



Republic of the Philippines

Supreme Court

Manila

SUPREME COURT OF THE PHILIPPINES
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SECOND DIVISION

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PATRIA C. GUTIERREZ,
Petitioner,

G.R. No. 193728

Present:

PERLAS-BERNABE,* S.A.J.,
HERNANDO,**

- versus -

Acting Chairperson,
INTING,
GAERLAN, and
DIMAAMPAO, JJ.

PEOPLE OF THE PHILIPPINES,
Respondent.

Promulgated:

OCT 13 2021

X-----X

DECISION

GAERLAN, J.:

Before this Court is a Petition for Review on *Certiorari*¹ dated November 8, 2010 filed by petitioner Mayor Patria C. Gutierrez (Mayor Gutierrez) assailing the Decision² dated February 4, 2010, and the Resolution³ dated September 7, 2010 of the Sandiganbayan, Second Division, in the case entitled, “*People of the Philippines v. Patria C. Gutierrez,*” docketed as Criminal Case No. 27814, convicting Mayor Gutierrez of violating Section 3(e) of Republic Act (R.A.) No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act.

The factual antecedents

On April 6, 1996, the former Municipal Mayor of Tiwi, Albay, Naomi Corral (Mayor Corral), passed away. Shortly thereafter, Mayor Corral’s

* On official leave.

** Per Special Order No. 2846 dated October 6, 2021.

¹ *Rollo*, pp. 22-54.

² *Id.* at 56-76; penned by Associate Justice Teresita V. Diaz-Baldos with Associate Justices Edilberto G. Sandoval and Samuel R. Martires concurring.

³ *Id.* at 78-84.

husband, Dr. Bernardo Corral (Dr. Corral), began processing the application for the payment of Mayor Corral's gratuity pay. By July 10, 1996, a municipal clearance, which was signed by then Municipal Treasurer Corazon Pulvinar (Pulvinar) and Acting Mayor Vicente Tomas Vera III (Acting Mayor Vera), was issued in favor of Mayor Corral. On the same date, Acting Mayor Vera likewise issued a certification as to Mayor Corral's service record.⁴

On July 11, 1996, Mayor Gutierrez assumed office as the Municipal Mayor of Tiwi, Albay. Upon her assumption of office, she received reports of irregularities concerning the Office of the Municipal Treasurer. This prompted Mayor Gutierrez to issue notices to Pulvinar, asking the latter to explain. Mayor Gutierrez likewise issued Office Order No. 16, directing Pulvinar to submit the municipality's financial reports.⁵ Notably, shortly after her assumption of office, an election contest was filed against Mayor Gutierrez. By the end of July 1996, the Regional Trial Court (RTC) of Legaspi City issued a Temporary Restraining Order against Mayor Gutierrez and installed then Vice Mayor Vera as Acting Mayor. Nevertheless, on October 15, 1996, Mayor Gutierrez won the election protest and re-assumed her position as Municipal Mayor.⁶

Meanwhile, on August 8, 1996, the Government Service Insurance System (GSIS) finally approved Dr. Corral's claim for gratuity pay in the amount of ₱352,456,11. In view of the GSIS's approval of the said amount, the gratuity pay was included in the proposed annual budget of the Municipality of Tiwi for the year 1997 prepared by the Municipal Budget Officer Julia Rodriguez (Rodriguez). Such proposed budget was then approved by Mayor Gutierrez.⁷

Relevantly, when Mayor Gutierrez re-assumed her post as Municipal Mayor, she continued to act on the reports of irregularities in the Office of the Municipal Treasurer.

On November 8, 1996, Mayor Gutierrez wrote to Atty. Veronica King (Atty. King), the Regional Director of Region V of the Department of Finance, to request for Pulvinar's relief because of her continued absences.

On December 17, 1996, Mayor Gutierrez wrote to Landbank, Legaspi Branch, to question the bank's renewal of several placements of the

⁴ Id. at 25.

⁵ Id. at 25-26.

⁶ Id. at 26.

⁷ Id. at 26-27.

Municipality of Tiwi from November 13-25, 1996, allegedly through Pulvinar, even though Pulvinar was on maternity leave during that time.

On January 2, 1997, Mayor Gutierrez again wrote to Atty. King, informing her about Pulvinar's cash advances in the amount of ₱2,342,486.92, and asking for the relief of Pulvinar as Municipal Treasurer. Thereafter, Mayor Gutierrez sent another letter dated January 13, 1997, recommending the filing of administrative charges against Pulvinar.

On January 5, 1997, Mayor Gutierrez wrote to the Office of the Ombudsman to complain about Pulvinar.⁸

In response to the allegations against her, Pulvinar issued a letter of explanation dated February 12, 1997. In the said letter, Pulvinar stated that the unliquidated amount of ₱2,343,436.42 has already been reduced to ₱592,456.11 in view of her presentation of vouchers and liquidation papers. Supposedly, the remaining unliquidated amount of ₱592,456.11 represents the disbursement of gratuity pay for Mayor Corral, and the payment of attorney's fees in favor of Dr. Corral's counsel.⁹

Because of the foregoing, as well as a Commission on Audit (COA) Audit Report for the year ending December 31, 1996, which indicated that payment of the gratuity pay has already been paid,¹⁰ Mayor Gutierrez sent a letter dated February 18, 1997, to the Municipal Budget Officer, Rodriguez, instructing her to delete the item of gratuity pay from the proposed annual budget. Nonetheless, Mayor Gutierrez stated that if legal basis was found for the payment of gratuity pay, the same can be passed through a supplemental budget.¹¹

On February 19, 1997, the Provincial Treasurer's Office found that Pulvinar's remaining unliquidated amount of ₱592,456.11 was covered by two separate vouchers, and therefore, considered as valid cash items or disbursements. Despite such finding, Mayor Gutierrez still instructed Municipal Budget Officer, Rodriguez, to withhold the release of gratuity pay until the claim for refund from the GSIS has been obtained.¹²

The following year, the Sangguniang Bayan of Tiwi passed a re-alignment budget, which again, included the gratuity pay of Mayor Corral.

⁸ Id. at 27-28.

⁹ Id. at 28.

¹⁰ Id. at 29.

¹¹ Id. at 28.

¹² Id. at 29.

Such re-alignment budget was then approved and signed by Mayor Gutierrez on August 8, 1998.¹³

Considering that payment of the gratuity pay has not yet been made after the lapse of several years, Dr. Corral, with the assistance of counsel, sent a demand letter dated September 15, 1998, to Mayor Gutierrez. In response, Mayor Gutierrez stated that no documents relating to the claim have been submitted to her office. However, on September 22, 1998, Dr. Corral replied to Mayor Gutierrez, stating that all required documents have already been submitted.¹⁴ Nonetheless, Dr. Corral informed Mayor Gutierrez that he is re-submitting the required documents.¹⁵

On October 8, 1998, Bureau of Local Government Finance Legal Officer Glenn Sendon (Sendon) issued a Memorandum Report on the administrative complaint filed against Pulvinar. In the Memorandum Report, it was found that Pulvinar's unliquidated cash advances arose from her failure to prepare liquidation papers and update the records, which is contrary to auditing rules, but is not considered as malversation. Thus, it was recommended that Pulvinar suffer from a 15-day suspension.¹⁶

Unsatisfied with the penalty imposed against Pulvinar, Mayor Gutierrez continued filing reports against Pulvinar.

On January 13, 1999, Mayor Gutierrez wrote to the Secretary of the Department of Finance (DOF), requesting for an investigation against Pulvinar, as well as Atty. King.¹⁷ In her letter, Mayor Gutierrez stated that she did not authorize any payments for Mayor Corral's gratuity pay and attorney's fees. Moreover, according to Mayor Gutierrez, Atty. King's inaction on her reports against Pulvinar prompted Mayor Gutierrez to write to the DOF Secretary.

On March 18, 1999, Mayor Gutierrez again wrote to the DOF Secretary reiterating that an investigation should be made against Pulvinar and Atty. King. Mayor Gutierrez likewise stated that Dr. Corral has a pending claim for gratuity pay, and that he has filed a petition for mandamus for the payment of the same.¹⁸

¹³ Id.

¹⁴ Id. at 30.

¹⁵ Id. at 68.

¹⁶ Id. at 30.

¹⁷ Id.

¹⁸ Id.

On April 13, 1999, Mayor Gutierrez wrote to the Deputy Ombudsman for Luzon, where she requested for the conduct of an investigation against Pulvinar because of the supposed anomalies and fraudulent activities she committed.¹⁹

On May 28, 1999, the Office of the Ombudsman for Luzon dismissed the complaint filed against Pulvinar for lack of probable cause. The Office of the Ombudsman for Luzon likewise stated that the case filed against Pulvinar should be considered closed and terminated.²⁰

On July 9, 2003, the COA wrote to Mayor Gutierrez, stating that as of December 31, 2002, the gratuity pay of Mayor Corral to be paid to Dr. Corral, as well as the attorney's fees, **remain outstanding**.²¹ Moreover, the Municipal Accountant, Romulo Carino, likewise stated that the appropriated money for the payment of gratuity pay has not yet been released.²²

Criminal Case in the Sandiganbayan

Because of Mayor Gutierrez's unjustified refusal to pay the gratuity pay, Dr. Corral filed a case against Mayor Gutierrez before the Sandiganbayan, accusing Mayor Gutierrez of violating Section 3(e) of R.A. No. 3019, for allegedly causing undue injury to their family.²³ The Information reads:

That, on or about 24 February 1997, or sometime prior or subsequent thereto, in the Municipality of Tiwi, Province of Albay, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, PATRIA C. GUTIERREZ, a public officer, being the Municipal Mayor of Tiwi, Albay, committing the crime herein charged in relation to and taking advantage of her official functions, and through manifest partiality, evident bad faith or gross inexcusable negligence, did then and there willfully, unlawfully and feloniously refuse without just cause to release or pay the gratuity pay of the late Mayor NAOMI CORRAL in the amount of P352,456.11. Said accused knowing fully well that all the required documents for its release were submitted, thus causing undue injury to the complainant in the aforestated amount.

CONTRARY TO LAW.²⁴

¹⁹ Id. at 30-31.

²⁰ Id. at 31-32.

²¹ Id. at 32.

²² Id. at 64-65.

²³ Id. at 32.

²⁴ Id. at 56-57.

During arraignment, Mayor Gutierrez pleaded not guilty.²⁵ Meanwhile, during pre-trial, the following were stipulated:

1. That the accused Patria C. Gutierrez is a public officer being the Municipal Mayor of Tiwi, Albay in the year 1998;
2. That the private complainant, Bernardo M. Corral, is the husband of the late Naomi Corral, former municipal mayor of Tiwi, Albay;
3. That the deceased Naomi Corral died on April 6, 1996 and after which private complainant filed a request for gratuity pay of the former;
4. That on July 25, 1998, the Sangguniang Bayan of Tiwi, Albay passed Resolution No. 14-98 appropriating funds for the gratuity benefits of Naomi Corral; and
5. That the accused approved Resolution No. 14-98, passed by the said Sangguniang Bayan which appropriated the payment for gratuity pay, to show her good faith.²⁶

Trial then ensued.

On February 4, 2010, the Sandiganbayan rendered its Decision,²⁷ the dispositive portion of which states:

WHEREFORE, in the light of all the foregoing, the Court finds that the prosecution has successfully established beyond reasonable doubt the guilt of accused PATRIA GUTIERREZ for Violation of Section 3(e) of R.A. No. 3019, and consequently, after applying the Indeterminate Sentence Law, hereby imposes upon her the penalty of imprisonment ranging from six years and one month as minimum to nine years, one month and one day as maximum.

She is further perpetually disqualified from holding public office.

SO ORDERED.²⁸

In finding Mayor Gutierrez guilty of violating Section 3(e) of R.A. No. 3019, the Sandiganbayan first enumerated the elements of the crime charged:

1. The accused must be a public officer discharging administrative, judicial or official functions;

²⁵ Id.

²⁶ Id. at 57.

²⁷ Id. at 56-76.

²⁸ Id. at 74-75.

2. He must have acted with manifest partiality, evident bad faith or gross inexcusable negligence; and
3. That his actions 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.²⁹

Thereafter, the Sandiganbayan stated that all the elements of the crime charged were duly proven by the prosecution.

For the first element, the Sandiganbayan noted that it was already stipulated that Mayor Gutierrez was the Municipal Mayor of Tiwi, Albay during the time material to the case, and the act complained of was committed during the performance of her duties as Municipal Mayor.

For the second element, the Sandiganbayan ruled that Mayor Gutierrez's failure to pay the gratuity pay was attended by evident bad faith as shown by her meandering strategy to unduly delay the process of such payment, and by going to great lengths to report and file cases against Pulvinar for the supposed anomalies she committed, which cases have already been dismissed. The Sandiganbayan likewise opined that Mayor Gutierrez's reliance on the COA Audit Report of 1996 stating that the gratuity pay has supposedly been paid, cannot justify her refusal to approve the payment of the gratuity pay, considering that: (1) such gratuity pay has already been approved by the GSIS; (2) appropriations have already been made for the payment of the gratuity pay; and (3) reliable municipal officials have consistently stated that payment of the gratuity pay has, indeed, not yet been made.

Meanwhile, as regards the third element, the Sandiganbayan ruled that undue injury was suffered by Dr. Corral and his family, since they are undoubtedly entitled to the gratuity pay, which, until now, has not yet been paid.³⁰

Aggrieved by the Decision of the Sandiganbayan, Mayor Gutierrez filed her motion for reconsideration dated February 19, 2010,³¹ where she argued that the prosecution failed to prove all the elements of the crime charged because her acts do not constitute evident bad faith, which thus, warrants her acquittal.

²⁹ Id. at 69-70.

³⁰ Id. at 70-74.

³¹ Id. at 78.

manifestly mistaken; 3] there is grave abuse of discretion; 4.) the judgment is based on misapprehension of facts; and 5] the findings of fact of the Sandiganbayan are premised on the absence of evidence and are contradicted by evidence on record. x x x.⁴⁵ (Emphasis supplied; citations omitted)

Here, Mayor Gutierrez's petition is anchored on the Sandiganbayan's supposed error in finding that the prosecution established her guilt beyond reasonable doubt. Clearly, this is a **question of fact**, which is outside the purview of a Rule 45 Petition.

Pertinently, Mayor Gutierrez likewise failed to demonstrate that the instant petition falls under any of the exceptions enumerated in the *Zapanta* case. In her petition, there was no allegation of grave abuse of discretion on the part of the Sandiganbayan. Neither did Mayor Gutierrez allege that the Sandiganbayan's ruling was based on a misapprehension of facts. At most, Mayor Gutierrez argued that the Sandiganbayan supposedly made unfair inferences against her. However, a plain reading of the petition reveals that the supposed unfair inferences made against Mayor Gutierrez do not relate at all to the elements of the crime. As such, the supposed unfair inferences made against her do not affect the Sandiganbayan findings that resulted in her conviction.

On this score alone, the petition must be denied.

Nevertheless, even assuming that the instant petition falls within one of the exceptions which will justify this Court's review, the instant petition must still be denied for lack of merit.

To recall, Mayor Gutierrez was charged with a violation of Section 3(e) of R.A. No. 3019. In order to convict an accused for violation of Section 3(e), the following elements must be proved beyond reasonable doubt:

1. [T]he accused must be a public officer discharging administrative, juridical or official functions;
2. [H]e [or she] must have acted with manifest partiality, or evident bad faith, or gross inexcusable negligence; and
3. [H]is [or her] action caused undue injury to any party, including the Government, or gave any private party unwarranted benefits, advantage, or preference in the discharge of his or her functions.⁴⁶

⁴⁵ Id. at 170-171.

⁴⁶ *Martel v. People*, G.R. Nos. 224720-23, February 2, 2021.

In this case, there is no dispute as to the presence of the first element since Mayor Gutierrez was the Municipal Mayor of Tiwi, Albay at the time she committed the acts complained of.

As regards the second element, it is worthy to note that the law provides three modes of commission of the crime, as explained by this Court in *Fuentes v. People*.⁴⁷

As to the second element, it is worthy to stress that the law provides three modes of commission of the crime, namely, through “manifest partiality,” “evident bad faith,” and/or “gross negligence.” In *Coloma, Jr. v. Sandiganbayan*, the Court defined the foregoing terms as follows:

“Partiality” is synonymous with “bias” which “excites a disposition to see and report matters as they are wished for rather than as they are.” “Bad faith does not simply connote bad judgment or negligence; it imputes a dishonest purpose or some moral obliquity and conscious doing of a wrong; a breach of sworn duty through some motive or intent or ill will; it partakes of the nature of fraud.” “Gross negligence has been so defined as negligence characterized by the want of even slight care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but wilfully and intentionally with a conscious indifference to consequences in so far as other persons may be affected. It is the omission of that care which even inattentive and thoughtless men never fail to take on their own property.” x x x

In other words, there is “manifest partiality” when there is a clear, notorious, or plain inclination or predilection to favor one side or person rather than another. On the other hand, “evident bad faith” connotes not only bad judgment but also palpably and patently fraudulent and dishonest purpose to do moral obliquity or conscious wrongdoing for some perverse motive or ill will. 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.⁴⁸ (Citations omitted)

Thus, to satisfy the second element, it must be established that the accused caused undue injury by manifest partiality, evident bad faith, or gross inexcusable negligence.

In this case, the Sandiganbayan found that Mayor Gutierrez’s unjustified refusal to pay the gratuity pay constitutes evident bad faith. We agree.

⁴⁷ 808 Phil. 586 (2017).

⁴⁸ Id. at 593-594.

As borne by the records, Mayor Gutierrez unjustly refused to pay the gratuity pay supposedly because she was taking precautions against the anomalies allegedly committed by the Municipal Treasurer. Mayor Gutierrez even went to great lengths to relieve Pulvinar from her post as Municipal Treasurer by filing administrative cases against her. However, such cases were dismissed by the Office of the Ombudsman. In this regard, while Mayor Gutierrez's acts of reporting and filing cases against Pulvinar can be said to be well-intentioned, such intention cannot justify her refusal to pay the gratuity pay to Dr. Corral.

To recall, as early as July 10, 1996, a clearance of money and property accountability was already issued for Mayor Corral, and on August 8, 1996, the GSIS already approved the payment of her gratuity pay. Appropriations for the payment of the gratuity pay have likewise been made by the Municipality, and all documents required have been submitted and re-submitted by Dr. Corral. Clearly, there was no reason for Mayor Gutierrez to instruct the deletion of the gratuity pay from the annual budget, and to order the withholding of such payment, not only once, but twice. But still, Mayor Gutierrez persisted.

If, indeed, Mayor Gutierrez was resolute in holding Pulvinar accountable for the supposed anomalies she committed, the same could have been ventilated in the proper channels (again, the cases filed against Pulvinar have already been dismissed), without adversely affecting the payment of gratuity pay in favor of Dr. Corral.

Undoubtedly, Mayor Gutierrez's series of acts are delaying tactics against the payment of the gratuity pay, which show a dishonest purpose and sinister motivation on her part. In sum, We subscribe to the Sandiganbayan's findings that Mayor Gutierrez's refusal to pay the gratuity pay was committed with evident bad faith.

As to the third and last element, case law instructs that there are two ways by which a public official violates Section 3(e) of R.A. No. 3019: (1) by causing undue injury to any party, including the Government; or (2) by giving any private party any unwarranted benefit, advantage, or preference.⁴⁹ Moreover, jurisprudence explains that undue injury, in the context of Section 3(e) of R.A. No. 3019, is akin to the civil law concept of actual damage:

Undue injury in the context of Section 3(e) of R.A. No. 3019 should be equated with the civil law concept of "actual damage." Unlike in actions for torts, undue injury in Sec. 3(e) cannot be presumed even

⁴⁹ *Tiongco v. People*, G.R. Nos. 218709-10, November 14, 2018; *Rivera v. People*, 749 Phil. 124,142 (2014); *Coloma, Jr. v. Sandiganbayan*, 744 Phil. 214, 231-232 (2014).

after a wrong or a violation of a right has been established. Its existence must be proven as one of the elements of the crime. In fact, the causing of undue injury, or the giving of any unwarranted benefits, advantage or preference through manifest partiality, evident bad faith or gross inexcusable negligence constitutes the very act punished under this section. Thus, **it is required that the undue injury be specified, quantified and proven to the point of moral certainty.**⁵⁰ (Emphasis supplied, citation omitted)


Therefore, to satisfy the third element for violation of Section 3(e) of R.A. No. 3019, the prosecution must establish that the complainant suffered from a specific and quantifiable injury which was caused by the accused.

In this case, there is no doubt that the third element is present. The nonpayment of the gratuity pay in the definite and quantified amount of ₱352,456.11 clearly demonstrates the undue injury caused by Mayor Gutierrez to Dr. Corral and his family. At this point, it must likewise be noted that until now, or after the lapse of twenty-five years (25) years from the passing of Mayor Corral, such gratuity pay has not yet been paid.

All in all, We find no reason to disturb the findings of the Sandiganbayan.

WHEREFORE, the instant petition for review on *certiorari* dated November 8, 2010 filed by petitioner Patria C. Gutierrez is **DENIED**. The Decision dated February 4, 2010, and the Resolution dated September 7, 2010 of the Sandiganbayan Second Division in the case entitled, "*People of the Philippines v. Patria C. Gutierrez*," docketed as Criminal Case No. 27814, are hereby **AFFIRMED**.


SO ORDERED.



SAMUEL H. GAERLAN
Associate Justice

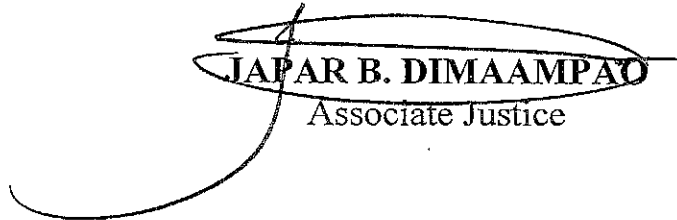
WE CONCUR:

(*On official leave*)
ESTELA M. PERLAS-BERNABE
Senior Associate Justice

⁵⁰ *Rivera v. People*, id. at 148.



RAMON PAUL L. HERNANDO
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice


JAPAR B. DIMAAMPAO
Associate Justice

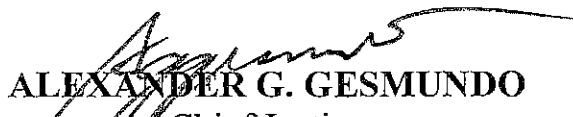
ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


RAMON PAUL L. HERNANDO
Associate Justice
Acting Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Acting Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


ALEXANDER G. GESMUNDO
Chief Justice

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