



Republic of the Philippines
 Supreme Court
 Baguio City

SECOND DIVISION

PEOPLE OF THE G.R. No. 249323
 PHILIPPINES, Plaintiff-Appellee, Present:

- versus -

ISAGANI LAURENCE DE
 GUZMAN NICOLAS and
 LEONARDO ROSARIO
 NICOLAS, JR.,
 Accused-Appellants.

LEONEN, J., Chairperson,
 LAZARO-JAVIER,
 LOPEZ, M.,
 LOPEZ, J., and
 KHO, JJ.

Promulgated:

JAN 11 2023

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DECISION

LOPEZ, J., J.

This Court resolves an Appeal¹ from the Decision² and Resolution³ of the Sandiganbayan finding Isagani Laurence de Guzman Nicolas (*Isagani*) and Leonardo Rosario Nicolas, Jr. (*Leonardo*) guilty beyond reasonable doubt of the crime of direct bribery, defined and penalized under Article 210 of the Revised Penal Code.

Isagani and Leonardo were charged with direct bribery in an Information⁴ which reads:

That on July 14, 2017, or sometime prior or subsequent thereto, in Lingayen, Pangasinan, Philippines, and within the jurisdiction of this

¹ Rollo, pp. 83–88.

² *Id.* at 3–82. The Sandiganbayan’s May 24, 2019 Decision in SB-17-CRM-1509 was penned by Presiding Justice Amparo M. Cabotaje-Tang, and concurred in by Associate Justices Bernelito R. Fernandez and Sarah Jane T. Fernandez of the Special Third Division, Sandiganbayan, Quezon City.

³ *Id.* at 320–333. The Sandiganbayan’s August 13, 2019 Resolution in SB-17-CRM-1509 was penned by Presiding Justice Amparo M. Cabotaje-Tang, and concurred in by Associate Justices Bernelito R. Fernandez and Sarah Jane T. Fernandez of the Special Third Division, Sandiganbayan, Quezon City.

⁴ Sandiganbayan *rollo*, vol. I, pp. 1–2.

Honorable Court, accused Leonardo Rosario Nicolas, Jr., a public officer, being an Associate Graft Investigation Officer III of the Office of the Ombudsman assigned at the Field Investigation Office, and in connection with the performance of his official functions as such, conspiring with accused Isagani Laurence de Guzman Nicolas, Labor Arbiter of the National Labor Relations Commission, Sub-Regional Arbitration Branch No. 1, Pangasinan, abusing and taking advantage of their respective positions, did then and there, willfully, unlawfully and feloniously extort and demand from Amado T. Espino, Jr., through Arturo V. Soriano, the amount of THREE MILLION PESOS (₱3,000,000.00) in consideration of the performance of an unjust act and/or an act constituting a crime, that is, the facilitation of the dismissal of three (3) cases filed against Amado T. Espino, Jr. and Jumel Anthony I. Espino allegedly pending investigation before the Field Investigation Office of the Office of the Ombudsman, to which Amado T. Espino, Jr. agreed to the demand of the accused after coordinating with the National Bureau of Investigation – Special Task Force which then organized an entrapment operation on or about July 21, 2017, resulting in said accused being caught in the act of receiving an envelope supposedly containing the amount of THREE MILLION PESOS (₱3,000,000.00) but actually consisting of fifty (50) marked one thousand pesos bills and the rest (one thousand pieces) all boodle bills, to the damage and prejudice of Amado T. Espino, Jr. in particular, and the government and the public, in general.

CONTRARY TO LAW.⁵

Isagani and Leonardo pleaded not guilty when arraigned.⁶ After pre-trial, trial on the merits ensued.

Geraldine Ubana-Baniqued (*Baniqued*), provincial legal officer of Pangasinan, averred that around the second week of May 2017, Leonardo, using the mobile phone number 09209474974, called her up and introduced himself as Atty. Leonardo Nicolas, an employee of the Office of the Ombudsman. Leonardo told her that he got her number from a fellow lawyer from Pangasinan and that he knows her connection to the Espino family given her position in the local government unit. He informed her that the Office of the Ombudsman received a complaint against Mayor Jumel Anthony I. Espino (*Mayor Espino*), and as a resident of Pangasinan, he became concerned and wanted to help. If the mayor would cooperate, he could facilitate the dismissal of the said case. When Baniqued relayed the matter to Mayor Espino, the latter was already aware of the complaint and told her that the municipality's problem with the Commission on Audit concerning the construction of a medical facility had been resolved and remedial measures were being undertaken to comply with the standards set by the Commission on Audit and the Department of Health. Baniqued relayed this information to Leonardo when he called her again. The information, however, did not deter Leonardo. He said that the matter should be taken seriously as it could lead to preventive suspension and insisted that they meet so he could show her a copy of the complaint as well as the documents from the Office of the Ombudsman

⁵ *Id.*

⁶ *Id.* at 210.

recommending for the preventive suspension of Mayor Espino for six months. Leonardo even bragged that the said documents would have already been released had it not been for his timely intervention. When Mayor Espino heard about this, he agreed to see the documents mentioned by Leonardo. Thus, Baniqued agreed to meet with the latter.⁷

At around 12:00 p.m. of May 26, 2017, Baniqued met with Leonardo at Consuelo's Restaurant in Lingayen, Pangasinan. Upon the instruction of Mayor Espino, she was accompanied by Municipal Administrator Amado Aquino and a policeman whom she simply knew as "Tuazon." During the meeting, Leonardo reiterated his offer to help Mayor Espino. He showed Baniqued several documents, one of which was an "Evaluation Report." After much prodding, Leonardo allowed her to take a picture of some of the documents to show the mayor. When asked how he could help the mayor, Leonardo answered that they could settle the case by providing PHP 150,000.00 to PHP 250,000.00 per allegation, or a total of at least PHP 1,350,000.00.⁸

Aghast at what transpired during the meeting, Mayor Espino told Baniqued that he will not deal with a crook. Baniqued relayed the message to Leonardo, but the latter was not at all discouraged. He remained persistent, and texted and called her everyday to settle the alleged case. Baniqued claimed that when Leonardo did not get a positive response from the mayor, he then mentioned that there were also cases filed against Representative Amado T. Espino, Jr. (*Representative Espino*). Irked by the incessant calls and text messages from Leonardo, and upon instruction of Representative Espino, Baniqued gave Leonardo the mobile phone number of Arturo V. Soriano (*Soriano*), provincial accountant of Pangasinan, and told him to call Soriano instead.⁹

Representative Espino recalled that in May 2017, Baniqued, his former provincial legal officer, told him that she received a text message from Leonardo offering help for the dismissal of the complaint of a resident of Bugallon, Pangasinan about a report of the Commission on Audit allegedly filed against Mayor Espino, his son. Upon learning that it was actually the mayor who complained to the Commission on Audit regarding payments made by the past administration, he instructed Baniqued to just listen to what Leonardo had to say. Representative Espino likewise asked for help on the matter from Isagani, whose wife was a member of his staff, and whom he knew since 2001. Isagani, who also happened to be Leonardo's cousin, agreed to talk to the latter.

⁷ Sandiganbayan *rollo*, vol. II, pp. 186–187.

⁸ *Id.* at 187–188.

⁹ *Id.* at 188–189.

Subsequently, Isagani told Representative Espino that there were three cases filed against him and that they were asking for PHP 3 million. Furious with what he heard, Representative Espino just kept mum and told Isagani “*sige tingnan natin di ko kaya masyado malaki.*” He was also informed by Baniqued that Leonardo had been texting her and insisting to meet with him. Representative Espino claimed that there was a time when Isagani even threatened him, saying, “*Sir, mapilit sila baka masuspindi si Jumel.*” After hearing this, he told Isagani to talk to Soriano as he did not want to proceed with the transaction, and he wanted to buy time and find out how deep Isagani was involved.¹⁰

On July 14, 2017, Soriano contended that he received a text message from mobile phone number +639422607018 requesting for a meeting. When he replied to the text message, a person called him up and introduced himself as Atty. Gani Nicolas, who turned out to be Isagani, and requested for a meeting to discuss a complaint which he claimed was filed against Mayor Espino and Representative Espino when the latter was still the governor of Pangasinan. Isagani claimed to know someone who can help get the cases dismissed. Thus, they agreed to meet at Star Plaza Hotel in Dagupan City at around 7:30 p.m. to discuss the complaints.¹¹

When Soriano arrived at Star Plaza Hotel, a man went up to him and introduced himself as Isagani. They decided to transfer to Lenox Hotel and arrived there at around 8:00 p.m. After 20 minutes, another man arrived whom Isagani introduced as Atty. Leonardo Nicolas, later known as Leonardo. During their meeting, Leonardo introduced himself as a lawyer and an employee of the Office of the Ombudsman, and showed to him documents purporting to be three separate complaints against Mayor Espino and Representative Espino. According to Soriano, Leonardo asked for PHP 1 million per complaint, or a total of PHP 3 million, in exchange for facilitating the dismissal of the complaints. Sensing his surprise and apprehension, Leonardo assured Soriano that it was not his first time to have such kind of transaction, as he had in the past facilitated the dismissal of a complaint filed with the Office of the Ombudsman against a mayor in Pangasinan. Soriano replied that he would relay the message to Representative Espino. On July 16 and 18, 2017, Soriano received text messages from Leonardo following up on his demand. In a phone call on July 19, 2017, Leonardo informed Soriano that the complaints against Mayor Espino and Representative Espino would be docketed, and that Mayor Espino would be suspended. Soriano relayed this message to Representative Espino.¹²

Without wasting time, Representative Espino instructed Soriano and Baniqued to seek assistance from the National Bureau of Investigation and the Office of the Ombudsman so that appropriate action could be taken. After

¹⁰ *Id.* at 203–205.

¹¹ *Id.* at 180–181.

¹² *Id.* at 181–182.

they came up with a plan to entrap Leonardo, Soriano texted the latter and set up a meeting with him on July 21, 2017 at 5:00 p.m. at the Capitol Resort Hotel, Capitol Compound, Pangasinan.¹³

Investigation Agent III Zack Hansel Asi Balba (*Agent Balba*) and Agent Ric James G. Espino (*Agent Espino*) of the National Bureau of Investigation Special Task Force were assigned to plan an entrapment operation against Leonardo and his possible companion. In the morning of July 21, 2017, a pre-operation briefing was conducted at the residence of Representative Espino. Entrapment money amounting to PHP 3 million in PHP 1,000.00 bills were prepared and placed inside an envelope. Of the said amount, only PHP 200,000.00, which came from Representative Espino were genuine. Fifty pieces of these were marked by Agent Balba with his initials “ZHB.” It was agreed that Soriano will be accompanied to the meeting by Agent Espino, who will pose as his assistant, together with Baniqued. To signify that an exchange of the money and documents had been made, they agreed that Agent Espino was to open the door of the function room.¹⁴

Soriano, Baniqued, Agent Espino, and the other operatives arrived at the Capitol Resort Hotel at around 5:00 p.m. Agent Balba and the other operatives positioned themselves strategically inside the hotel. Seeing that Leonardo and Isagani were sitting at the hotel cafeteria, Soriano invited them to the function room. Once inside, Leonardo asked about the money by saying, “*dala mo na?*” to which Soriano responded, “*eto na.*” Soriano then asked about the order supposedly dismissing the complaint against Mayor Espino. After reading the “Evaluation Report” given to him by Leonardo which appeared to recommend the dismissal of the complaint against Mayor Espino and bear the approval of the Office of the Ombudsman officials, Soriano handed to Leonardo an envelope containing the money.¹⁵ As soon as Leonardo got hold of the envelope, Agent Espino opened the door of the function room to signify that the exchange had been made. The operatives quickly rushed inside and arrested Leonardo and Isagani. Among the items recovered were the marked money and the signed Evaluation Report. Leonardo and Isagani were then brought to the NBI Office in Manila for booking, fingerprinting and photographing, and the case was endorsed to the Office of the Ombudsman for inquest proceedings.¹⁶

Isagani denied his involvement in the crime charged. According to him, his relatives introduced Leonardo as a distant relative during a get-together he hosted on May 27, 2017 at his residence in Pangasinan. They started calling each other *pinsan* and exchanged numbers. At one point, Leonardo asked him if he personally knew Representative Espino and Mayor Espino. When he told Leonardo that he knew Representative Espino, the former asked him if

¹³ *Id.* at 182–183, 204.

¹⁴ *Id.* at 183, 194–195, 198–200.

¹⁵ *Id.* at 183–184, 189, 195, 199–200.

¹⁶ *Id.* at 183–184, 189–190, 195–196, 199–200.

he could introduce him, to which he replied that he will try. Leonardo then showed to him documents which appeared to be anonymous complaints against Mayor Espino. Isagani briefly glanced at the documents and advised Leonardo outright to refrain from handling cases involving officials from Pangasinan as it may create doubt on his integrity. He returned the documents to Leonardo and they continued drinking until 8:00 p.m.¹⁷

Shortly thereafter, when Isagani visited his wife at her office, Representative Espino asked him if he knew Leonardo. He replied that he recently learned that Leonardo was a distant relative. Subsequently, on July 14, 2017, between 6:30 a.m. and 7:00 a.m., Isagani claimed that he received a call from Representative Espino informing him that Soriano and Leonardo will meet that evening, and requesting him to introduce Leonardo to Soriano. Representative Espino told Isagani that he will give him Soriano's number and that will be his cue to call or text Soriano. When Representative Espino gave him Soriano's number, he immediately sent Soriano a text message and introduced himself. They agreed to meet at the Star Plaza Hotel. Since the hotel was packed when they arrived, they decided to look for another hotel. He was the one who informed Leonardo that the venue of the meeting was changed to Lenox Hotel. When Leonardo arrived, he introduced him to Soriano and then they ordered food and drinks. Isagani denied participating in what was being discussed by Soriano and Leonardo. He claimed that he was busy eating his dinner while the two talked. He could not hear their conversation because they were discussing in a low voice and the sound of the hotel drowned their conversation.¹⁸

As for the July 21, 2017 meeting arranged by Soriano, Isagani claimed he attended the same because he was requested by Leonardo to do so. He initially declined to accompany him as he had a scheduled meeting with officers from the Teachers Association of the Philippines Inc., but he was eventually prevailed upon. He was the first to arrive at the Capitol Resort Hotel, followed by Leonardo. When Soriano arrived with Baniqued, they signaled to him and Leonardo for them to transfer to the function room. Isagani acceded to their request since Baniqued was a friend. Inside the room, Leonardo talked with Soriano while he exchanged pleasantries with Baniqued. Isagani claimed that there was no one else present inside the room except for the four of them. When Soriano placed a brown envelope on the table, a group of agents from the National Bureau of Investigation, accompanied by some media outfits, barged into the room and arrested him and Leonardo. Thereafter, they were detained at the National Bureau of Investigation and underwent investigation by the Office of the Ombudsman. Isagani claimed that Leonardo confessed to him that he was not a lawyer and apologized to him for dragging him into the situation.¹⁹

¹⁷ *Id.* at 222–223.

¹⁸ *Id.* at 221–225.

¹⁹ *Id.* at 224–226.

Jose D. Rivera and Purificacion M. Dela Cruz, the general manager and treasurer, respectively, of the Teachers Association of the Philippines Inc., confirmed that Isagani had a meeting with its officers scheduled on July 21, 2017, the venue of which was transferred to the Capitol Resort Hotel upon the request of the latter.²⁰

Testifying for Isagani, Leonardo corroborated the former's account that: (a) they first met on May 27, 2017 at Isagani's residence in Pangasinan; (b) he asked Isagani if he can introduce him to Representative Espino when the former learned that the latter knew the representative; (c) he showed to Isagani a copy of the complaint against the Espinos; (d) Isagani advised him to inhibit from the case and have it investigated by someone else to avoid bias; (e) he asked Isagani to accompany him to a meeting with Soriano on July 14, 2017 which Isagani initially turned down; (d) during the July 14, 2017 meeting, Isagani just ate his dinner and had some beer, while he and Soriano conferred with each other; (e) he again requested Isagani to accompany him to a meeting with Soriano arranged on July 21, 2017, which Isagani also initially turned down because he had a previously scheduled meeting with the Teachers Association of the Philippines Inc. officers; (f) Isagani arrived at the Capitol Resort Hotel on July 21, 2017 ahead of him, and when Soriano and Baniqued arrived, they invited them to transfer to another room; (g) inside, he conversed with Soriano, while Isagani conversed with Baniqued; (h) after Soriano placed a brown envelope on the table, a group of agents from the National Bureau of Investigation entered the room and arrested him and Isagani. Leonardo also asserted that Isagani had nothing to do with the transaction with Soriano and the issue involved in the present case, because Isagani was only there to accompany him.²¹

As sole witness for himself, Leonardo asserted that he did not know Soriano, and the latter was the one who first contacted him. During the meeting set up by Soriano on July 14, 2017, Soriano asked him how the case against Representative Espino could be dismissed. He explained that the complaint pertained to an anonymous complaint he received sometime in May 2017 against Representative Espino. He admitted not preparing an intelligence report regarding the complaint and having it docketed. At the meeting held on July 21, 2017, Leonardo handed to Soriano a sample resolution of dismissal as requested by the latter in their previous meeting; and the latter then placed an envelope on top of the table in front of him. Immediately thereafter, National Bureau of Investigation operatives barged in and arrested him. He denied touching and peering through the contents of the envelope as claimed by the prosecution witnesses. Leonardo argued that what transpired on July 21, 2017 was not an entrapment operation but a frameup inasmuch as he never demanded money from Soriano at any time and he was not the one who set up the meeting on the said date.²²

²⁰ *Id.* at 211–214.

²¹ *Id.* at 214–220.

²² *Id.* at 58, 59, 60, 228, 229, 230, 231.



In its Decision,²³ the Sandiganbayan found Leonardo and Isagani guilty of direct bribery and were sentenced to suffer the indeterminate penalty of imprisonment of two years and four months of *prision correccional* in its minimum period, as minimum, to four years and two months of *prision correccional* in its medium period, as maximum, and to pay a fine of PHP 6 million each with subsidiary imprisonment in case of insolvency, and special temporary disqualification from holding public office.²⁴

The Sandiganbayan found all the elements of direct bribery to have been sufficiently established given that: (a) both Leonardo and Isagani were shown to be public officials; (b) it was proven that Leonardo demanded and received an envelope containing PHP 3 million boodle money in a valid entrapment operation; (c) the money was shown to have been received in exchange for Leonardo's assistance in facilitating the dismissal of the alleged cases against the Espinos; and (d) the promised act of facilitating the dismissal of the cases against the Espinos was shown to directly relate to the exercise of Leonardo's functions as Associate Graft Investigation Officer III at the Office of the Ombudsman.²⁵

In convicting Isagani, the Sandiganbayan held that he conspired with Leonardo in extorting money from the Espinos. There is no question that Isagani acted as a bridge between the Espinos and Leonardo. He introduced them to each other even if he already knew that there were already complaints received by Leonardo against the Espinos. Although the introduction was upon the request of Representative Espino, Isagani's repeated presence in both the July 14 and July 21, 2017 meetings indicated a willing participation over the requested introduction.²⁶

In its Resolution,²⁷ the Sandiganbayan denied the motions for reconsideration separately filed by Leonardo and Isagani.

Undeterred, Leonardo and Isagani appealed to this Court.²⁸

In its Resolution,²⁹ this Court required the parties to submit their respective briefs if they so desired. Only Isagani³⁰ and the Office of the Ombudsman³¹ did so.

²³ Sandiganbayan *rollo*, vol. II, pp. 176–256.

²⁴ *Id.* at 255.

²⁵ *Id.* at 233–253.

²⁶ *Id.* at 254.

²⁷ *Id.* at 335–348.

²⁸ *Id.* at 357–358, 360–361.

²⁹ *Rollo*, p. 90. Supreme Court Notice of Resolution dated February 10, 2020.

³⁰ *Id.* at 97–238.

³¹ *Id.* at 353–372.



Isagani asseverated that he should be absolved of the charge for direct bribery given that the prosecution failed to prove his guilt beyond reasonable doubt.³² He pointed out that the affidavit of Representative Espino only mentioned Leonardo as the person who kept on following up on his offer to help the Espinos settle their alleged cases, while the affidavit of Baniqued never mentioned his involvement in the extortion case. On the other hand, the affidavit of Soriano only mentioned how he was introduced by him to Leonardo and his passive presence during the July 21, 2017 meeting. He was also mentioned by the operatives in their joint affidavit of arrest only as a part of the narration leading to the transaction that transpired on July 21, 2017, but not as a perpetrator of the crime charged.³³

However, Isagani averred that he only introduced Leonardo to Soriano upon the behest of Representative Espino, which both Soriano and Representative Espino admitted when they were cross-examined. He also claimed that he joined Leonardo at the Capitol Resort Hotel's canteen on July 21, 2017 by mere coincidence.³⁴

Since Isagani's name was never mentioned in any of the said affidavits as perpetrator of the crime and the prosecution had no direct evidence to show his actual participation in the crime charged, Isagani claimed that the prosecution had to stretch the truth to make it appear that he conspired with Leonardo in order to justify his arrest. This is readily apparent from the testimony of Representative Espino, who all of a sudden put up a story of Isagani's involvement in the extortion case by claiming that he asked PHP 3 million from the representative to facilitate the dismissal of the cases filed against him, when it was Representative Espino who actually requested him to talk to Leonardo and see what can be done about the case filed against his son. Representative Espino's claim that he was trying to find out how deep Isagani's involvement was in the case contradicted his admission that he was the one who "*opened the topic to [Isagani]*" and requested for his help about his son's case. Moreover, if it were true that Representative Espino, from the very start, already had an inkling of his involvement in the case, he should have already included his suspicions in his affidavit and he should have not agreed to entrap Leonardo only. Even Soriano confirmed that the representative's instruction was to coordinate with the National Bureau of Investigation for the entrapment solely of Leonardo.³⁵

Isagani contended further that the Sandiganbayan erroneously ruled that he was guilty of direct bribery even if out of the four elements of the crime, only one—that is his being a public officer—was proven on the supposition that he conspired with Leonardo. He argued that the

³² *Id.* at 132.

³³ *Id.* at 132–142.

³⁴ *Id.* at 142–149.

³⁵ *Id.* at 149–165.



Sandiganbayan had no basis to treat his presence in the July 14 and July 21, 2017 meetings as indication of his willing participation and complicity to the crime, by concluding without any evidence, that he acted as a bridge between the Espinos and Leonardo just because he still introduced Soriano to Leonardo despite his knowledge of the complaints received by Leonardo against the Espinos and the impropriety of the meeting being requested by Leonardo. Isagani reiterated that he introduced Leonardo to Soriano because of Representative Espino's request and that he had no knowledge of the ongoing transaction between Leonardo and Soriano. Isagani added that there is no predicate from his past actuations that would give ground to the Sandiganbayan's conclusion that what he said during the July 14, 2017 meeting, that is, "*O kayo na ang bahala dyan. Basta ako dito lang ako. Ikaw na bahala magpaliwanag kung ano yan,*" and his reply, "*we should ask from Mr. Soriano,*" after Baniqued asked the waiter in jest if he had cash during the July 21, 2017 meeting, pertained to the money that will be exchanged for a copy of the evaluation report dismissing the complaints against the Espinos.³⁶

Moreover, Isagani claimed that the Sandiganbayan ventured in speculation when it ruled that he actively participated in the two meetings when Soriano clearly testified that only he and Leonardo directly communicated with each other in the July 14, 2017 meeting, and that they set up the meeting without his knowledge and participation. Isagani insisted that he was simply in the wrong place at the wrong time when he was arrested. He was present during the July 21, 2017 meeting due to the insistent prodding of Leonardo for him to accompany the latter. He was actually surprised when Soriano and Baniqued invited him to join the meeting. Since he previously met Soriano and is acquainted with Baniqued, he acceded to their invitation while waiting for the arrival of the Teachers Association of the Philippines Inc. officers with whom he had a scheduled meeting. Leonardo, too, admitted these facts against his own interest, and stated further that he acted on his own, and without the knowledge and participation of Isagani. The statement alone of Leonardo negated the alleged common design and purpose between him and Leonardo as would make him liable as a co-conspirator; and would make Leonardo solely responsible for the crime.³⁷

For its part, the Office of the Ombudsman averred that the Sandiganbayan correctly found Leonardo and Isagani guilty of the crime of direct bribery since it has been shown that Leonardo, in conspiracy with Isagani, both of whom are indubitably public officers, demanded and received PHP 3 million from Representative Espino, through Soriano, in exchange for the dismissal of three complaints pending investigation with the Office of the Ombudsman against Representative Espino and his son, Mayor Espino. As a field investigator of the Office of the Ombudsman, Leonardo was clearly in the position to manipulate the outcome of the complaints filed against the Espinos by recommending their dismissal as well as terminating the

³⁶ *Id.* at 168–177.

³⁷ *Id.* at 180–185, 187, 207–219.

investigation against them. Conspiracy is demonstrated by the fact that despite the impropriety of Leonardo's request to deal and coordinate with public officials with pending cases with the Office of the Ombudsman, Isagani still willingly assented and facilitated the meeting between Leonardo and Soriano. Isagani also transferred the venue of his meeting with Teachers Association of the Philippines Inc. officers to the Capitol Resort Hotel for him to be able to accommodate the request of Leonardo for him to attend the meeting with Soriano on July 21, 2017, validating his positive acquiescence to the corrupt and malevolent scheme of Leonardo and shows his clear interest in the transaction. Moreover, despite his foreknowledge of Leonardo's plan to extort money from the emissary of the Espinos, Isagani did not stop the latter. Instead, he willingly cooperated with Leonardo in the consummation of his plan to extort money from them.³⁸

The sole issue for this Court's resolution is whether the Sandiganbayan correctly convicted Leonardo and Isagani of the crime of direct bribery under the Revised Penal Code.

This Court's Ruling

This Court affirms the conviction of Leonardo, but acquits Isagani of the crime charged.

The crime of direct bribery is defined in Article 210 of the Revised Penal Code as follows:

Article 210. Direct Bribery. – Any public officer who shall agree to perform an act constituting a crime, in connection with the performance of his official duties, in consideration of any offer, promise, gift or present received by such officer, personally or through the mediation of another, shall suffer the penalty of prision mayor in its medium and maximum periods and a fine of not less than three times the value of the gift in addition to the penalty corresponding to the crime agreed upon, if the same shall have been committed.

If the gift was accepted by the officer in consideration of the execution of an act which does not constitute a crime, and the officer executed said act, he shall suffer the same penalty provided in the preceding paragraph; and if said act shall not have been accomplished, the officer shall suffer the penalties of prision correccional, in its medium period and a fine of not less than twice the value of such gift.

If the object for which the gift was received or promised was to make the public officer refrain from doing something which it was his official duty to do, he shall suffer the penalties of prision correccional in its maximum period to prision mayor in its minimum period and a fine of not less than three times the value of such gift.

³⁸ *Id.* at 361–366.

In addition to the penalties provided in the preceding paragraphs, the culprit shall suffer the penalty of special temporary disqualification. The provisions contained in the preceding paragraphs shall be made applicable to assessors, arbitrators, appraisal and claim commissioners, experts or any other persons performing public duties.

To sustain a conviction for the crime of direct bribery, the following essential elements must be proved: (a) the offender is a public officer; (b) the offender accepts an offer or promise, or receives a gift or present, directly or through another; (c) such offer or promise was accepted, or gift or present was received, by the public officer, as a consideration for committing some crime, or executing an act which does not constitute a crime but the act must be unjust; or refraining from doing something which is his official duty to do; and (d) the crime or act which the offender agrees to perform or execute relates to the exercise of his functions as a public officer.³⁹

A circumspect review of the records of this case would reveal that all elements of the crime of direct bribery had been proven beyond reasonable doubt insofar as Leonardo is concerned.

Leonardo is a public officer

There is no dispute that Leonardo is a public officer, having admitted that he was an Associate Graft Investigation Officer III of the Field Investigation Office of the Office of the Ombudsman at the time material to this case.⁴⁰

*Leonardo personally received
the PHP 3 million bribe money*

The prosecution evidence clearly established that Leonardo personally received the PHP 3 million boodle money, the amount he demanded from the Espinos, through the latter's intermediary, on July 21, 2017 in a valid entrapment operation by the National Bureau of Investigation.

Records show that when Leonardo received an anonymous complaint against Mayor Espino sometime in May 2017, he lost no time in looking for a connection to the mayor. He managed to get the contact number of Baniqued, a confidant of the Espinos, through a group of lawyers from Pangasinan. During a phone call to Baniqued sometime in May 2017, Leonardo intimated that the mayor had a pending complaint with the Office

³⁹ *Mangulabnan v. People*, G.R. No. 236848, June 8, 2020. [Per J. Perlas-Bernabe, Second Division], at 5. This pinpoint citation refers to the copy of this Decision uploaded to the Supreme Court website. (Citation omitted)

⁴⁰ *Sandiganbayan rollo*, vol. I, p. 272.

of the Ombudsman and that he can help get it dismissed. Leonardo continued pressuring Baniqued to persuade the mayor to agree to his offer. Due to his persistence and upon the instruction of Mayor Espino, Baniqued met with Leonardo at Consuelo's Restaurant on May 26, 2017. During the said meeting, Leonardo repeated his offer to help facilitate the dismissal of the said complaint, but at the same time demanded money in exchange for his assistance. To convince her that a complaint was really filed against the mayor, Leonardo showed to her a document⁴¹ dated May 9, 2017 which recommended that the complaint be formally docketed, investigation commenced, and the mayor preventively suspended.⁴² Baniqued's testimony is apropos:

6. With regard Leonardo Nicolas, Jr., how did you come to know him?

A: I received phone calls and exchanged text messages with him. I also met him personally at Consuelo's Restaurant in Lingayen, Pangasinan, ma'am.

7. What were these communications and meeting with Leonardo Nicolas, Jr. about?

A: Basically, Leonardo Nicolas was offering to help with the dismissal of the complaint filed against Mayor Jumel Espino in exchange for or in consideration of P1,350,000.00 and likewise to facilitate the dismissal of cases allegedly filed against the [Representative] Amado Espino, Jr., ma'am.

....

28. Who was with Leonardo Nicolas, Jr. at the time of the meeting at Consuelo's?

A: He was by himself, ma'am.

29. In paragraph 17, you stated that you asked what you should do. How did you ask the question?

A: After showing us the documents,⁴³ I asked the question, "*paano ninyo kami matutulungan?*", ma'am.

30. What was his response to the question?

A: He quickly answered me, "*kasi pag nagse-settle kami ng cases, "P150,000.00 to P250,000.00 per allegation. Ito nine (9) ito kaya P1,350,000.00"*", ma'am.⁴⁴ (Emphasis supplied)

When Mayor Espino refused to accede to his demands despite his repeated follow-ups with Baniqued, Leonardo changed tack and saw an opportunity to demand a bigger sum of money by revealing that complaints were also filed against Representative Espino. True enough, when he was referred to Soriano, Leonardo contended that there were three complaints filed

⁴¹ *Id.* at 353–356.

⁴² *Id.* at 350–351.

⁴³ *Id.* at 350–356. One of the documents referred to is a screenshot of documents which appear to be a complaint against Mayor Espino and a report pertaining to the said complaint with recommendation that the same be formally docketed, investigation on the matter commenced, and the mayor preventively suspended.

⁴⁴ Sandiganbayan *rollo*, vol. I, pp. 340–341, 343.

against Mayor Espino and Representative Espino, and demanded PHP 1 million per complaint, or a total of PHP 3 million for the three complaints, in exchange for his help in facilitating the dismissal of the said complaints. Baniqued's testimony clearly shows how Leonardo involved the representative in his scheme:

32. *In par. 21, you stated that you informed Leonardo Nicolas, Jr. that Cong. Espino is not feeling well, how did [Representative] Espino's name suddenly mentioned?*

A: When Leonardo Nicolas, Jr. was not getting any positive *response from Mayor Jumel, he then mentioned that there were cases filed against [Representative] Espino, ma'am.*

33. What case or cases were Leonardo Nicolas, Jr. referring to?

A: He did not elaborate except to say that they were cases when he was still a "mambabatas", ma'am.

34. Why did you advise Leonardo Nicolas, Jr. to talk to the Provincial Accountant, Arturo Soriano?

A: Candidly, I was getting irritated by his constant calls and text messages and it was really getting awkward because I had nothing more to say to him, ma'am.

35. Whose idea was it to refer Leonardo Nicolas, Jr. to Mr. Arturo Soriano?

A: It was the idea of [Representative] Espino, ma'am.⁴⁵ (Emphasis supplied)

Soriano's testimony corroborates Baniqued's account and showed how Leonardo used the complaints against the representative to extort more money from the Espinos:

42. When you arrived at Lenox Hotel, what happened?

A: After around 20 minutes, a man arrived whom Labor Arbiter Nicolas introduced as Atty. Leonardo Nicolas of the Office of the Ombudsman.

43. What transpired afterwards?

A: We ordered food and drinks and proceeded to discuss the alleged complaint against Mayor Jumel Anthony I. Espino and Representative Amado T. Espino.

44. *What happened during that meeting?*

A: *Leonardo Nicolas, Jr. stated that he was a lawyer and employee of the Office of the Ombudsman. He showed us documents which purport to be three separate complaints against Mayor Jumel I. Espino and [Representative] Amado T. Espino.*

45. *What else, if any, transpired during that meeting?*

A: *Leonardo R. Nicolas, Jr. asked for P1 Million per complaint or a total of P3 Million and in exchange he will facilitate the dismissal of the complaints.*⁴⁶ (Emphasis supplied)

⁴⁵ *Id.* at 343-344.

⁴⁶ *Id.* at 298-299.

Annoyed for not getting the response he expects from his offer to help despite his repeated follow-ups, Leonardo called Soriano on July 19, 2017 warning the latter that the complaints against the Espinos will be docketed and that Mayor Espino will be suspended in order to pressure them into agreeing with what he wants. Informed of this development by Soriano and alarmed that things are getting out of hand, Representative Espino directed the former to coordinate with the National Bureau of Investigation and the Office of the Ombudsman for the conduct of an entrapment operation.⁴⁷

As instructed, Soriano referred the matter to the National Bureau of Investigation and the Office of the Ombudsman. Thus, in a letter⁴⁸ dated July 20, 2017, Deputy Ombudsman Gerard A. Mosquera, as Chairman of the Internal Affairs Bureau of the Office of the Ombudsman, requested the assistance of the National Bureau of Investigation in the investigation and validation of reports received by the office regarding illegal and unjust activities of certain employees of the Office of the Ombudsman in its Pangasinan office. In a Memorandum⁴⁹ dated July 20, 2017, National Bureau of Investigation Special Task Force Chief Moises B. Tamayo favorably endorsed the letter-request from the Office of the Ombudsman to National Bureau of Investigation Director Dante A. Gierran and requested for authority to investigate the case and to set the necessary counter-action measures. This memorandum was approved by Director Gierran and the case was referred to Agents Balba and Espino.⁵⁰

Agents Balba and Espino similarly testified that when they received instructions to investigate and prepare for the entrapment and arrest of Leonardo and his possible cohorts, they immediately prepared the necessary paperwork, as well as the entrapment money.⁵¹ Only PHP 200,000.00 worth of entrapment money, in PHP 1,000.00 denomination, were real money. Agent Balba marked his initials “ZHB” to 50 pieces of these, and thereafter prepared a memorandum⁵² requesting for the serial numbers of the marked bills to be logged in the duty agent’s log book, attaching therewith machine copies⁵³ of the said marked bills.⁵⁴ After the proper coordination with the Philippine National Police had been made on July 21, 2017, the entrapment team proceeded to the residence of Representative Espino to carefully plan the entrapment operation that will take place later that afternoon. It was agreed that Soriano, Baniqued and Agent Espino will be present during the meeting with Leonardo at the Capitol Resort Hotel at 5:00 p.m. of the same

⁴⁷ *Id.* at 299–301; TSN, April 24, 2018, pp. 18–19.

⁴⁸ Sandiganbayan *rollo*, vol. I, p. 564.

⁴⁹ *Id.* at 565.

⁵⁰ *Id.* at 395–397, 464–465, 565.

⁵¹ *Id.* at 397, 464–465.

⁵² *Id.* at 583.

⁵³ *Id.* at 584–596.

⁵⁴ *Id.* at 398–399.

date.⁵⁵ Soriano was instructed to personally hand over the marked money to Leonardo.⁵⁶

Soriano, Baniqued, and Agent Espino categorically and convincingly testified that they met Leonardo and Isagani at the Capitol Resort Hotel at around 5:00 p.m. of July 21, 2017. When they were all seated inside the function room, Leonardo asked Soriano, “*dala mo na?*,” referring to the money he was demanding. Soriano responded, “*eto na,*” and then inquired about the document Leonardo promised. Leonardo then brought out an evaluation report.⁵⁷ After reading the document, Soriano handed to him a light brown expandable envelope containing the marked money, which Leonardo opened slightly and he peered through its contents. Agent Espino then opened the door of the function room as the pre-arranged signal to signify the consummation of the transaction. Immediately thereafter, the National Bureau of Investigation agents arrested Leonardo and Isagani.⁵⁸

Leonardo’s unsubstantiated denial of demanding and receiving PHP 3 million for his assistance in getting the complaints against the Espinos dismissed fails to convince in light of the overwhelming evidence proving the contrary. “A defense of denial, which is unsupported and unsubstantiated by clear and convincing evidence becomes negative and self-serving, deserving no weight in law, and cannot be given greater evidentiary value over convincing, straightforward and probable testimony on affirmative matters.”⁵⁹ Furthermore, “in entrapment cases, credence is given to the narration of an incident by prosecution witnesses who are officers of the law and presumed to have performed their duties in a regular manner in the absence of evidence to the contrary.”⁶⁰

Leonardo received the money in consideration of facilitating the dismissal of complaints, which constitutes an unjust act

The prosecution evidence likewise proved that Leonardo persistently demanded money in return for his assistance to get the complaints against the Espinos dismissed. The text messages exchanged between Leonardo and Baniqued, as well as Soriano, indubitably establish the dogged determination of Leonardo to get the Espinos take on his offer in exchange for bribe money. Screenshots of said exchanges are reproduced *in toto*:

⁵⁵ *Id.* at 400–402, 466–467.

⁵⁶ *Id.* at 304.

⁵⁷ *Id.* at 427–429.

⁵⁸ *Id.* at 304–307, 344–345, 466–471; TSN, March 7, 2018, pp. 27–34, 40–41.

⁵⁹ *People v. Mateo*, 582 Phil. 369, 384 (2008) [Per J. Chico-Nazario, Third Division]. (Citation omitted)

⁶⁰ *People v. Pacis*, 434 Phil. 148, 158 (2002) [Per J. Panganiban, Third Division]. (Citation omitted)

[Leonardo] Gud pm. Panyera, pkisabi kay Gov na dis is not da beginning or da end. Ako n contact nyo s loob & I could help in his black sand mining case. (Sent May 30, 2017)

[Baniqued] will relay po. (Sent May 30, 2017)

[Leonardo] Copy panyera. Likewise, yung naikwento ko rin sau na case nya nung mambabatas pa po sya... (Sent May 30, 2017)

[Baniqued] ok po sir, andito npo sila. (Sent May 30, 2017)

[Leonardo] OK panyera. (Sent May 30, 2017)

[Leonardo] Panyera, musta po? Ano po sbi ni Gov? (Sent May 30, 2017)

[Baniqued] ongoing po mtg. (Sent May 30, 2017)

[Leonardo] Good morning Atty. Kmusta po? (Sent May 31, 2017)

[Baniqued] gdam. Giv me until ds pm. mgkaiba views ni mayor at gov. i left 11pm last nyt, wala pa final. Will call them b4 lunch today, mobile kc nsa daan ako. (Sent May 31, 2017)

[Leonardo] Ok Atty. Twagan nlng po kita myang hapon. Pasensya kc follow-up na po nila sa taas...Ingat. Tnx. (Sent May 31, 2017)

[Leonardo] Gud pm Panyera. Kmusta Atty? (Sent May 31, 2017)

[Leonardo] Gud pm Panyera. Kmusta Atty? May final decision na po ba cla Gov & Mayor? (Sent May 31, 2017)

[Baniqued] as of now, hindi pa po pumayag c mayor. reluctant sya to offer kc sabi nya wala po tloga anomaly. am sori po (Sent May 31, 2017)

[Leonardo] Ic. Cge Atty sbihin ko po s knila bukas. Ang mangyayari po nyan, i4ward na po yung Memo & letter-complaint sa Central Records Division nmin for docketing & eventually fact-finding will commence. Yung iba po kc doon na findings ng COA will not automatically exonerate da respondents for violation of Section 3 (e) of RA 3019. Likewise, PS will be served. (Sent May 31, 2017)

After nmn nyan atty, Makakatulong ako s case ng father nya sa Sandiganbayan. Newly Appointed as Justice doon ang kasamahan ko na c Atty. Bayani Jacinto (Sent May 31, 2017)

[Baniqued] mejo idealistic po kc c mayor, bata pa (Sent May 31, 2017)

[Leonardo] C Gov nlng panyera... (Sent May 31, 2017)

I mean c Gov nlng mag-asikaso nun panyera para Tapos na ... (Sent May 31, 2017)

[Leonardo] Gud morning Atty. Nkausap ko na po mga Boss nmin sa office ngaun. Sabi po nila until today nlng daw po. Kapag wala daw pong napagkasunduan, i-go na for fact-finding yung mga allegations laban kay Mayor. Im sori ... (Sent June 1, 2017)

[Leonardo] Atty, ano pong sabi ni Gov or ni Mayor? (Sent June 1, 2017)

Kindly update me po Atty. Para alam ko po. (Sent June 1, 2017)

[Leonardo] Atty., nga pla kung ni Mayor hingian ko pa ng discount para lang hindi na po ito lumabas sa media & labasan ng PS si Mayor ... (Sent June 1, 2017)

.....

Parang malungkot po kc na Hindi ntin ito naayos bilang abogado... Exhaust po ntin lahat para magkasundo bwat panig. Ipa-extend ko prin po til nxt week na wag pang ipa-docket. Wat do u think atty? (Sent June 1, 2017)

Pwede po b akong Tumawag atty.? (Sent June 1, 2017)

Katapos lng po nmn mag-usap2x. Pumayag po cla na extend until nxt week para maplantsa po ang usapan. Also, pumayag din po cla na babaan sa 100 per case. Shoot n yan Atty. para hindi nman ako mapahiya dito sa office. (Sent June 1, 2017)

Marami na akong natulongan Atty na taga-Pangasinan ... (Sent June 1, 2017)

[Leonardo] Gud pm Atty. Pwede po bng tumawag? (Sent June 2, 2017)

[Leonardo] Gusto pong malaman ng mga boss po nmn kung final n daw po yung decision nila Mayor & Gov? Kc may newly cases daw Po n ntanggap ang office against kay Former Gov. (Sent June 2, 2017)

[Baniqued] as of now, un po decision ni mayor iba po k cong (Sent June 2, 2017)

[Leonardo] Hiramín ko po yung case folder nung cases against kay cong kung gusto nyo po ... (Sent June 2, 2017)

[Baniqued] kayo po. I need to refer to cong again (Sent June 2, 2017)

[Leonardo] Next week n lng po cguro kc nastress po ako dyan sa mga cases ni mayor ... Lage po kc nila akong tinatanong kya kinukulit ko po kau. And worry ko lng po bka hindi na po ipahiram yung case folder against cong. (Sent June 2, 2017)

[Baniqued] firm po kc mayor na wala sya kasalanan at malinis mga transaction (Sent June 2, 2017)

[Leonardo] syempre yun nmn po sasabihin nya to defend himself. titignan po ng office lahat ng anggulo-public bidding, liquidation, implementation, etc. (Sent June 2, 2017)

yung ibang allegations doon panyera alam ntin yun bilang mga abogado na khit ibinalik mo n yung pera sa gov't, may undue injury prin. (Sent June 2, 2017)

pki-convince mo na atty c mayor kc we could build friendship around dat...as i have said, makakatulong ako s black sand mining case ni cong. (Sent June 2, 2017)

pki-convince mo na atty c mayor kc we could build friendship around dat...as i have said, makakatulong ako s black sand mining case ni cong. (Sent June 2, 2017)

so, wat's ur take atty? (Sent June 2, 2017)

[Baniqued] will relay your message (Sent June 2, 2017)

[Leonardo] ok po. Mkikibalita nlng po ako nxt week. Thank u & have a great week ahead. (Sent June 2, 2017)

[Baniqued] have a great weekend ahead too (Sent June 2, 2017)

[Baniqued] Sorry, I can't talk right now. (Sent June 6, 2017)

[Leonardo] Gud pm Atty. Kmusta na po? (Sent June 6, 2017)

Can I call now Atty? (Sent June 6, 2017)

Psensya panyera sa istorbo ... Follow-up po kc ni Asst. Ombudsman. (Sent June 6, 2017)

[Baniqued] am sorry, I relayed info to mayor, said pagisapan nya, but up to now, no new devt. maintains his position ata. (Sent June 6, 2017)

[Leonardo] Copy po. Cge yan po sbhin ko sa knila. Pasensya nlng po kpg na-PS ng 6 months si mayor. Ginawa ko na po lahat ng remedy para si mayor. Ginawa ko na po lahat ng remedy para maayos po sana ... (Sent June 6, 2017)

Tumutulong lng po ako panyera as ut kabaleyan. Kung ayaw po nilang mag-ayos, wala n po akong mgagawa. Pa-TRO nyo nlng po s SC. (Sent June 6, 2017)

Nga pla Atty, yung Nabanggit ko pong mga Kaso ni cong, itry ko pong hiramín case folder kay Asst Ombudsman ... (Sent June 6, 2017)

[Leonardo] Gud am. Atty., baka po pwedeng mgpa-appointment kay cong dis weekend? (Sent June 7, 2017)

[Baniqued] i will ask him po (Sent June 7, 2017)

[Leonardo] Copy po. Salamat (Sent June 7, 2017)

[Baniqued] gdam. cong s very busy these days. he said he will be available only after June 15 (Sent June 8, 2017)

[Leonardo] Gud am din po. Copy Panyera. Likewise, hoping dat Mayor Jumel will eventually decide on da faith of his cases. Thanks! C u nxt week ... (Sent June 8, 2017)

[Leonardo] Gud pm Atty. Katapos plng nmin mag-usap ni Asst Ombudsman. Pinakiusap ko na ihold in abeyance nya muna yung PS ni Mayor Jumel. Sana Maconvince mo na sya Atty dis weekend. Thank u! (Sent June 8, 2017)



[Leonardo] Good pm. Atty. Dindin, musta na po? (Sent June 15, 2017)

[Leonardo] Good morning Atty. Kmusta na po? Available na po b c Cong? (Sent June 16, 2017)

[Baniqued] gdam. 15 lang po khapon. mamaya ko po sya mkkausap (Sent June 16, 2017)

[Leonardo] Ok po. (Sent June 16, 2017)

[Baniqued] gdam po. tumawag c cong. next week pa daw po sya available. inaasikaso po nya ung case with his lawyers/consultants (Sent June 16, 2017)

[Leonardo] gud am din po. wala po bng specific date kung kailan po nxt week? nagagalit na po kc c asst ombudsman sa delay & sa tagal po. (Sent June 16, 2017)

[Baniqued] i can only relay kng ano po sabihin nila, in d same way na nirerelay ko rin po lahat ng sabihin nyo po (Sent June 16, 2017)

[Leonardo] Cge po Atty. Salamat. (Sent June 16, 2017)

[Leonardo] Gud am Atty. Pkisabi po pla kay Cong advance happy bday. Wishing him da best in all his endeavours. Thank u. (Sent June 17, 2017)

[Baniqued] gdam. tnk u. will relay po (Sent June 17, 2017)

[Baniqued] gdam sir. Inform ko lang po kayo, may sakit po c cong. pinapasabi po nya, kung about money issues, c art na po muna kausapin nyo. tnk u po (Sent June 17, 2017)

[Leonardo] GudAm din po. Copy panyera. (Sent June 17, 2017)

[Baniqued] arturo soriano- 09189623133 (Sent June 17, 2017)

[Leonardo] May I know who is he panyera? (Sent June 17, 2017)

May I know who is he panyera? (Sent June 17, 2017)

[Baniqued] art Soriano is one of cong's trusted men, on finances (Sent June 17, 2017)

[Leonardo] Copy atty. Thank u & God bless. (Sent June 17, 2017)⁶¹

.....

[Leonardo] Sir Art, Im on my way to Star Plaza ... Papunta na rin po c Atty. Gani. C u der Sir. (Sent July 14, 2017)

[Soriano] Okay lapit na ako sa star plaza (Sent July 14, 2017)

[Leonardo] Sir, medyo malalate po ako ng konti. Anyway, malapit n rin po c Atty Gani. (Sent July 14, 2017)

⁶¹ Sandiganbayan *rollo*, voi. I, pp. 546–562.

[Soriano] Okay po (Sent July 14, 2017)

[Leonardo] Good morning Sir. Musta po Boss Art? (Sent July 16, 2017)

[Soriano] D ko pa nakausap ksi may sakit cya d pa istorbo (Sent July 16, 2017)

[Leonardo] Copy po Boss Art. (Sent July 16, 2017)

[Leonardo] Good afternoon po Boss Art. Kmusta na po Sir? Nagfollow-up po kc mga superiors ko ... (Sent July 18, 2017)

[Soriano] Nakausap ko na cong pwde daw nxt week na daw ta busy cya (Sent July 18, 2017)

[Leonardo] So, we will not meet dis coming Saturday or Sunday Sir? (Sent July 18, 2017)

[Soriano] Yup baka I ready ko na lahat para matapos na at wala na kami problema sir (Sent July 18, 2017)

[Leonardo] Copy po Sir. Sbhin ko po sa mga superiors ko...Thank u po Sir. C u on July 29 or 30. (Sent July 18, 2017)

[Soriano] Baka earlier po mga 28 ganon sir (Sent July 18, 2017)

[Leonardo] Copy po Sir. Pki-kumpleto nyo na po Boss para hndi n rin po kau maabala. Nga po pala Sir, kunin ko rin po yung 2 pangalan na pinaiimbestigahan ni Boss ... (Sent July 18, 2017)

[Soriano] Ay d ko natanong txt ko na lang ta nagmamadali ksi si cong (Sent July 18, 2017)

[Leonardo] Copy po. (Sent July 18, 2017)

[Soriano] Okay tnx po (Sent July 18, 2017)

[Soriano] Gud pm sir my update ako sa inyo sir (Sent July 19, 2017)

[Leonardo] Gud pm din po Boss. Late reply, sportsfest po nmn sa office. Ano po yun Sir? (Sent July 19, 2017)

[Soriano] May lakad si cong next week pwede itong week na lang tayo (Sent July 19, 2017)

[Leonardo] Cge po Boss. Kelan po? (Sent July 19, 2017)

[Soriano] Pwede ka ng friday ng hapon (Sent July 19, 2017)

[Leonardo] Copy po Sir. Wat time po Accountant (Sent July 19, 2017)

[Soriano] Friday 5 pm sa capitol resort tayo (Sent July 19, 2017)

[Leonardo] Copy po Sir. Isama ko prin po b c Atty. Gani? (Sent July 19, 2017)

[Soriano] Ilan lang kong gusto mong isama (Sent July 19, 2017)

[Leonardo] Ok po Sir. Copy po. C u on Friday Sir. Thank u & God bless.
(Sent July 19, 2017)

[Leonardo] Gud pm P. Accountant. Sir, on da way na po ako ... (Sent July 21, 2017)

[Soriano] Okay (Sent July 21, 2017)

[Leonardo] Copy po Sir Boss, andito na po ako ... (Sent July 21, 2017)

[Soriano] Wait lang time out muna ako (Sent July 21, 2017)

[Leonardo] Copy po Boss (Sent July 21, 2017)

[Soriano] Punta na ako dyan (Sent July 21, 2017)

[Leonardo] Ok po. Andito po kmi sa Cafeteria Boss. (Sent July 21, 2017)⁶²

Leonardo's bare claim that he was instigated into committing the crime charged cannot prosper. The straightforward narration of Baniqued and Soriano on how he demanded bribe money in exchange for his help clearly showed that the criminal intent to commit the crime charged originated from his mind. The police operatives, with the cooperation of Soriano, Baniqued and Representative Espino, merely facilitated his apprehension by employing ruses and schemes.⁶³

While Leonardo's act of facilitating the dismissal of the complaints was neither alleged nor proved to be violative of any penal law, the Sandiganbayan correctly ruled that his act is still punishable inasmuch as dismissing a criminal complaint or even recommending its dismissal, without regard to the facts and evidence, constitutes an unjust act falling within the purview of the second paragraph of Article 210 of the Revised Penal Code.⁶⁴

*Leonardo's act of facilitating
the dismissal of the said
complaints relates to the
exercise of his functions.*

There is no question that Leonardo's promised act of facilitating the dismissal of the three complaints filed against the Espinos relates to the exercise of his functions as Associate Graft Investigation Officer III. This is evident from his position description form which shows that part of his duties and responsibilities as Associate Graft Investigation Officer III is to evaluate

⁶² *Id.* at 608–612.

⁶³ *See People v. Bartolome*, 703 Phil. 148, 161 (2013) [Per J. Bersamin, First Division], citing *People v. Bayani*, 577 Phil. 607, 616 (2008) [Per J. Chico-Nazario, Third Division].

⁶⁴ Sandiganbayan *rollo*, vol. II, p. 250.

criminal and administrative complaints referred to the Office of the Ombudsman and, thereafter, prepare an evaluation report thereto with his findings and recommendations for the signature of his superior.⁶⁵

Leonardo's capacity to recommend the further investigation of a complaint filed against a public official or its dismissal and termination in the discharge of his duties is made manifest in the May 26, 2017 document he showed to Baniqued before he received the PHP 3 million bribe, and the June 30, 2017 Evaluation Report he handed to Soriano after he received the bribe money. The pertinent portions of these documents are reproduced below:

Memorandum dated May 9, 2017

....

Based on the above allegations, it appears that an investigative lead exist to conduct fact-finding investigation against Mayor Jumel Anthony I. Espino and the officials and employees (to be determined) of the Municipal Government of Bugallon.

....

RECOMMENDATIONS:

Wherefore, premises considered on the number and probative weight of the allegations, it is hereby recommended THAT:

- 1) A Panel of investigators be constituted to conduct fact-finding investigation on the above-mentioned allegations. Draft copy of Office Order is hereby attached for your Honor's perusal and approval;
- 2) Said letter-complaint be forwarded to the Central Records Division (CRD) for assignment FF docket numbers for each allegation and the same be returned to IB FIO II for the conduct of fact-finding investigation; and
- 3) Considering the number of allegations against Mayor Jumel Anthony I. Espino, six (6) months Preventive Suspension is hereby recommended by the undersigned to avoid tampering of pieces of evidence and to further influence the possible witnesses.⁶⁶

Evaluation Report dated June 30, 2017

....

4. The anonymous letter-complaint, while appearing to be detailed, is actually premised on speculations, suspicions and innuendoes that do not provide a fair basis for investigation. It in fact appears to border on the frivolous and vexatious which this Office is proscribed act upon. If at all anonymous complainant seeks a validation of his suspicions, he should have proceeded with a proper request for a fraud audit by

⁶⁵ Sandiganbayan *rollo*, vol. I, p. 526.

⁶⁶ *Id.* at 540, 542-543.

Commission on Audit (COA), if at all such a request on this premise is allowable under applicable COA internal rules on the matter.

5. In sum, in its present state, the anonymous letter-complaint cannot be the basis of a full-blown fact-finding by the Field Investigation Office (FIO).
6. Moreover, it did not help that the complainant made himself beyond reach to point to specific leads or persons that can substantiate his/her allegation.
7. There is deemed no further meaningful action that can be taken on the anonymous complaint. The mentioned constraints cannot be a reason to allow the FF case to languish in our dockets.
8. Premises considered, it is recommended that the letter-complaint dated 03 May 2017 against Mayor Jumel Anthony I. Espino be considered CLOSED and TERMINATED.⁶⁷

It was not established beyond reasonable doubt that Isagani conspired with Leonardo to extort money from the Espinos

While We are convinced that Leonardo is guilty beyond reasonable doubt of direct bribery, this Court finds that the prosecution failed to prove that Isagani conspired with him in committing the said crime.

Article 8⁶⁸ of the Revised Penal Code provides that conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.

In order to prove conspiracy, the following requisites must be established: “(1) two or more persons came to an agreement, (2) the agreement concerned the commission of a crime, and (3) the execution of the felony was decided upon. Once conspiracy is established, the act of one becomes the act of all.”⁶⁹

In *Rimando v. People*,⁷⁰ this Court succinctly defined conspiracy as follows:

⁶⁷ *Id.* at 533–535.

⁶⁸ Article 8. *Conspiracy and proposal to commit felony.* – Conspiracy and proposal to commit felony are punishable only in cases in which the law specially provides a penalty therefor. A conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. There is proposal when the person who has decided to commit a felony proposes its execution to some other person or persons.

⁶⁹ *People v. Lababo, et al.*, 832 Phil. 1056, 1075 (2018) [Per J. Velasco, Jr., Third Division]. (Citation omitted)

⁷⁰ 821 Phil. 1086 (2017) [Per J. Velasco, Third Division].



There is conspiracy when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. Conspiracy is not presumed. Like the physical acts constituting the crime itself, the elements of conspiracy must be proven beyond reasonable doubt. While conspiracy need not be established by direct evidence, for it may be inferred from the conduct of the accused before, during and after the commission of the crime, all taken together, however, the evidence must be strong enough to show the community of criminal design. For conspiracy to exist, it is essential that there must be a conscious design to commit an offense. Conspiracy is the product of intentionality on the part of the cohorts.

It is necessary that a conspirator should have performed some overt act as a direct or indirect contribution to the execution of the crime committed. The overt act may consist of active participation in the actual commission of the crime itself, or it may consist of moral assistance to his co-conspirators by being present at the commission of the crime or by exerting moral ascendancy over the other co-conspirators. Hence, the mere presence of an accused at the discussion of a conspiracy, even approval of it, without any active participation in the same, is not enough for purposes of conviction.⁷¹

In ruling that conspiracy was established in this case, the Sandiganbayan concluded:

In this case, it is unmistakable that accused Isagani acted as a bridge between the Espinos and accused Leonardo. He introduced Soriano and accused Leonardo despite knowing fully well that there were already complaints received by accused Leonardo against the Espinos. Although the introduction was upon the request of [Representative] Espino, his continued and repeated presence in both the July 14 and 21, 2017 meetings indicate a willing participation over and above the requested introduction.

Indeed, his demeanor and actuations in these meetings lead the Court to believe of his knowing participation in the crime charged.

First. As he himself admitted, his initial reaction to accused Leonardo's request to be introduced to the Espinos was to advise him to refrain or inhibit as it may create a doubt on accused Leonardo's integrity. This only shows that as early as May 27, 2017, accused Isagani was already keenly aware of the impropriety of the meeting being requested by accused Leonardo. Despite this, he still proceeded to introduce Leonardo to Soriano and attended both the July 14 and 21, 2017 meetings.

Second. During the July 14, 2017 meeting, after introducing accused Leonardo and Soriano, he told accused Leonardo: "*O kayo na ang bahala dyan. Basta ako dito lang ako. Ikaw na bahala magpaliwanag kung ano yan.*"

Third. During the meeting at the Capitol Resort Hotel on July 21, 2017, after Baniqued told the waiter in jest: "do you have cash instead?"

⁷¹ *Id.* at 1097, citing *Bahilidad v. People*, 629 Phil. 567, 575 (2010) [Per J. Nachura, Third Division].

Accused Isagani said: “we should ask from Mr. Soriano.” Accused Isagani’s claims of ignorance and non-participation in the subject matter of the July 14 and 21, 2017 meetings are plainly unconvincing.

Indeed, the evidence on record shows that he is no mere simpleton. His intelligence is borne out by his membership in the bar and occupation as a labor arbiter. He was undoubtedly aware of all that was being discussed and the consequences of his actions. As to his alibi, granting that he originally had a different engagement on July 21, 2017, he still chose to attend the meeting with accused Leonardo at Capitol Resort Hotel. In fact, he requested the TAPI officials for a change of venue of his previously scheduled meeting with them. Instead of the original venue, he asked them to meet him at the said hotel. Rather than exculpating accused Isagani, the Court finds that this only evinced his prioritization of, and commitment to, the meeting with accused Leonardo.⁷² (Citations omitted)

The Sandiganbayan points to Isagani’s presence, as well as his behavior and actuation in the July 14, 2017 and July 21, 2017 meetings, as clear manifestation of the concurrence of wills and unity of purpose of both Isagani and Leonardo in committing the crime charged.

This Court does not agree.

Isagani’s participation in the crime charged had not been proven beyond reasonable doubt as there are no overt acts that can be attributed to him as would be adequate enough to hold him equally guilty of the crime proved.⁷³ Stated differently, the overt acts of Isagani before, during and after the commission of the crime shows no indication that he acted in unison with Leonardo.⁷⁴

One. This Court cannot simply brush aside the fact that part of the reason why Isagani was present during the July 14, 2017 meeting was not only due to the insistence of Leonardo, but also because he was requested by Representative Espino to be present on such meeting for the purpose of introducing Leonardo to Soriano. There is also nothing in the records which shows that Isagani personally and actively sought out either Leonardo, in order to cook up with him a scheme to extort money from the Espinos, or the Espinos, for the purpose of getting money from them in return for a favor or assistance on any matter, prior to being approached by either Leonardo or Representative Espino.

Even after the individual requests of Leonardo and Representative Espino for introduction, and despite his knowledge of the purpose of the meeting requested, there is still absence of evidence that Isagani actively participated in extorting money from the Espinos. On the contrary, the pieces

⁷² Sandiganbayan *rollo*, vol. II, pp. 254–255.

⁷³ *Rimando v. People*, *supra* note 70, at 1098.

⁷⁴ See *People v. Jesalva*, 811 Phil. 299, 306 (2017) [Per J. Jardeleza, Third Division].

of evidence proffered by the prosecution point to Leonardo and no other as the person solely responsible for demanding bribe in exchange for his efforts in helping get the complaints against the Espinos dismissed.

The testimony of Baniqued evinces that only Leonardo contacted her and persistently pressured her to convince the Espinos to accept his offer for help.⁷⁵ The testimony of Soriano likewise shows that it was Leonardo who demanded PHP 3 million for the dismissal of the said complaints during the July 14, 2017 meeting, and only he kept on following up on his demand for bribe money.⁷⁶

Isagani's statement after he introduced Leonardo to Soriano during the July 14, 2017 meeting, "*O, kayo na 'ng bahala dyan. Basta ako dito lang ako. Ikaw na bahala magpaliwanag kung ano yan,*"⁷⁷ does not at all confirm his involvement in the crime charged in light of the fact that Soriano himself testified that after Isagani introduced him to Leonardo in said meeting, Isagani no longer called him or sent him any text messages.⁷⁸ If at all, his statement proves that his presence in the meeting was limited to getting the two acquainted with each other.

Two. While Isagani had no more business attending the July 21, 2017 meeting since he had already introduced Leonardo and Soriano to each other during the July 14, 2017 meeting, his presence and prioritization of the July 21, 2017 meeting over his meeting with the Teachers Association of the Philippines Inc. officers is not sufficient to conclude that he is acting in concert with Leonardo in demanding and receiving bribe money from the Espinos. "Mere presence at the scene of the crime at the time of its commission is not, by itself, sufficient to establish conspiracy. To establish conspiracy, evidence of actual cooperation rather than mere cognizance or approval of an illegal act is required."⁷⁹

Here, there is a dearth of evidence that Isagani actually cooperated in the commission of the crime charged. In fact, Soriano admitted that the July 21, 2017 meeting was supposed to be only between him and Leonardo, and it was he who arranged the same.⁸⁰

Isagani's answer, "*maybe we should ask Mr. Art Soriano for cash*" to Baniqued's question, "*do you have cash instead?*" which was directed at the waiter who were taking their order when they were already inside the function room during the July 21, 2017 meeting cannot be reasonably taken as referring to the bribe money that will be exchanged for the evaluation report,

⁷⁵ Sandiganbayan *rollo*, vol. I, pp. 343–344.

⁷⁶ *Id.* at 299–300; TSN, February 28, 2018, pp. 15, 17–19.

⁷⁷ TSN, October 8, 2018, pp. 27–28.

⁷⁸ TSN, February 27, 2018, p. 47; TSN, February 28, 2018, p.16.

⁷⁹ *Rimando v. People*, *supra* note 70, at 1098. (Citations omitted)

⁸⁰ TSN, February 27, 2018, p. 59.

considering that Baniqued was, all along, just bantering with Isagani. For better understanding of the context of the exchanges, the pertinent portions of her testimony on this matter are reproduced below:

ATTY. VENGUA:

Q So Labor Arbiter Isagani Nicolas was sitting beside you directly?

A Yes, sir.

Q During this meeting with Mr. Soriano, was Labor Arbiter Isagani Nicolas participating in any way?

A We were talking with each other, sir.

Q Meaning to say you and Labor Arbiter Isagani Nicolas?

A Yes, Sir.

Q What was your discussion all about?

A Actually sir when we arrived, the waiter came to take our order and he is offering us coffee or whatever. I said in jest, "do you have cash instead?"

Q To whom? To the waiter?

A To the waiter sir but it was within the hearing of the Labor Arbiter and the Labor Arbiter said, "we should ask from Mr. Soriano", sir.

Q What did he mean, if you know? That you should ask money from Mr. Soriano?

A Yes, sir.

Q *For the payment of the drinks you ordered?*

A *No, sir. As I have said, I jokingly said that instead of coffee that what if we were offered cash instead?*

Q By Mr. Soriano?

A No. I was talking to the waiter but it was within the hearing distance of the Labor Arbiter and I don't know if it was in jest but he said, "Maybe we should ask Mr. Art Soriano for cash."

....

PROSECUTOR CALALANG:

Q Now you testified that you had some conversation with Atty. Isagani Nicolas during the time that you were inside the room particularly regarding the order from the waiter asking for your order and you said, "*Pwede ba cash na lang?*"

A Yes, ma'am.

Q And the response given to you by Atty. Isagani Nicolas was?

A That we should ask Art Soriano, ma'am.

Q For the?

A For the cash.

....

JUSTICE QUIROZ:

Excuse me. Excuse me.

Madam witness, in so far as those phrase that "Pwede ba cash na lang?" whatever, how was your conversation? Was it taken as a joke or a serious matter?

WITNESS:

As far as I am concerned, I was saying it in jest, Your Honors.

JUSTICE QUIROZ:

You are just joking?

WITNESS:

Yes, Your Honors.

JUSTICE QUIROZ:

And the response in so far as the other person is concerned is likewise a joke or serious? How did you take it? Is it a serious reply from him or a joke?

WITNESS:

*I presumed, Your Honors, that it was also said in jest, Your Honors.*⁸¹
(Emphases supplied)

Three. Even the account of Representative Espino as to the involvement of Isagani in the bribery does not firmly establish his complicity thereto. Representative Espino's assertion that Isagani also demanded PHP 3 million from him and warned him of Mayor Espino's impending suspension if they do not pay up crumbles under cross examination. His testimony below shows that when Isagani mentioned the PHP 3 million demand, as well as the mayor's possible suspension from office, it was not of Isagani's own accord, but it was the product of his inquiry from Leonardo about what can be done about the cases against the Espinos *at the behest of no less than the representative*:

DIRECT-EXAMINATION

....

Pros. Calalang:

Q: You mentioned earlier that you talked to Atty. Isagani Nicolas about this case?

A: Yes, ma'am.

Q: What in particular did you talk about- what aspect of this case did you talk about?

A: How can I answer that, I could not narrate "*kung anung nangyari*" because Atty. Nicolas according to Atty. Dindin Baniqued, he had

⁸¹ TSN, March 7, 2018, pp. 28-30, 43-44.

known that Atty. Isagani Nicolas was a relative of this other Nicolas, Atty. Leonardo Nicolas. And so, I asked him if he could help something like that.

Q: *So you opened the topic to Atty. Isagani Nicolas?*

A: *Yes, Ma'am.*

Q: After you have mentioned that there was this incident with certain Atty. Leonardo Nicolas texting Atty. Baniqued, what was the reaction of Atty. Isagani Nicolas to you, sir?

A: He said he is willing to that.

Q: In what way?

A: He will talk to his cousin.

Q: Did that talk transpire, sir?

A: I think so.

Q: Why do you think that?

A: Because he told me-

....

Pros. Calalang:

Q: *After that particular incident that he told you he will talk to his cousin Atty. Leonardo Nicolas, what happened next?*

A: *He reported to me. Because he told me apparently when he sees his cousin he will talk in Labrador.*

Pros. Calalang:

Q: This 'he' is Atty. Isagani Nicolas?

A: Yes, Ma'am.

.....

Q: *After you mentioned that he will talk to him, what happened next, if any?*

A: *He came to me and he told me that apparently there are already three (3) cases filed against me also. This is why, they are asking for three million (P3,000,000.00).*

Q: Who is asking for three million (P3,000,000.00)?

Atty. Vengua:

Your Honors please, may we just request the witness to refer to the specific person he mentions 'he' and we do not know whether he is referring to Atty. Leonardo Nicolas or Arbiter Nicolas or what. He is always said 'it's him'. So if the answer would be more specific.

.....

Witness:

Precisely, it was specific already Your Honor because I was being asked, what did Isagani, that is why he told me that he was asking for three million (P3,000,000.00) for the case.

Pros. Calalang:

Q: Upon learning that information that the consideration for that three (3) cases was three million (P3,000,000.00), what did you do next if any?

A: I did not mind that I was so furious and then I just kept silent and I said '*sige tingnan natin di ko kaya masyado malaki*'.

....

A: This Atty. Dindin Baniqued talked to me again that this Leo had been texting her and insisting to meet with me.

Q: What did you do with that information?

A: I said that I don't want to talk to him.

Q: You did not want to talk to Leo, so what did you do next, if any?

A: I was waiting for what he will do.

Q: *What happened, you said you waited. What happened after that waiting scene?*

A: *After that, they were threatening words I understand, and in fact there was a time I talked to Atty. Isagani, and he told me 'sir, mapilit sila baka masuspindi si Jumel' something like that. And so I said, okay, Gani will you kindly refer to Art Soriano. That is where Arturo Soriano came into picture.*

Q: That information was relayed to Atty. Isagani Nicolas?

A: Yes, Ma'am.

Q: Why did you refer Atty. Isagani Nicolas to Arturo Soriano?

A: First, I did not want this transaction to go on, like this with me, if there is a transaction, *kung may mangyari*. So I was made to buy time being the former police officer, I was trying to find how deep Isagani Nicolas was already in this stage. So, I was buying for time.

Q: Buying for time for what, sir, in particular?

A: So I would know their next move, and I know how deep, if really Atty. Isagani Nicolas is involved.

Q: What did you find out after you have referred Atty. Isagani Nicolas to Arturo Soriano?

A: Well, there were already their exchanges of texts in the month of July 14 to July 28.

Q: *That particular consideration, sir, of P3,000,000.00 that you mentioned, what happened to that consideration? What happened to that amount?*

A: *Well, as I have said on July 14 they had an agreement to see each other Atty. Leonardo Nicolas and Arturo Soriano. So they met each other.*

Q: Can you just clarify who were at that particular meeting?

A: I was not there, Ma'am.

Q: You were not there?

A: Yes, Ma'am.

Q: After that particular meeting that you just related, what happened next, if you know?

A: Well, Mr. Soriano reported to me that they saw each other and talked at the Star Plaza Hotel, and they transferred to another hotel, Lenox Hotel and they talked about this P3,000,000.00 supposedly to be paid to them. According to Arturo Soriano he was asking that to be paid on the 29th or 30th of the month.

....

Pros. Calalang:

Q: *[Representative] Espino, when the amount of P3,000,000.00 was relayed to you, can you just clarify who actually relayed that amount?*

A: *It was Atty. Isagani Nicolas. Actually it was reduced from P5,000,000.00. That was the result and according to him.*

Q: It was reduced from what amount?

A: P5,000,000.00

Q: P5,000,000.00

A: Yes. Then suddenly he went there in that birthday party in Labrador and talked to them so that he will help us to reduce the amount. *As he came back and reported to me that he was able to reduce it by P3,000,000.00*

Q: Now sir, having worked and known Atty. Isagani Nicolas, and he really relayed to you this information that he was able to lower the amount from P5,000,000.00 to P3,000,000.00. How did you react, sir?

A: I was so mad, I was so angry simply because knowing Gani or Atty. Nicolas, I thought he can help me explain to that guy, he is asking that there must be no case like this because these are all fabricated cases. Why should I pay P3,000,000.00 for fabricated cases. That is why I was so furious. And so, that is the time already that I said the entrapment of these people. That is why it made me believe that Atty. Nicolas is already involved.

Q: When you learned that there was an arrest made by Atty. Isagani Nicolas and Leonardo Nicolas, what was your reaction to the arrest of Isagani Nicolas and Leonardo Nicolas?

A: To be honest with you I give the benefit of the doubt to Gani. I did not raise that in my Affidavit, as mentioned by the counsel, simply because I am giving the benefit of the doubt and why was he there. So, he must be involved.

....

CROSS-EXAMINATION:

....

Atty. Vengua

....

5

Q: *After you requested Atty. Isagani Nicolas to talk to Leonardo Nicolas with regards this matter meaning this report of Atty. Baniqued and cases filed against you, did you hear from Atty. Nicolas again?*

A: *Yes, sir; he came back to me and reported to me that as I've said prior to that they were asking for P5,000,000.00*

Q: Who was asking for P5,000,000.00?

A: It was relayed to me by Atty. Nicolas also.

Q: Who was asking for the P5,000,000.00?

A: I do not know them.

Q: *Did you ask Atty. Nicolas who was asking for the P5,000,000.00?*

A: *I asked him.*

Q: *What did he tell you?*

A: *He told me that they were asking for P5,000,000.00. That is why he went there.*

Q: *My question Mr. Witness is, who was asking for P5,000,000.00?*

A: *Siya ang humihingi nang P5,000,000.00 para sa tatlong kaso.*

Q: *Did you inquire from Atty. Nicolas who was asking for P5,000,000.00?*

A: *It was his cousin Leonardo Nicolas.*

Q: It was Leonardo Nicolas who was asking for P5,000,000.00?

A: Yes, sir according to him.

Q: According to Atty. Nicolas?

A: Yes, sir.⁸² (Emphases supplied)

Moreover, Representative Espino's testimony reveals that he merely ventured in guesswork in concluding that Isagani participated in the crime charged. His testimony is telling:

Atty. Vengua:

Q: *What gave you the assumption that Atty. Nicolas was involved in this case?*

....

Witness:

A: Well, from the start- Actually from the time that I asked him and requested him to see what he can do about the case against my son. After that, about two weeks, I understand that I have already a case. When I first talked to Atty. Gani- and that was the first time we have met, it was only my son who has a case. That was the first time '*na nag-usap kami*' and we were talking. It was only my son who has a case and then while there was a time elapsed between May and June. So during those times that they knew that the communication was between Leonardo and Dindin, UNFINISHED/INTERRUPTED-

⁸² TSN, April 24, 2018, pp. 9-16, 27-28, 48-49.

Atty. Vengua:

Dindin you are referring to whom?

Witness:

(cont.) Atty. Baniqued, I was the one talking also with Gani regarding this. Because as I've said I did not attend to this specifically *na* so important like that, no I did not. And then suddenly, there was this case already *nag text sila*, they texted that even me already have three cases and I have also new cases filed with the Ombudsman.

Atty. Vengua:

I'm still waiting for the answer.

Witness:

The question was, yes, I assumed already by that time because they were first asking P1,350,000.00 for the cases of my son.

Atty. Vengua:

For 'they,' you are referring to Leonardo?

Witness:

I talked to Leonardo. So everything was relayed to him.

Atty. Vengua:

Q: Earlier, you mentioned that Atty. Isagani Nicolas told you that Leonardo was demanding P3,000,000.00?

A: Yes, the first request was P1,350,000.00

Q: So the first request was P1,350,000.00?

A: Yes, sir. I could not answer your specific question because it should be narrated a little.

Q: But what was that first request?

A: During the first time when they told me that my son has a case. That was in the month of May. In June it became P5,000,000.00.

Q: In June it became P5,000,000.00?

A: Yes, because I have three cases also.

Q: It was also Leonardo who was demanding?

A: According to Isagani. I was not able to talk to them, I was very careful about that. Sir, if you may, I've been a policeman. I've been investigating a lot of people like this. So I think I know what...

Q: *What is happening now Mr. Witness in using metaphorically, you are taking the messenger, the messenger being Atty. Nicolas who is telling you that Leonardo was demanding first P1,000,000.00, second, P3,000,000.00. You therefore assumed that since he is telling you this amount, he must be involved also.*

A: *Metaphorically.*⁸³ (Emphases supplied)

⁸³ *Id.* at 52, 54-56.

Surely, Isagani's involvement is less than honorable given his stature in the legal community. As a labor arbiter, it cannot be doubted that he is aware of the impropriety of his acquiescence to the requests of Leonardo and Representative Espino to be introduced to each other, as well as his presence in both meetings given his knowledge of the subject matter thereof. However, "[a] conviction premised on a finding of conspiracy must be found on facts, not on mere inferences and presumption"⁸⁴ as is the case here. For "like the offense itself, conspiracy must be proved beyond reasonable doubt."⁸⁵ It must be stressed that "conviction must be based on the strength of the prosecution evidence and not on the weakness of the evidence for the defense, it is incumbent upon the prosecution to prove the guilt of the accused and not the accused to prove his innocence."⁸⁶ Hence, Isagani's acquittal is in order.

As correctly ruled by the Sandiganbayan, the facilitation of the dismissal of the cases against the Espinos had not been carried out successfully by reason of the conduct of an entrapment operation. Under the second paragraph of Article 210 of the Revised Penal Code, "if said act shall not have been accomplished, the officer shall suffer the penalties of *prision correccional*, in its medium period and a fine of not less than twice the value of such gift." *Prision correccional* medium is punishable by imprisonment of two years, four months and one day to four years. In the absence of mitigating or aggravating circumstances, the maximum term of the sentence shall be taken from the medium period of the prescribed penalty, which is from two years, 11 months and 11 days to three years, six months and 20 days. Applying the Indeterminate Sentence Law, the minimum shall be taken within the range of the penalty next lower in degree,⁸⁷ which is within the range of *prision correccional* in its minimum period, or two years, four months and one day to two years, 11 months and 10 days.

The penalty of imprisonment imposed upon Leonardo must accordingly be modified. He is sentenced to suffer imprisonment of two years, 11 months and 10 days of *prision correccional* medium in its minimum period, as minimum, to three years, six months and 20 days of *prision correccional* medium in its medium period, as maximum.

ACCORDINGLY, the Appeal of accused-appellant Leonardo Rosario Nicolas, Jr. is **DENIED**. The Appeal of accused-appellant Isagani Laurence de Guzman Nicolas is **GRANTED**. The assailed Decision dated May 24, 2019 and the Resolution dated August 13, 2019 of the Sandiganbayan in SB-17-CRM-1509 are **AFFIRMED** with **MODIFICATION** as follows:

⁸⁴ *People v. Jesalva*, *supra* note 74, at 311. (Citation omitted)

⁸⁵ *Dado v. People*, 440 Phil. 521, 532 (2002) [Per J. Ynares-Santiago, First Division].

⁸⁶ *People v. PO1 Lumikid*, G.R. No. 242695, June 23, 2020 [Per C.J. Peralta, First Division], at 10. This pinpoint citation refers to the copy of this Decision uploaded to the Supreme Court website. (Citation omitted)

⁸⁷ *See Mari v. Court of Appeals*, 388 Phil. 269, 277 (2000). [Per J. Pardo, First Division]. (Citation omitted)

(1) Accused-appellant Leonardo Rosario Nicolas, Jr. is hereby found **GUILTY** beyond reasonable doubt of the crime of direct bribery defined and penalized under Article 210 of the Revised Penal Code. He is sentenced to suffer the penalty of two (2) years, eleven (11) months and ten (10) days of *prision correccional* medium in its minimum period, as minimum, to three (3) years, six (6) months and twenty (20) days of *prision correccional* medium in its medium period, as maximum; and is **ORDERED** to **PAY** a fine of PHP 6 million, with subsidiary imprisonment in case of insolvency, and special temporary disqualification from holding public office; and

(2) Accused-appellant Isagani Laurence de Guzman Nicolas is hereby **ACQUITTED** of the crime charged against him for failure of the prosecution to prove his guilt beyond reasonable doubt.

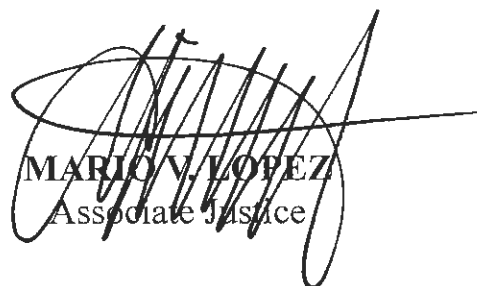
SO ORDERED.



JHOSEP V. LOPEZ
 Associate Justice

WE CONCUR:


MARVIC M.V.F. LEONEN
 Senior Associate Justice
 Chairperson


AMY C. LAZARO-JAVIER
 Associate Justice



MARIO V. LOPEZ
 Associate Justice


ANTONIO T. KHO, JR.
 Associate Justice

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ATTESTATION

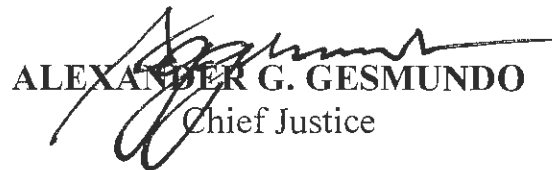
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson, Second 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

