transpired.**

This view that "unwarranted benefits" should likewise be viewed from the lens of corruption is not novel, although it has been rarely applied in the past. One such case was *Posadas v. Sandiganbayan*[56] (*Posadas*), where the Chancellor and Vice-Chancellor for Administrative Affairs (Vice-Chancellor) of University of the Philippines-Diliman (UP Diliman) were charged with violating Section 3(e) of RA 3019. The case stemmed from the creation of the Technology Management Center (TMC) within the UP system. The Chancellor then had a proposal to have a project "aimed to design and develop ten new graduate courses in technology management for the diploma, master's and doctoral programs to be offered by TMC,"[57] (the TMC Project) which would be funded by the Canadian International Development Agency. The proposal was approved and a memorandum of agreement was entered into between the relevant parties.

Sometime after, the Chancellor, along with some other high-ranking officers of UP Diliman, were invited to a conference in China. The Chancellor then designated the Vice-Chancellor as the Officer-In-Charge (OIC) of UP Diliman for the duration of his time in China. During the period that the Vice-Chancellor was UP Diliman's OIC, he appointed the Chancellor as the Project Director of the TMC. He also signed a "contract for consultancy services" wherein the Chancellor was also hired as Consultant for the TMC Project. The Chancellor then received "honoraria" (₱30,000.00 per month) and consultancy fees (totaling ₱100,000.00) as Project Director and Consultant of the TMC Project until a few months after when the Commission on Audit (COA) raised questions on the legality of the said fees.[58]

The COA initially disallowed the amounts paid to the Chancellor, but it reversed its ruling upon the sufficient explanation provided by UP's Chief

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56 722 Phil. 118 (2013).
57 Id. at 258.
58 Id. at 259.

Legal Officer. However, because of the initial disallowance (and other supervening events), an investigation was ordered which eventually led to the filing of Informations for violation of Section 3(e), RA 3019 against the Chancellor and Vice-Chancellor.

The Sandiganbayan convicted both the Chancellor and Vice-Chancellor. Upon appeal to the Court, the convictions were affirmed. However, upon the filing of a motion for reconsideration, the Court reversed its ruling and acquitted both of them. In the Resolution ruling on the motion for reconsideration, the Court reasoned:

> The bad faith that Section 3 (e) of Republic 3019 requires, said this Court, does not simply connote bad judgment or negligence. It imputes a dishonest purpose, some moral obliquity, and a conscious doing of a wrong. Indeed, it partakes of the nature of fraud.
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> Here, admittedly, Dr. Dayco appears to have taken advantage of his brief designation as OIC Chancellor to appoint the absent Chancellor, Dr. Posadas, as Director and consultant of the TMC Project. But it cannot be said that Dr. Dayco made those appointments and Dr. Posadas accepted them, fraudulently, knowing fully well that Dr. Dayco did not have that authority as OIC Chancellor.
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> All indications are that they acted in good faith. **They were scientists, not lawyers,** hence unfamiliar with Civil Service rules and regulations. The world of the academe is usually preoccupied with studies, researches, and lectures. Thus, those appointments appear to have been taken for granted at UP. It did not invite any immediate protest from those who could have had an interest in the positions. It was only after about a year that the COA Resident Auditor issued a notice of suspension covering payments out of the Project to all UP personnel involved, including Dr. Posadas.
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> x x x x
>
> If the Court does not grant petitioners' motions for reconsideration, the common disallowances of benefits pai[d] to government personnel will heretofore be considered equivalent to criminal giving of **"unwarranted advantage to a private party," an element of graft and corruption**. This is too sweeping, unfair, and unwise, making the denial of most benefits that government employees deserve the safer and better option.
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> x x x x
>
> Section 3 (e) of Republic Act 3019 requires the prosecution to prove that the appointments of Dr. Posadas caused "undue injury" to the government or gave him "unwarranted benefits."
>
> This Court has always interpreted "undue injury" as "actual damage." What is more, such "actual damage" must not only be capable of proof; it must be actually proved with a reasonable degree of certainty. A finding of "undue injury" cannot be based on flimsy and non-substantial evidence or upon speculation, conjecture, or guesswork. The Court held

> in *Llorente v. Sandiganbayan* that the element of undue injury cannot be presumed even after the supposed wrong has been established. It must be proved as one of the elements of the crime.
>
> Here, the majority assumed that the payment to Dr. Posadas of P30,000.00 monthly as TMC Project Director caused actual injury to the Government. The record shows, however, that the P247,500.00 payment to him that the COA Resident Auditor disallowed was deducted from his terminal leave benefits.
>
> **The prosecution also failed to prove that Dr. Dayco gave Dr. Posadas "unwarranted advantage" as a result of the appointments in question. The *honoraria* he received cannot be considered "unwarranted" since there is no evidence that he did not discharge the additional responsibilities that such appointments entailed.**[59] (emphasis and underscoring supplied)

The Court in *Posadas* correctly viewed the element of giving "unwarranted benefits" from the perspective of graft and corruption. The Court took into account good faith, the fact that the accused therein were not learned in the law, and the fact that they truly rendered service, to rule that the element of "unwarranted benefit" was not present despite the missteps that both accused admittedly took.

It must be emphasized, however, that *Posadas* is not the rule. Under the general understanding of "unwarranted benefits" in most jurisprudence, the Chancellor's receipt of the *honoraria* would be considered as an unwarranted benefit because the one who appointed him to the position did not have authority to do so. Yet, because the Chancellor indeed rendered service in reality, the Court in *Posadas* correctly did not consider the receipt of the *honoraria* to be an "unwarranted benefit."

In the present case, it is important to reiterate for emphasis that (1) the accused believed in good faith — because of a general provision of the LGC — that he had the authority to issue the permits; (2) the quarry operators went through the regular process of securing the permits; and (3) the mandated shares of the other local government units from the revenues of the quarry operations were properly distributed to each. Similar to *Posadas,* therefore, the incidental benefit that these quarry operators received could not thus be considered "unwarranted" given that they were awarded the permits in the regular course of business, and they had paid the necessary taxes and fees arising from the quarry operations.

While the benefit of hindsight allows us to have the clear view that Villarosa indeed had no power to issue the permits, it does not automatically mean that the quarry operators received "unwarranted benefits." The benefits these operators received do not at once become "unwarranted" simply because they arose from Villarosa's misinterpretation of the LGC. They would only

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[59] Id. at 123-128.

be "unwarranted" had they been granted out of corrupt motives or ill-intent, as shown by, for example, grants of permits without going through the regular process, or allowing these operators to not pay the corresponding taxes or fees.

The Court may also refer to its ruling in *Rivera v. People,*[60] wherein the Court upheld the conviction of the accused therein under Section 3(e) of RA 3019 for entering into a negotiated contract with a corporation, *i.e.*, PAL Boat Industry (PAL Boat), for the construction of seven floating clinics despite the fact that the said entity was not qualified.

In discussing the element of unwarranted benefit, the Court explained that the said element was satisfied because the totality of the circumstances clearly established that the accused therein deliberately sought to give an unwarranted benefit particularly to PAL Boat, exhibiting obvious and specific preference for the latter:

> x x x PAL Boat was not financially and technically capable of undertaking the floating clinics project. The court *a quo* believed that the petitioners knew that and still awarded the project to PAL Boat. They also failed to follow the proper procedure and documentations in awarding. This Court is convinced that all these circumstances taken together clearly demonstrate the manifest partiality of the petitioners towards PAL Boat, giving the latter unwarranted benefits to obtain the government project. x x x These unwarranted benefits were due to the manifest partiality exhibited by them in numerous instances.[61]

Hence, as demonstrated in this ruling, the element of unwarranted benefit is *inextricably linked* with the malefactor's purposeful and deliberate intent to give preference or benefit to another. Applying the foregoing to the instant case, Villarosa's act of issuing the extraction permits was, to reiterate, not motivated by the desire to favor one operator over another or to unduly receive any pecuniary benefit. Villarosa's acts were simply driven by his honest, yet incorrect, belief that he had the ample authority to issue the permits.

In sum, Villarosa should be acquitted of the present charges as both the elements of "evident bad faith" and "giving unwarranted benefit or advantage" are absent in this case. To stress, a violation of the LGC — a law that is not penal in nature — does not, as it cannot, automatically translate into a violation of Section 3(e), RA 3019.

A Final Word

Contrary to Justice Leonen and Justice Lazaro-Javier's views, I believe that the *ponencia* does not derogate whatsoever from the time-honored principle that ignorance of the law excuses no one. The *ponencia* merely holds that in prosecuting a public officer accused of violating Section 3(e) of RA

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60 749 Phil. 124 (2014).

61 Id. at 144.

3019 particularly by means of manifest partiality or evident bad faith, proving the accused's non-compliance with a non-penal law is not enough to produce a conviction under the Anti-Graft and Corrupt Practices Act. *Fraudulent intent and evil design* should be established beyond reasonable doubt — a burden which the prosecution failed to discharge in the instant case.

In the course of the deliberations, this question was posed: "Has ignorance of the law now become a bliss that sets the ignorant free?" To be sure, the answer is *no*. The *ponencia* does not give Villarosa the gift of impunity. The *ponencia* does not make the conclusion that Villarosa did not commit an act contravening the law and that he should not be held responsible for such act. The *ponencia* merely holds that Villarosa cannot be held particularly liable under Section 3(e) of RA 3019 as certain elements of the said offense were not proven beyond reasonable doubt.

Villarosa may be held responsible under the appropriate laws. For instance, he may be charged for Usurpation of Official Functions under Article 177 of the Revised Penal Code.[62] He may even be disciplined for either insubordination or misconduct under the Administrative Code.[63] Simply stated, Villarosa may be held accountable for his act of issuing extraction permits, but ***under the correct law***.

In other words, this stand to acquit Villarosa in this case is not meant to allow a wrongdoing to go unpunished. Accountability of public officers is, of course, a laudable objective. However, convicting someone just for the sake of punishment is not the answer. This is not what justice demands. Conviction under the appropriate law should still be the goal. Simply put, in this case, Section 3(e), RA 3019 is simply not the appropriate law to hold Villarosa accountable.

Justice Lazaro-Javier likewise shares her apprehension of the *ponencia*'s holding because it is "contrary to long-established doctrines."[64] I would like to emphasize, however, that the Court should not shy away from reversing erroneous doctrines when warranted, even if these doctrines are "long-established." The Court exists precisely to rectify incorrect doctrines, not to perpetuate error and injustice. Furthermore, Justice Lazaro-Javier's apprehension on the possible retroactive effect of *ponencia*'s ruling[65] is misguided, considering that new judicial doctrines have only prospective operation and do not apply to cases previously decided.[66]

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62 ARTICLE 177. *Usurpation of Official Functions*. — Any person who, under pretense of official position, shall perform any act pertaining to any person in authority or public officer, without being lawfully entitled to do so, shall suffer the penalty of *prision correccional* in its minimum and medium periods.

63 Book V, Title I, Chapter 7, Section 46, E.O. No. 292, otherwise known as the ADMINISTRATIVE CODE OF 1987.

64 Dissenting Opinion of Justice Lazaro-Javier, p. 24.

65 Id.

66 *Pomeroy v. Director of Prisons*, 107 Phil. 50, 54 (1960).

As a final word, I would like to reiterate anew my sentiment that our penal laws on corrupt public officials are meant to enhance, instead of stifle, public service. If every mistake, error, or oversight is met with criminal prosecution, then no one would ever dare take on the responsibility of serving in the government. We cannot continue to weaponize each little misstep lest we lose even the good people in government. Indeed, while public office is a public trust, the constitutionally enshrined right to presumption of innocence encompasses all persons — private individuals or public servants alike.

Based on these premises, I vote to **GRANT** the Petition.

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice