

EN BANC

G.R. Nos. 233155-63 — VILLAROSA, *petitioner*, v. PEOPLE OF THE PHILIPPINES, *respondent*.

Promulgated:

June 23, 2020

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DISSENTING OPINION

LEONEN, J.:

In issuing extraction permits when he had no power and in blatant disregard of the proper authority's orders, petitioner gave unwarranted advantage and preference to his permits' grantees with evident bad faith.

With respect, I regret that I cannot agree that petitioner should be acquitted on this Motion for Reconsideration.

For this Court's resolution is a Petition for Review on Certiorari<sup>1</sup> challenging the Decision<sup>2</sup> and Resolution<sup>3</sup> of the Sandiganbayan in SB-14-Crim. Case Nos. 0348-0356. The Sandiganbayan found Jose T. Villarosa (Villarosa) guilty beyond reasonable doubt of nine (9) counts of violation of Section 3 (e) of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act.

In 2014, Villarosa Villarosa was charged with nine (9) counts of violation of Republic Act No. 3019, Section 3(e).<sup>4</sup> The Informations uniformly read, apart from the dates the offense were allegedly committed and the grantee of the extraction permits. The accusatory portion read:

Criminal Case No. 0348

That on or about 14 September 2010, in San Jose, Occidental Mindoro, and within the jurisdiction of this Honorable Court, the above-named accused, JOSE T. VILLAROSA, a public officer, being then the Municipal Mayor of San Jose, taking advantage of his official position and

<sup>1</sup> *Rollo*, pp. 7-42.

<sup>2</sup> *Id.* at 43-62. The Decision dated November 17, 2016 was penned by Associate Justice Reynaldo P. Cruz and concurred in by Associate Justices Efren N. De La Cruz (Chair) and Michael Frederick L. Musngi of the First Division, Sandiganbayan, Quezon City.

<sup>3</sup> *Id.* at 63-69. The Resolution dated March 6, 2017 was penned by Associate Justice Reynaldo P. Cruz and concurred in by Associate Justices Efren N. De La Cruz (Chair) and Michael Frederick L. Musngi of the Special First Division, Sandiganbayan, Quezon City.

<sup>4</sup> *See ponencia*, p. 4. Initially, Villarosa was indicted for 10 counts of violating Republic Act No. 3019, Section 3(e). However, the prosecution moved to withdraw the information in SB-14-Crim. Case No. 0347. This was granted in the Sandiganbayan's February 24, 2015 Resolution.

committing the crime in relation to his office, did then and there willfully, criminally, and with evident bad faith, give unwarranted benefits, advantage or preference to a private party, by unlawfully issuing an Extraction Permit to **Gem CHB Maker** contrary to the provisions of Section 138 of Republic Act No. 7160, which vests on the Provincial Governor the exclusive power to regulate and levy taxes on extraction activities conducted within the Province, thereby allowing said private party to benefit from and take advantage of the privilege to extract quarry resources without legal authority and official support.

CONTRARY TO LAW.

Criminal Case No. 0349

That on or about 17 November 2010, in San Jose, Occidental Mindoro, and within the jurisdiction of this Honorable Court, the above-named accused, JOSE T. VILLAROSA, a public officer, being then the Municipal Mayor of San Jose, taking advantage of his official position and committing the crime in relation to his office, did then and there willfully, criminally, and with evident bad faith, give unwarranted benefits, advantage or preference to a private party, by unlawfully issuing an Extraction Permit to **Timoteo Aguilar** contrary to the provisions of Section 138 of Republic Act No. 7160, which vests on the Provincial Governor the exclusive power to regulate and levy taxes on extraction activities conducted within the Province, thereby allowing said private party to benefit from and take advantage of the privilege to extract quarry resources without legal authority and official support.

CONTRARY TO LAW.

Criminal Case No. 0350

That on or about 22 November 2010, in San Jose, Occidental Mindoro, and within the jurisdiction of this Honorable Court, the above-named accused, JOSE T. VILLAROSA, a public officer, being then the Municipal Mayor of San Jose, taking advantage of his official position and committing the crime in relation to his office, did then and there willfully, criminally, and with evident bad faith, give unwarranted benefits, advantage or preference to a private party, by unlawfully issuing an Extraction Permit to **Arvi Dolojan** contrary to the provisions of Section 138 of Republic Act No. 7160, which vests on the Provincial Governor the exclusive power to regulate and levy taxes on extraction activities conducted within the Province, thereby allowing said private party to benefit from and take advantage of the privilege to extract quarry resources without legal authority and official support.

CONTRARY TO LAW.

Criminal Case No. 0351

That on or about 06 December 2010, in San Jose, Occidental Mindoro, and within the jurisdiction of this Honorable Court, the above-named accused, JOSE T. VILLAROSA, a public officer, being then the Municipal Mayor of San Jose, taking advantage of his official position and committing the crime in relation to his office, did then and there willfully, criminally, and with evident bad faith, give unwarranted benefits,

advantage or preference to a private party, by unlawfully issuing an Extraction Permit to **Andres Pablo** contrary to the provisions of Section 138 of Republic Act No. 7160, which vests on the Provincial Governor the exclusive power to regulate and levy taxes on extraction activities conducted within the Province, thereby allowing said private party to benefit from and take advantage of the privilege to extract quarry resources without legal authority and official support.

CONTRARY TO LAW.

Criminal Case No. 0352

That on or about 21 January 2011, in San Jose, Occidental Mindoro, and within the jurisdiction of this Honorable Court, the above-named accused, JOSE T. VILLAROSA, a public officer, being then the Municipal Mayor of San Jose, taking advantage of his official position and committing the crime in relation to his office, did then and there willfully, criminally, and with evident bad faith, give unwarranted benefits, advantage or preference to a private party, by unlawfully issuing an Extraction Permit to **R.D. Go Concrete Products** contrary to the provisions of Section 138 of Republic Act No. 7160, which vests on the Provincial Governor the exclusive power to regulate and levy taxes on extraction activities conducted within the Province, thereby allowing said private party to benefit from and take advantage of the privilege to extract quarry resources without legal authority and official support.

CONTRARY TO LAW.

Criminal Case No. 0353

That on or about 30 March 2011, in San Jose, Occidental Mindoro, and within the jurisdiction of this Honorable Court, the above-named accused, JOSE T. VILLAROSA, a public officer, being then the Municipal Mayor of San Jose, taking advantage of his official position and committing the crime in relation to his office, did then and there willfully, criminally, and with evident bad faith, give unwarranted benefits, advantage or preference to a private party, by unlawfully issuing an Extraction Permit to **Jojo Pojas** contrary to the provisions of Section 138 of Republic Act No. 7160, which vests on the Provincial Governor the exclusive power to regulate and levy taxes on extraction activities conducted within the Province, thereby allowing said private party to benefit from and take advantage of the privilege to extract quarry resources without legal authority and official support.

CONTRARY TO LAW.

Criminal Case No. 0354

That on or about 08 April 2011, in San Jose, Occidental Mindoro, and within the jurisdiction of this Honorable Court, the above-named accused, JOSE T. VILLAROSA, a public officer, being then the Municipal Mayor of San Jose, taking advantage of his official position and committing the crime in relation to his office, did then and there willfully, criminally, and with evident bad faith, give unwarranted benefits, advantage or preference to a private party, by unlawfully issuing an Extraction Permit to **Emilia T. De Lara** contrary to the provisions of Section 138 of Republic Act No.

7160, which vests on the Provincial Governor the exclusive power to regulate and levy taxes on extraction activities conducted within the Province, thereby allowing said private party to benefit from and take advantage of the privilege to extract quarry resources without legal authority and official support.

CONTRARY TO LAW.

Criminal Case No. 0355

That on or about 03 May 2011, in San Jose, Occidental Mindoro, and within the jurisdiction of this honorable Court, the above-named accused, JOSE T. VILLAROSA, a public officer, being then the Municipal Mayor of San Jose, taking advantage of his official position and committing the crime in relation to his office, did then and there willfully, criminally, and with evident bad faith, give unwarranted benefits, advantage or preference to a private party, by unlawfully issuing an Extraction Permit to **Antonio Villaroza** contrary to the provisions of Section 138 of Republic Act No. 7160, which vests on the Provincial Governor the exclusive power to regulate and levy taxes on extraction activities conducted within the Province, thereby allowing said private party to benefit from and take advantage of the privilege to extract quarry resources without legal authority and official support.

CONTRARY TO LAW.

Criminal Case No. 0356

That on or about 07 June 2011, in San Jose, Occidental Mindoro, and within the jurisdiction of this Honorable Court, the above-named accused, JOSE T. VILLAROSA, a public officer, being then the Municipal Mayor of San Jose, taking advantage of his official position and committing the crime in relation to his office, did then and there willfully, criminally, and with evident bad faith, give unwarranted benefits, advantage or preference to a private party, by unlawfully issuing an Extraction Permit to **Jessie Glass and Aluminum Enterprise** contrary to the provisions of Section 138 of Republic Act No. 7160, which vests on the Provincial Governor the exclusive power to regulate and levy taxes on extraction activities conducted within the Province, thereby allowing said private party to benefit from and take advantage of the privilege to extract quarry resources without legal authority and official support.

CONTRARY TO LAW.<sup>5</sup> (Emphasis supplied)

The charges originated from Occidental Mindoro Provincial Environment and Natural Resources Officer Ruben P. Soledad (Soledad)'s complaint against Villarosa. Soledad alleged that then Municipal Mayor Villarosa illegally issued sand and gravel extraction permits from September 2010 to June 2011, in violation of the Local Government Code.<sup>6</sup>

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<sup>5</sup> *Rollo*, pp. 46-49.

<sup>6</sup> *Id.* at 141, En Banc Resolution dated July 17, 2018.

In its November 17, 2016 Decision,<sup>7</sup> the Sandiganbayan found Villarosa guilty as charged. His subsequent Motion for Reconsideration was denied in the Sandiganbayan's March 6, 2017 Resolution.<sup>8</sup> Assailing the judgment, Villarosa filed this Petition for Review before this Court.

On September 13, 2017, this Court issued a Resolution<sup>9</sup> denying the petition for failing to show any reversible error in the assailed judgment.

Petitioner then moved for reconsideration.<sup>10</sup>

In its November 22, 2017 Resolution, this Court denied the motion with finality, "no substantial argument having been adduced to warrant the reconsideration sought."<sup>11</sup> Entry of final judgment was ordered to be issued immediately.

On December 22, 2017, petitioner filed an Urgent Motion for Reconsideration, with Motion for Leave to File and for the Admission of, the same, and Motion for the Referral of the Case to the Honorable Court *En Banc*.<sup>12</sup> He invoked the observation in *Formilleza v. Sandiganbayan* that "the Sandiganbayan is the first and last recourse of the accused before [his or her] case reaches the Supreme Court where findings of fact are generally conclusive and binding."<sup>13</sup> He pleaded that this Court reexamine its practice of issuing a minute resolution denying a petition for review assailing a judgment of conviction from the Sandiganbayan.<sup>14</sup>

On July 9, 2018, this Court, through the Second Division, issued a Resolution<sup>15</sup> granting petitioner's second motion for reconsideration and referring the case to the Court *En Banc*.

In its July 17, 2018 Resolution,<sup>16</sup> the Court *En Banc* resolved to reinstate the Petition and directed the Office of the Special Prosecutor, in behalf of respondent People of the Philippines, to file its comment. This Court held that "the better policy is to limit the rule on the issuance of a minute resolution denying due course to a Rule 45 petition to cases decided

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<sup>7</sup> Id. at 43–61. The Decision was penned by Associate Justice Reynaldo P. Cruz, and concurred in by Associate Justices Efren N. De La Cruz (Chair) and Michael Frederick L. Musngi of the First Division, Sandiganbayan, Quezon City.

<sup>8</sup> Id. at 63–69. The Resolution was penned by Associate Justice Reynaldo P. Cruz, and concurred in by Associate Justices Efren N. De La Cruz (Chair) and Michael Frederick L. Musngi of the Special First Division, Sandiganbayan, Quezon City.

<sup>9</sup> Id. at 77–78.

<sup>10</sup> Id. at 88–108.

<sup>11</sup> Id. at 110–111.

<sup>12</sup> Id. at 112–137.

<sup>13</sup> Id. at 113.

<sup>14</sup> Id. at 114.

<sup>15</sup> Id. at 139–140.

<sup>16</sup> Id. at 141–151.

by the Sandiganbayan in the exercise of its appellate jurisdiction.”<sup>17</sup> Moreover, it held that appeals from a judgment of conviction by the Sandiganbayan, in the exercise of its exclusive original jurisdiction, shall be resolved in a decision or resolution.<sup>18</sup>

On August 1, 2018, respondent filed a Motion for Extension of Time to File Comment,<sup>19</sup> praying for a period of 30 days from August 4, 2018 or until September 3, 2018. This was then followed by a Second Motion for Extension,<sup>20</sup> requesting for an additional 20 days (from September 3, 2018 or until September 23, 2018), and a Third Motion for Extension of Time to File Comment, filed on September 20, 2018.<sup>21</sup>

In its October 2, 2018 Resolution,<sup>22</sup> this Court granted respondent’s Motions for Extension, with a warning that no further extension shall be given. However, in its subsequent October 16, 2018 Resolution,<sup>23</sup> this Court denied respondent’s Third Motion for Reconsideration in view of the October 2, 2018 Resolution. It appears that the third motion was filed prior to this Court’s October 2, 2018 Resolution.

Respondent then filed three (3) more Motions for Extension,<sup>24</sup> praying for additional time to file its comment. Eventually, it filed its Comment<sup>25</sup> on October, 29, 2018.

On November 13, 2018, this Court issued a Resolution<sup>26</sup> denying respondent’s motions. It also resolved to dispense with the comment filed, in compliance with the July 17, 2018 Resolution.

Petitioner filed a Motion to Resolve Petition,<sup>27</sup> praying that his petition be resolved without respondent’s comment. This was noted in this Court’s February 12, 2019 Resolution,<sup>28</sup> where the Sandiganbayan was also directed to elevate the records of the case.

On June 18, 2019, petitioner filed an Urgent Motion for Permission to Travel,<sup>29</sup> followed by a Supplement to the Urgent Motion.<sup>30</sup> He alleged that

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<sup>17</sup> Id. at 144.

<sup>18</sup> Id. at 146.

<sup>19</sup> Id. at 174–178.

<sup>20</sup> Id. at 184–188.

<sup>21</sup> Id. at 189–193. Despite its prior filing before this Court’s October 2, 2018 Resolution, the Motion appears later in the *rollo*.

<sup>22</sup> Id. at 188-A–188-B. A copy of this Resolution appears inserted in the *rollo* and is stapled to the previous page.

<sup>23</sup> Id. at 193-A–193-B.

<sup>24</sup> Id. at 194–206.

<sup>25</sup> Id. at 207–238.

<sup>26</sup> Id. at 239–240.

<sup>27</sup> Id. at 241–245.

<sup>28</sup> Id. at 246–247.

<sup>29</sup> Id. at 249–257.

he was planning to go to Japan for a family vacation from July 5, 2019 to July 10, 2019. He added that he plans to travel to Singapore as well on July 17, 2019 to July 20, 2019 for medical reasons. These were noted without action in this Court's August 14, 2019 Resolution.<sup>31</sup>

Petitioner then filed a Second Motion to Resolve Petition<sup>32</sup> and an Urgent Motion for Permission to Travel.<sup>33</sup> In the latter, he requested permission to travel to Singapore from October 28, 2019 to October 31, 2019 for medical reasons. This was granted in this Court's October 1, 2019 Resolution, where he was ordered to post a cash bond of ₱5,000.00.<sup>34</sup>

On November 27, 2019, petitioner filed an Urgent Motion for Permission to Travel,<sup>35</sup> requesting permission to travel to Singapore from December 12, 2019 to December 14, 2019 for the same reason. This remains pending before this Court.

In my view, the petition should be denied with finality and the assailed judgment be affirmed. Petitioner should *not* be acquitted.

## I

Republic Act No. 3019, Sec. 3(e) reads:

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. (Emphasis in the original)

To sustain convictions for violation of Republic Act No. 3019, Section 3(e), the prosecution must prove the following elements:

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

<sup>30</sup> Id. at 258–263.

<sup>31</sup> Id. at 263-A–263-B.

<sup>32</sup> Id. at 264–268.

<sup>33</sup> Id. at 269–271.

<sup>34</sup> Id. at 282–283.

<sup>35</sup> Id. at 284–291.

- 2) He must have acted with manifest partiality, evident bad faith or inexcusable negligence; and
- 3) That his action caused undue injury to any party, including the government, or gave any private party unwarranted benefits, advantage or preference in the discharge of his functions.<sup>36</sup> (Citation omitted)

It is undisputed that petitioner was the Municipal Mayor of San Jose, Occidental Mindoro when he was found to have committed the crime. However, it must also be shown that his action caused "undue injury to any party, including the government, or gave any private party unwarranted benefits, advantage or preference[,]"<sup>37</sup> and that the crime was committed through any of the modes: "manifest partiality, evident bad faith or gross inexcusable negligence."<sup>38</sup>

*Albert v. Sandiganbayan*<sup>39</sup> differentiates the three (3) modes of committing a violation under this provision:

There is "manifest partiality" when there is a clear, notorious, or plain inclination or predilection to favor one side or person rather than another. "*Evident bad faith*" connotes not only bad judgment but also palpably and patently fraudulent and dishonest purpose to do moral obliquity or conscious wrongdoing for some perverse motive or ill will. "*Evident bad faith*" contemplates a state of mind affirmatively operating with furtive design or with some motive or self-interest or ill will or for ulterior purposes. "Gross inexcusable negligence" refers to negligence characterized by the want of even the slightest care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally, with conscious indifference to consequences insofar as other persons may be affected.<sup>40</sup> (Citations omitted, emphasis supplied)

Petitioner, as then Municipal Mayor of San Jose, Occidental Mindoro, had absolutely no authority to issue extraction permits. Republic Act No. 7160, Section 138 is clear:

SECTION 138. *Tax on Sand, Gravel and Other Quarry Resources.* — The province may levy and collect not more than ten percent (10%) of fair market value in the locality per cubic meter of ordinary stones, sand, gravel, earth, and other quarry resources, as defined under the National Internal Revenue Code, as amended, extracted from public lands or from the beds of seas, lakes, rivers, streams, creeks, and other public waters within its territorial jurisdiction.

<sup>36</sup> *Reyes v. People*, G.R. No. 237172, September 18, 2019, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/65745>> [Per J. Leonen, Third Division] citing *Soriano v. Marcelo*, 610 Phil. 72, 80 (2009) [Per J. Carpio, First Division].

<sup>37</sup> *Id.*

<sup>38</sup> *Fonacier v. Sandiganbayan*, 308 Phil. 660, 693 (1994) [Per J. Vitug, En Banc].

<sup>39</sup> 599 Phil. 439 (2009) [Per J. Carpio, First Division].

<sup>40</sup> *Id.* at 450-451.



*The permit to extract sand, gravel and other quarry resources shall be issued exclusively by the provincial governor, pursuant to the ordinance of the sangguniang panlalawigan.*

The proceeds of the tax on sand, gravel and other quarry resources shall be distributed as follows:

- (1) Province — Thirty percent (30%);
- (2) Component City or Municipality where the sand, gravel, and other quarry resources are extracted — Thirty percent (30%); and
- (3) Barangay where the sand, gravel, and other quarry resources are extracted — Forty percent (40%). (Emphasis supplied)

The provision is categorical, unambiguous, and makes no room for interpretation. The Provincial Governor has the *exclusive* authority to issue permits to extract sand, gravel, and other quarry resources. Nothing in the provision is susceptible to an interpretation that a Mayor may issue extraction permits.

## II

Consequently, I cannot agree with the majority's conclusion that there was *no* evident bad faith because "petitioner was justified by his honest belief that he is authorized by law to issue the said permits."<sup>41</sup>

First, basic is the rule that ignorance of the law excuses no one from compliance.<sup>42</sup>

We cannot exculpate an individual from liability for an illicit act when he or she pleads ignorance of the law. We have all the more reason not to condone a local chief executive's illegal and unauthorized exercise of power, especially when it is because of some patently erroneous personal view that he has the authority. It must be underscored that as a local chief executive, petitioner implements the law in his municipality's territorial jurisdiction.

Second, the majority excused petitioner's blatant disregard of the law "in his [mistaken] reliance on the provisions of the Local Government Code."<sup>43</sup> It does not mention which particular provision of the Local Government Code was vague that warrants petitioner's acquittal. Records revealed that petitioner relied on Section 444 (3) (iv) of the Code:

SECTION 444. *The Chief Executive: Powers, Duties, Functions and Compensation.* — (a) The municipal mayor, as the chief executive of

<sup>41</sup> *Ponencia*, p. 10.

<sup>42</sup> CIVIL CODE, art. 3.

<sup>43</sup> *Ponencia*, p. 9.

the municipal government, shall exercise such powers and performs such duties and functions as provided by this Code and other laws.

....  
 (3) Initiate and maximize the generation of resources and revenues, and apply the same to the implementation of development plans, program objectives and priorities as provided for under Section 18 of this Code, particularly those resources and revenues programmed for agro-industrial development and country-wide growth and progress, and relative thereto, shall:

....  
 (iv) Issue licenses and permits and suspend or revoke the same for any violation of the conditions upon which said licenses or permits had been issued, pursuant to law or ordinance[.]

*There is no difficult question of law here. As the Sandiganbayan pointed out, this general authority—conferred upon the municipal mayor to issue licenses and permits—cannot prevail over the “specific and exclusive authority granted upon the provincial governor to issue extraction permits[.]”*<sup>44</sup>

Third, in my view, a public officer’s brazen act of granting permits without any basis in law gives rise to a presumption of bad faith. Petitioner’s mere issuance of invalid permits constitutes a serious transgression, considering sheer lack of legal basis or any color of law.

*Luciano v. Estrella*<sup>45</sup> declared that Republic Act No. 3019 is *malum prohibitum*, and not *malum in se*:

In other words, the act treated thereunder partakes of the nature of a *malum prohibitum*; it is the commission of that act as defined by the law, not the character or effect thereof, that determines whether or not the provision has been violated. And this construction would be in consonance with the announced purpose for which Republic Act 3019 was enacted, which is the repression of certain *acts* of Republic officers and private persons constituting graft or corrupt practices or which may lead thereto. Note that the law does not merely contemplate repression of acts that are unlawful or corrupt *per se*, but even of those that may *lead to or result* in graft and corruption. Thus, to require for conviction under the Anti-Graft and Corrupt Practices Act that the validity of the contract or transaction be first proved would be to enervate, if not defeat, the intention of the Act. For what would prevent the officials from entering into those kinds of transactions against which Republic Act 3019 is directed, and then deliberately omit the observance of certain formalities just to provide a convenient leeway to avoid the clutches of the law in the event of discovery and consequent prosecution?<sup>46</sup> (Citation omitted, emphasis in the original)

<sup>44</sup> *Rollo*, p. 65.

<sup>45</sup> 145 Phil. 454 (1970) [Per J. J.B.L. Reyes, En Banc]. See also *Republic v. Sereno*, G.R. No. 237428, May 11, 2018, 863 SCRA 1 [Per J. Tijam, En Banc].

<sup>46</sup> *Id.* at 464–465.

The majority's contemplation that "there is no showing that petitioner personally gained anything by his issuance of the questioned extraction permits"<sup>47</sup> is immaterial. This is not an element of the crime that must be proven.

I also disagree that "the approval of the said permits went through the regular process."<sup>48</sup> *Nothing* was regular in petitioner's unauthorized and infirm conduct. As the local chief executive, he has the prerogative on whether or not to approve his subordinates' recommendations. He is not an unwitting government official, but one who is mandated to execute laws and manage the affairs within his locality.

His subsequent acts exhibited badges of fraud which militate against his claim of good faith and excusable ignorance.

Soledad, the Occidental Mindoro Provincial Environment and Natural Resources Officer, issued Cease and Desist Orders to his permit grantees. This then caused petitioner to write him two (2) letters, which he generously reproduced in his pleadings. Petitioner wrote that "the Municipality of San Jose shall not recognize your 'cease and desist order' until such time that a proper legal process is adhered to by the Provincial Government."<sup>49</sup> Further, he berated Soledad who must "properly respect the inherent powers vested upon this Local Government Unit[.]"<sup>50</sup> While the majority describes this as "emphatic,"<sup>51</sup> this language hardly showed any compassion.

In any case, I fail to see how petitioner acted in good faith when he refused to heed the directive of the Provincial Environment and Natural Resources Officer, who is mandated to protect our natural resources.

Executive Order No. 192, otherwise known as the Reorganization Act of the Department of Environment and Natural Resources, enumerates the functions of Regional Offices under which the Provincial Environment and Natural Resources Officer serves:

SECTION 21. *Functions of Environment and Natural Resources Regional Office.* — Environment and Natural Resources Regional Offices shall be located in the identified regional capitals and shall have the following functions, but not limited to:

- a) **Implement laws, policies, plans, programs, projects, rules and regulations of the Department** to promote the sustainability and productivity of natural resources, social equity in natural resource utilization and environmental protection.

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<sup>47</sup> *Ponencia*, p. 9.

<sup>48</sup> *Id.*

<sup>49</sup> *Rollo*, p. 93.

<sup>50</sup> *Id.*

<sup>51</sup> *Ponencia*, p. 9.

- b) Provide efficient and effective delivery of services to the people;
- c) **Coordinate with regional offices of other departments, offices, agencies in the region and local government units in the enforcement of natural resource conservation laws and regulations**, and in the formulation/implementation of natural resources programs and projects;
- d) Recommend and, upon approval, implement programs and projects on forestry, minerals, and land management and disposition;
- e) Conduct comprehensive inventory of natural resources in the region and formulate regional short and long-term development plans for the conservation, utilization and replacement of natural resources;
- f) Evolve respective regional budget in conformity with the priorities established by the Regional Development Councils;
- g) **Supervise the processing of natural resources products, grade and inspect minerals, lumber and other wood processed products, and monitor the movement of these products;**
- h) Conduct field researches for appropriate technologies recommended for various projects;
- i) Perform other functions as may be assigned by the Secretary and/or provided by law.

The natural resources provincial and community offices shall absorb, respectively, the functions of the district offices of the bureaus, which are hereby abolished in accordance with Section 24 (b) hereof. The provincial and community natural resource office shall be headed by a provincial natural resource officer and community natural resource officer, respectively. (Emphasis supplied.)

The majority stresses that Soledad filed the complaint for violation of laws which did not include Republic Act No. 3019, but that “the Ombudsman, instead chose to file the present Informations for petitioner’s alleged violation of Section 3(e) of Republic Act No. 3019.”<sup>52</sup>

It must be reiterated that “the Ombudsman's power to determine probable cause is executive in nature, and with its power to investigate, it is in a better position than this Court to assess the evidence on hand to substantiate its finding of probable cause or lack of it.”<sup>53</sup> The Ombudsman acted well-within its jurisdiction and competence in resolving to file informations for violation of Republic Act No. 3019, instead of the other laws Soledad claimed petitioner violated.

<sup>52</sup> Draft *ponencia*, p. 11.

<sup>53</sup> *Presidential Commission on Good Government v. Office of the Ombudsman*, G.R. No. 187794, November 28, 2018, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64814>> [Per J. Leonen, Third Division].

### III

I disagree with the majority that there is “no sufficient evidence to prove that the persons in whose favor herein petitioner issued the subject extraction permits received unwarranted benefits, advantage, or preference.”<sup>54</sup> As it pointed out, “unwarranted means lacking adequate or official support; unjustified, unauthorized, or without justification or adequate reason.”<sup>55</sup>

To sustain petitioner’s conviction, there need not be actual proof of how the grantees preyed upon the municipality’s resources to illustrate that they received unwarranted benefit. It is manifest that the grantees benefited from being issued extraction permits, despite having no source of right. Plainly, obtaining the permits from an unauthorized public officer enabled the grantees to extract sand and gravel resources without any legal authority, proper justification, and under no regulation from the concerned government agencies. This Court must not close its eyes when the unwarranted benefit extended to several persons is patent.

All told, in issuing extraction permits when he had no power to do so, and in blatant disregard of the proper authority’s orders, petitioner gave unwarranted benefits to his permits’ grantees. With no legitimate justification of his unlawful act, petitioner should not be acquitted from the charges.

Thus, I find no error in the Sandiganbayan's finding that petitioner was guilty beyond reasonable doubt of violating Section 3(e) of the Anti-Graft and Corrupt Practices Act. This offense is punishable by “imprisonment for not less than six years and one month nor more than fifteen years [and] perpetual disqualification from public office[.]”<sup>56</sup> Thus, the Sandiganbayan did not err in imposing for each count the indeterminate penalty of six (6) years and one (1) month as minimum to ten (10) years as maximum, with perpetual disqualification from public office.

“Public office is a public trust.”<sup>57</sup> Public officers must perform their duties with “utmost responsibility, integrity, loyalty, and efficiency.”<sup>58</sup> This Court must endeavor to exact accountability from our public officers, lest we unwittingly coddle erring leaders.

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<sup>54</sup> *Ponencia*, p. 10.

<sup>55</sup> *Id.*

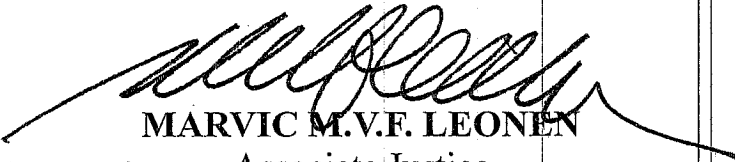
<sup>56</sup> Republic Act. No. 3019 (1960), sec. 9, as amended by Batas Blg. 195 (1982).

<sup>57</sup> CONST., art. XI, sec. 1.

<sup>58</sup> CONST., art. XI, sec. 1.

The least we must expect from our local chief executives, on whom public trust is reposed, is to know their mandate. Acquitting petitioner when he committed brazenly unlawful acts manifesting evident bad faith would be a disservice to the people.

**ACCORDINGLY**, I vote to **DENY** the petition, and **AFFIRM** the assailed Sandiganbayan Decision and Resolution. Petitioner Jose T. Villarosa should be held liable for nine (9) counts of violating Republic Act No. 3019, Section 3(e).



**MARVIC M.V.F. LEONEN**  
Associate Justice