



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

EDGARDO H. TIDALGO,

Petitioner,

G.R. No. 262987

Present:

-versus-

CAGUIOA, J., Chairperson,
INTING,
GAERLAN,
DIMAAMPAO, and
SINGH, JJ.

PEOPLE OF THE PHILIPPINES,

Respondent.

Promulgated:

February 13, 2023

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DECISION

SINGH, J.:

This is a Petition for Review on *Certiorari*¹ filed by petitioner Edgardo H. Tidalgo (**Tidalgo**), asking for the reversal of the September 29, 2020 Decision² and the December 20, 2021 Resolution³ of the Sandiganbayan, which found Tidalgo guilty beyond reasonable doubt of violation of Section 3(e)⁴ of Republic Act (R.A.) No. 3019, or the Anti-Graft and Corrupt Practices Act.

¹ *Rollo*, pp. 5-44; dated August 8, 2022.

² *Id.* at 48-126. Penned by Associate Justice Sarah Jane T. Fernandez and concurred in by Associate Justices Karl B. Miranda and Kevin Narce B. Vivero.

³ *Id.* at 128-148.

The Facts

Tidalgo, together with other officials, was charged with violation of Section 3(e) of R.A. No. 3019, in an Information⁵ dated July 30, 2003, which reads:

That on or about July 11, 2002, or sometime prior or subsequent thereto, in Butuan City, Region XIII (Caraga Region), Philippines, and within the jurisdiction of this Honorable Court, above-named accused EFREN U. ANGGO, a high-ranking public official, together with accused FELIX D. GONZALES, REYNALDO G. BATOON, DOMINGO LUCERO, JR., IGNACIO C. ESPINA, JESSIE S. DOCE, ADRIANO B. BUSTILLO, ADELARDO P. HERNANDEZ, JEFFREY F. JUMAWAN, NESTOR F. ALMEDA, **EDGARDO H. TIDALGO**, DIEGO P. OCHIMAR, JR., JOSE E. PATRIANA, SR., and several JOHN DOES, with accused public officials taking advantage of their respective official positions and committing the offense in relation to office, conspiring, confederating, and mutually helping one another, **with evident bad faith, or at the very least, with gross inexcusable negligence**, did then and there willfully, unlawfully and criminally cause undue injury to the government by failing to seize and forfeit in favor of the Government in accordance with the Tariff and Customs Code the vessel MV Rodeo and its cargo of about 17,000 sacks of smuggled rice worth EIGHTEEN MILLION SEVEN HUNDRED THOUSAND PESOS (PhP18,700,000.00) more or less, which should have been disposed of pursuant to law, and to apprehend the said vehicle's officers and crew who then fled and escaped on board the said vessel thereby causing undue injury and prejudice to the government, at the very least, in the aforestated amount. (Emphases supplied)

When arraigned, Tidalgo pleaded not guilty. During the pre-trial, the parties stipulated that during the time material to this case, Tidalgo is a public officer occupying the position of Terminal Manager at the Philippine Ports Authority (PPA).⁶

Tidalgo testified during the trial that he was assigned as Terminal Manager of the Masao⁷ Port. As Terminal Manager, he was in charge of discharging, loading, and unloading of cargo from or onto a vessel. He was also in charge of the operation of the vessel. Once he receives a notice of arrival, he advises the vessel to submit the formal application to berth.⁸

⁴ Section 3. *Corrupt practices of public officers.* – In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

(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.

⁵ *Rollo*, p. 49.

⁶ *Id.* at 49-50.

⁷ Also referred to as Lumbocan Port in some parts of the *rollo*.

⁸ *Rollo*, pp. 85-86.

On July 11, 2002, a representative of the consignee went to the PPA office and told the Clearing Officer that a vessel carrying fertilizer will arrive on July 23, 2002. Tidalgo escorted the said representative to the former's supervisor, Oscar Beluan (**Beluan**). The representative was advised to return two (2) days before the expected arrival because it was unusual to receive information regarding a vessel **twelve (12)** days prior to its arrival.⁹

That same day, the representative returned and told them that MV Rodeo will be arriving later in the evening. Tidalgo responded that the pertinent documents must be presented the following day because the office is not manned **twenty-four (24)** hours a day. Tidalgo informed Beluan, the clearing officer, and the cargo clearing operator that there was an incoming vessel.¹⁰

Prior to leaving his office that day, Tidalgo informed the arrastre operator that a vessel carrying fertilizer was arriving, and that the same could be unloaded from the vessel. Tidalgo gave the authority to discharge on the condition that the shipment consisted of fertilizer. MV Rodeo docked in the evening of July 11, 2002 without an approved Application for Berthing. The arrastre operator did not inform Tidalgo that the cargo was rice.¹¹

The next day, July 12, 2002, Tidalgo learned that the vessel carried sacks of rice. He could not find any officer nor any document of the vessel. Tidalgo claimed that, based on a report, MV Rodeo and its cargo are under the custody of the Philippine Coast Guard (**PCG**). He met with PCG personnel and asked for a memo not to clear the vessel. The memo showed that PCG took custody of the vessel.¹²

The PPA, upon the written request of the PCG, ordered the non-issuance of a departure clearance. Tidalgo sent the PCG's written request to Alona Fortun, Clearing Officer in Butuan City.¹³ MV Rodeo left the port. The PCG sought the assistance of the City Mayor's Office in conducting a pursuit. The Office of the Mayor lent the PCG group a speed boat. After a lapse of 30 minutes and without finding the MV Rodeo, the group turned back because of the strong waves and the need to refuel.¹⁴

Upon the request of the City Mayor, the National Bureau of Investigation (**NBI**) Caraga Regional Office conducted an investigation on the incident. The NBI recommended the filing of criminal and administrative charges against Tidalgo and other officials.¹⁵

⁹ *Id.* at 86.

¹⁰ *Rollo*, p. 86.

¹¹ *Id.* at 86-87.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.* at 99.

¹⁵ *Id.* at 101.



On July 30, 2003, an Information¹⁶ was filed against Tidalgo and the other officials for violation of Section 3(e) of R.A. No. 3019 for failing to seize and forfeit in favor of the Government the vessel MV Rodeo and its cargo worth Eighteen Million Seven Hundred Thousand Pesos (PHP 18,700,000.00).¹⁷

The Ruling of the Sandiganbayan

On September 29, 2020, the Sandiganbayan rendered a Decision¹⁸ which found Tidalgo, among others, guilty beyond reasonable doubt, the dispositive portion of which reads:

WHEREFORE, the Court finds accused Adelardo P. Hernandez, Jeffrey F. Jumawan, Nestor F. Almeda, **Edgardo H. Tidalgo**, and Diego P. Odchimar, Jr. **GUILTY** beyond reasonable doubt of violation of Section 3(e) of Republic Act No. 3019. Each of them is sentenced to an indeterminate penalty of imprisonment of six (6) years and one (1) month, as minimum, to eight (8) years, as maximum, with perpetual disqualification from holding public office. They are also ordered to pay, jointly and severally, the Government of the Philippines the amount of 15 million representing the value of the 15,000 sacks of rice, with interest at the rate of 6% per annum reckoned from the date of finality of this Decision.

Accused Felix D. Gonzales, Reynaldo G. Batoon, Domingo Lucero, Jr., Ignacio G. Espina and Jessie S. Doce are ACQUITTED for failure of the prosecution to prove the guilt beyond reasonable doubt of the crime charged.

SO ORDERED.¹⁹ (Emphases supplied)

The Sandiganbayan found Tidalgo, through his acts constituting evident bad faith and gross inexcusable negligence, responsible for the failure of the Government to seize, detain, and forfeit MV Rodeo and its cargo consisting of 15,000 sacks of rice.²⁰

Tidalgo filed a Motion for Reconsideration,²¹ which the Sandiganbayan denied in a Resolution,²² dated December 20, 2021.

Aggrieved, Tidalgo filed a Petition for Review on *Certiorari*²³ before the Court.

¹⁶ *Id.* at 49.

¹⁷ *Id.*

¹⁸ *Id.* at 48-126.

¹⁹ *Id.* at 125.

²⁰ *Id.*

²¹ *Id.* at 129.

²² *Id.* at 128-148.

²³ *Id.* at 5-44.



The Issue

Did the prosecution prove the guilt of Tidalgo beyond reasonable doubt?

The Ruling of the Court

The Petition is impressed with merit.

At the outset, the Court deems it fit to discuss the proper remedies in assailing the Sandiganbayan ruling. In 2018, the Court promulgated the 2018 Revised Internal Rules of the Sandiganbayan,²⁴ which provides:

Rule XI Review of Judgments and Final Orders

Section 1. *Methods of Review-*

- (a) In General- The appeal to the Supreme Court in criminal cases decided by the Sandiganbayan **in the exercise of its original jurisdiction** shall be by **notice of appeal** filed with the Sandiganbayan and by serving a copy thereof upon the adverse party.

The appeal to the Supreme Court in criminal cases decided by the Sandiganbayan **in the exercise of its appellate jurisdiction**, and in civil cases shall be by **petition for review on certiorari** under Rule 45 of the 1997 Rules of Civil Procedure. (Emphases supplied)

In *People v. Antonio Talaue*,²⁵ the Court distinguished the modes of review of the judgments and final orders of the Sandiganbayan in the exercise of its original jurisdiction and in the exercise of its appellate jurisdiction:

In the former, the facts are tried by the Sandiganbayan in the first instance and the accused is entitled to appeal the factual findings of said court via notice of appeal. In the latter, the facts had already been tried by the lower courts. Therefore, the factual findings of the Sandiganbayan in the exercise of its appellate jurisdiction, just like those of the Court of Appeals when it affirms the factual findings of the lower courts, are given great weight and are generally conclusive upon this Court. That being the case, only questions of law may be raised in appeals to this Court in criminal cases decided by the Sandiganbayan in the exercise of its appellate jurisdiction, and in civil cases, via petition for review on *certiorari* under Rule 45 of the Rules of Court.²⁶

²⁴ SC Administrative Matter No. 13-7-05-SB, October 9, 2018, 2018 Revised Internal Rules of the Sandiganbayan.

²⁵ G.R. No. 248652, January 12, 2021.

²⁶ *Id.*



Hence, Tidalgo availed of the incorrect remedy when he filed a Petition for Review on *Certiorari* under Rule 45 from the decision of the Sandiganbayan in the exercise of its original jurisdiction. Tidalgo should have filed a notice of appeal with the Sandiganbayan.

Nevertheless, considering the grave penalties imposed upon Tidalgo, not only of imprisonment but also for the payment of the value of the cargo, the Court deems it consistent with the greater interest of substantial justice to rule on the case despite the procedural lapse.

On the substantive aspect, the Court holds that the prosecution failed to prove Tidalgo's guilt beyond reasonable doubt.

Contrary to the ruling of the Sandiganbayan, the Court finds insufficient evidence to hold Tidalgo criminally liable under Section 3(e) of R.A. No. 3019.

In the case of *Buencamino v. People*,²⁷ the Court held that there are three modes by which the offense for violation of Section 3(e) may be committed: (1) through evident bad faith; (2) through manifest partiality; or (3) through gross inexcusable negligence.

To recall, the Information²⁸ alleged that Tidalgo committed acts with evident bad faith, or at the very least, with gross inexcusable negligence, while the Sandiganbayan's conviction of Tidalgo was grounded on its finding of acts constituting manifest partiality, evident bad faith, and gross inexcusable negligence.²⁹

Jurisprudence instructs that the bad faith referred to under Section 3(e) of R.A. No. 3019 does not simply connote bad judgment or negligence 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 connotes a state of mind affirmatively operating with furtive design or with some motive or self-interest or ill will or for ulterior purposes. It is a breach of sworn duty through some motive or intent or ill will and partakes of the nature of fraud.³⁰

In finding Tidalgo guilty, the Sandiganbayan held that:

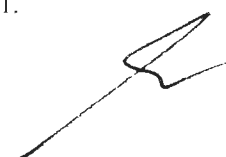
This lackadaisical management of the [Masao] Port appears to pervade the twenty hours that MV Rodeo was docked thereat not only when

²⁷ G.R. nos. 216745-46, November 10, 2020.

²⁸ *Rollo*, p. 49.

²⁹ *Id.* at 122.

³⁰ *Suba v. Sandiganbayan First Division*, G.R. No. 235418, March 03, 2021.



accused Tidalgo had gone home but even when he was in his office at the Port. The actions and inactions of accused Tidalgo are suspicious and shows that he acted **with manifest partiality, evident bad faith and gross inexcusable negligence.**³¹ (Emphasis supplied)

Tidalgo's alleged violation of Section 3(e) of R.A. No. 3019 is hinged on these alleged omissions:

- (1) that before he left the PPA on July 11, 2002, Tidalgo did not direct the security guards nor the arrastre operator to collect the Notice of Arrival or Request for Berthing;³²
- (2) that Tidalgo did not coordinate with the police, the National Food Authority (NFA), or the Bureau of Customs (BOC);³³
- (3) that the act of MV Rodeo's crew of painting over the name of the vessel should have aroused Tidalgo's suspicion, but he remained indifferent;³⁴
- (4) that, despite his duty, Tidalgo did not consult with the BOC and PCG about the intended transfer so that arrangements could be made for the vessel's security during the transfer;³⁵ and
- (5) that there was no procedure for the issuance or denial of clearances in place.³⁶

To establish a violation of Section 3(e) of R.A. No. 3019, the following elements must be present:

- (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.³⁷

Here, the first and the second elements are undisputed. Tidalgo was then the Terminal Manager of PPA. He was performing his official functions when he reported to Beluan that the MV Rodeo and its cargo are under the custody of the PCG. Hence, Tidalgo claimed that he cannot act against the vessel.³⁸

³¹ *Rollo*, p. 122.

³² *Id.*

³³ *Id.*

³⁴ *Id.* at 123.

³⁵ *Id.*

³⁶ *Id.*

³⁷ *People of the Philippines v. Leonel Echavez Bacaltos*, G.R. No. 248701, July 28, 2020.

³⁸ *Rollo*, p. 87.

As regards the third element, the Court held in *Fonacier v. Sandiganbayan*³⁹ that 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 willfully and intentionally with a conscious indifference to consequences in so far as other persons may be affected. It is the omission of that care which even inattentive and thoughtless men never fail to take on their own property.⁴⁰

In this case, there is no showing that Tidalgo's failure to seize, detain, and forfeit MV Rodeo and its cargo was motivated by malice or gross negligence amounting to bad faith. Instead, the record shows that in view of the PCG's request, Tidalgo sent a radio message to the Clearing Officer, Ms. Fortun (**Fortun**) to hold the departure clearance of MV Rodeo. Fortun received Tidalgo's directive by radio.⁴¹ Tidalgo told Fortun not to issue any clearance for the vessel. During that time, Tidalgo can see MV Rodeo located 200 to 300 meters away from his office in Masao Port. The Port Manager and Tidalgo's immediate supervisor, Beluan, were in the office discussing with the District Manager in Cagayan de Oro how to deal with the vessel.⁴²

On cross-examination, former NBI Director I Atty. Reynaldo Esmeralda testified that there was denial of clearance requested by Tidalgo. The pertinent statements are as follows:

Q: I show you Exhibit "A-a" your own exhibit dated July 12, it says here [""]To Clearing Officer: Port Terminal of Masa[o] Please hold clearance of MV Rodeo Voyage 127 per request of the Philippine Coast Guard dated July 12 in connection with the provision of Executive Order 493 then, Edgardo Tidalgo." **Is that not denial of clearance?**

A: **Yes, denial of clearance of MV Rodeo, sir.**⁴³

The prosecution must prove the existence of factual circumstances that point to fraudulent intent. Mistakes committed by public officials, no matter how patently clear, are not actionable absent any clear showing that they were motivated by malice or gross negligence amounting to bad faith.⁴⁴

³⁹ 308 Phil. 660, 693-694 (1994).

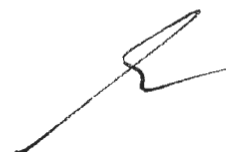
⁴⁰ *Id.* at 693-694.

⁴¹ *Rollo*, p. 98.

⁴² *Id.* at 87.

⁴³ *Id.* at 41.

⁴⁴ *Suba v. Sandiganbayan First Division*, *supra* note 31.



On the other hand, Tidalgo likewise cannot be successfully accused of gross negligence since, as the records show, he took prudent steps to hold the vessel by requesting the non-issuance of a departure clearance.

As the prosecution in this case failed to prove beyond reasonable doubt all the elements of Section 3(e) of R.A. No. 3019 under which Tidalgo was charged, he should be entitled to an acquittal.

WHEREFORE, the Petition is **GRANTED**. The Decision, dated September 29, 2020, of the Sandiganbayan in Criminal Case No. 27852 is **REVERSED**. Edgardo H. Tidalgo is **ACQUITTED** of the crime charged in Criminal Case No. 27852 of the Sandiganbayan on the ground of reasonable doubt and he is **ORDERED RELEASED** immediately from detention, unless he is being held in custody for other lawful cause.

Let a copy of this Decision be furnished to the Sandiganbayan, for immediate implementation. The Sandiganbayan is **ORDERED** to **REPORT** to the Court within five (5) days from receipt of this Decision the action taken in compliance with this order.

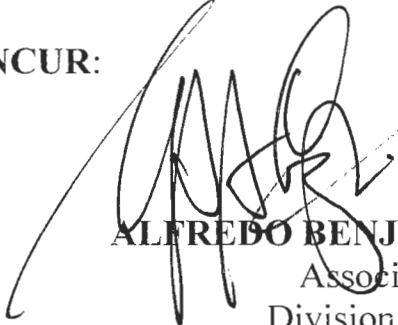
Let an entry of final judgment be issued immediately.

SO ORDERED.



MARIA FILOMENA D. SINGH
Associate Justice


WE CONCUR:



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Division Chairperson



HENRI JEAN PAUL B. INTING
Associate Justice



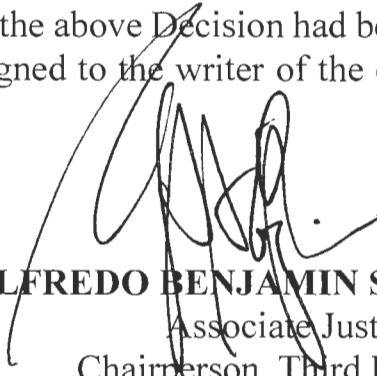
SAMUEL H. GAERLAN
Associate Justice



JAPAR B. DIMAAMPAO
Associate Justice

ATTESTATION

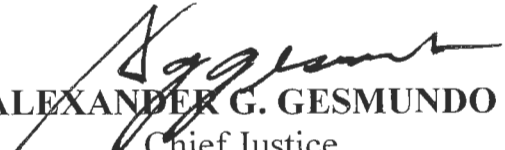
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division 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

