



Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES, G.R. No. 250445
Plaintiff-Appellee,

Present:

- versus -

GESMUNDO, C.J., *Chairperson,*
 CAGUIOA,
 INTING,
 GAERLAN, and
 DIMAAMPAO, JJ.

GEMMA FLORANTE ADANA,
ROLAND CUENCA GRIJALVO,
FELIX ABELANO TIMSAN,
EMMANUEL FORTUNO
ENTERIA, and JONATHAN KEE Promulgated:
CARTAGENA,
Accused-Appellants. **MAR 29 2022**

X ----- X

DECISION

INTING, J.:

This resolves the appeal¹ of Gemma Florante Adana (Adana), Roland Cuenca Grijalvo (Grijalvo), Felix Abelano Timsan (Timsan), Emmanuel Fortuno Enteria (Enteria), and Jonathan Kee Cartagena (Cartagena) (collectively, accused-appellants) assailing the Decision² dated July 31, 2019 and the Resolution³ dated October 4, 2019 of the Sandiganbayan in SB-16-CRM-0317. The Sandiganbayan found them guilty beyond reasonable doubt of violation of Section 3(e) of Republic Act No. (RA) 3019,⁴ or the *Anti-Graft and Corrupt Practices Act*.

¹ See Notice of Appeal of Gemma Florante Adana dated November 5, 2019, *rollo*, pp. 46-47; see also Notice of Appeal of Roland Cuenca Grijalvo, Felix Abelano Timsan, Emmanuel Fortuno Enteria and Jonathan Kee Cartagena dated October 30, 2019, *id.* at 50-52.

² *Id.* at 4-45; penned by Associate Justice Kevin Narce B. Vivero with Associate Justices Sarah Jane T. Fernandez and Karl B. Miranda, concurring.

³ Sandiganbayan *rollo*, Vol. III, pp. 146-152.

⁴ Approved on August 17, 1960.

The Antecedents

The instant case stemmed from the following Information⁵ filed in the Sandiganbayan charging accused-appellants and Jose Ely H. Solivar (Solivar) with violation of Section 3(e) of RA 3019:

That from August 22, 2007 to January 9, 2008, or sometime prior or subsequent thereto in the Municipality of Naga, Zamboanga Sibugay, Philippines, and within the jurisdiction of this Honorable Court, accused public officers GEMMA FLORANTE ADANA, then Municipal Mayor and Head of Procuring Entity, ROLAND CUENCA GRIJALVO, then Municipal Engineer and Bids and Awards Committee (BAC) Chairman, FELIX ABELANO TIMSAN, then Municipal Civil Registrar and BAC Member, EMMANUEL FORTUNO ENTERIA, then Human Resource Management Officer IV and BAC Member, and JONATHAN KEE CARTAGENA, then Local Revenue Collection Clerk I and BAC Member, all of the Municipality of Naga, Zamboanga Sibugay, while in the performance of their official functions, committing the offense in relation to their office, taking advantage of their official positions, acting with evident bad faith, manifest partiality or gross inexcusable negligence, and conspiring and confederating with each other and with accused private individual JOSE ELY H. SOLIVAR, General Manager of CVCK Trading, did then and there willfully, unlawfully and criminally purchase from CVCK Trading five heavy equipment- one Road Grader, one Payloader, one Road Roller and two Dump Trucks- in the total amount of Eight Million Eight Hundred Thousand Pesos (Php8,800,000.00), without complying with the Government Procurement Reform Act (RA 9184) and its implementing rules and regulations, in that, (1) the Invitation to Apply for Eligibility and to Bid (IAEB) for the subject procurement was not published in the PhilGEPS website; (2) the IAEB did not contain an Approved Budget for the Contract; (3) the Notice of Award to CVCK Trading was issued before the approval of the BAC resolution declaring CVCK Trading as the bidder with the lowest calculated responsive bid; (4) No formal contract was executed between the Municipality and CVCK Trading for said procurement; (5) the specifications of the Road Grader and Road Roller which were offered by CVCK Trading and accepted by accused Adana were modified by the accused after the Notice of Award was issued to the said supplier, despite the fact that such change was not among the aspects of the contract allowed under the procurement law and its rules and regulations to be changed; and (6) no public bidding was conducted with respect to Road Grader and Road Roller after their specifications were changed, thereby giving unwarranted benefit, advantage or preference to

⁵ Sandiganbayan *rollo*, Vol. I, pp. 1-4.

CVCK Trading and causing undue injury to the government.

CONTRARY TO LAW.⁶

Grijalvo, Timsan, Enteria, and Cartagena, all from the Bids and Awards Committee (BAC) (collectively, accused-appellant-BAC members), filed a Motion to Quash⁷ the Information; and Adana, in her Manifestation [With Motion to Set Hearing of the Motion to Quash on 10 November 2016 and Defer Arraignment of the Accused],⁸ adopted it. However, the Sandiganbayan denied it in a Resolution⁹ dated November 29, 2016.

Upon arraignment accused-appellants refused to enter their pleas. Thus, the court *a quo* entered pleas of not guilty on their behalf.¹⁰

In the meantime, Solivar remained at large.

During the pre-trial, the parties entered into the following stipulations of facts:

1. At the time material to the allegations in the Information, accused-appellants were holding public offices in the Municipality of Naga, Zamboanga Sibugay, as follows:
 - a. Adana – Municipal Mayor
 - b. Grijalvo – Municipal Engineer and BAC Chairman
 - c. Timsan – Municipal Civil Registrar and BAC Member
 - d. Enteria – Human Resource Management Officer IV and BAC Member

⁶ Id. at 2-3.

⁷ Id. at 187-205.

⁸ Id. at 256-260.

⁹ Id. at 268-274; penned by Associate Justice Rodolfo A. Ponferrada with Associate Justices Oscar C. Herrera, Jr. and Karl B. Miranda, concurring.

¹⁰ *Rollo*, p.7.

e. Cartagena – Local Revenue Collection Clerk I and BAC Member¹¹

2. On July 23, 2007, the *Sangguniang Bayan* of the Municipality of Naga passed Resolution No. 14, Series of 2007 authorizing Adana, then Municipal Mayor, to enter into a Memorandum of Agreement with the Land Bank of the Philippines (LBP) for loan accommodation in the amount of ₱8,800,000.00 for the purchase of heavy equipment;¹²
3. The money loaned from the LBP was used in purchasing five heavy equipment – one road grader, one payload, one road roller, and two dump trucks;¹³
4. The Municipality of Naga, through accused-appellants BAC members, with the approval of Adana, purchased from CVCK Trading the five heavy equipment;¹⁴
5. The Invitation to Apply for Eligibility and to Bid (IAEB) was published in the *Malaya* newspaper on August 22, 2007, and its existence and authenticity was evinced by the Affidavit of Publication¹⁵ executed by Luzviminda Bugaoisan, Advertising Supervisor of *Malaya*;
7. The description of the heavy equipment subject of the IAEB contains the following:

Name of the Project : Acquisition of Heavy [Equipment]
Location : Naga, Zamboanga Sibugay
Brief Description : Reconditioned Heavy Equipment:
a. One (1) Road Grader
b. One (1) unit Backhoe/Excavator

¹¹ Sandiganbayan *rollo*, Vol. I, pp. 1, 428.

¹² *Rollo*, p. 7.

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Sandiganbayan *rollo*, Vol. I, p. 65.

- c. One (1) unit Road Roller w/
Steering Wheel
 - d. Two (2) units 6 Wheelers Dump
Truck ([Isuzu])¹⁶
8. The IAEB for the procurement of the heavy equipment was not published in the Philippine Government Electronic Procurement System (PhilGEPS) website, with the qualification from accused-appellants that at the time of the publication, there was no available internet provider in the municipality;
9. As provided in the IAEB, the Approved Budget for the Contract (ABC) is to be disclosed during the opening of the bids;¹⁷
10. The Notice of Award¹⁸ to CVCK Trading was issued by Adana on October 12, 2007 with the conformity of Solivar, being the General Manager of CVCK Trading, on October 15, 2007;
11. BAC Resolution No. 01-07¹⁹ declaring CVCK Trading as the bidder with the Lowest Calculated Responsive Bid was issued by accused-appellants-BAC members on October 8, 2007 and approved by Adana on October 16, 2007; and
12. BAC Resolution No. 01-08²⁰ amending the specifications of the heavy equipment, particularly the road roller and the road grader that will be purchased, was issued on January 9, 2008.

Trial ensued.

¹⁶ Id.

¹⁷ Id.

¹⁸ Id. at 69.

¹⁹ Id. at 67-68.

²⁰ Id. at 70-71.

Version of the Prosecution

The prosecution pointed out the irregularities in the bidding process. It established that at the outset, the technical specifications of the heavy equipment and the ABC were not indicated in the IAEB.²¹ Moreover, the ABC of ₱8,800,000.00 was only disclosed during the opening of the bids on October 8, 2007 which was equivalent to the amount of money loaned from the LBP.²²

The prosecution also maintained that: (1) three bidders participated; (2) it was CVCK Trading which had the lowest calculated responsive bid with the bid offer of ₱8,800,000.00;²³ (3) the two other bidders were disqualified because their bid exceeded the ABC;²⁴ and (4) the Notice of Award was issued to CVCK Trading before the approval of the BAC resolution declaring it as the winning bidder²⁵

Further, it was established that an inspectorate team was created to inspect the heavy equipment before their delivery. However, the team reported that there were equipment of the same type, but of superior capacity and performance than those previously offered by CVCK Trading.²⁶

Thereafter, the BAC met for the purpose of amending the specifications of the heavy equipment, particularly the road roller and road grader. The BAC was informed that LBP will not release the payment for the delivered equipment because the specifications were different from those in the bidding documents. Pursuant thereto, the BAC issued Resolution No. 01-08 on January 9, 2008 amending the specifications of the road roller and road grader.²⁷ However, no rebidding was conducted after the amendment.²⁸

²¹ As culled from the Judicial Affidavit of Virgilio C. Tiare dated July 14, 2017, id. at 370. Prosecution witness Virgilio C. Tiare was the Municipal Planning and Development Coordinator of Naga for the years 2007-2008.

²² Id. at 371.

²³ Id.

²⁴ *Rollo*, p. 23.

²⁵ Id. at 25.

²⁶ Sandiganbayan *rollo*, Vol. I, pp. 372-373.

²⁷ Id.

²⁸ Id. at 374.

Accused-appellants filed their respective Motions for Leave of Court to File Demurrer to Evidence.²⁹ However, the Sandiganbayan denied them in a Resolution³⁰ dated March 19, 2018.

Accused-appellants proceeded to present their evidence.

Version of the Defense

Accused-appellants argued that the IAEB was not advertised with PhilGEPS because the Municipality of Naga was not yet equipped with online facilities during the procurement in question. However, they maintained that it was published in *Malaya* which is a newspaper of general circulation.³¹ As to the ABC that was not indicated in the IAEB, accused-appellants asserted that the amount of ₱8,800,000.00 was already a matter of public knowledge as early as July 23, 2007 when the *Sangguniang Bayan* of Naga issued Resolution No. 14, Series of 2007 authorizing Adana to enter into a contract of loan with LBP in the amount of ₱8,800,000.00.³²

Accused-appellants also denied having issued the Notice of Award to CVCK Trading before the approval of the BAC Resolution declaring it as the winning bidder.³³ They insisted that the Notice of Award was issued on October 12, 2007, or four days after the issuance of BAC Resolution No. 01-07, which declared CVCK as the winning bidder; and that the date "October 16, 2007" was inadvertently placed below the signature of Adana in BAC Resolution No. 01-07.³⁴ They likewise denied that the BAC amended the specifications of the road grader and road roller after the issuance of the Notice of Award to CVCK Trading; they explained that what was delivered was the same reconditioned equipment but with superior quality and capacity at no additional cost to the Municipality of Naga.³⁵

²⁹ Sandiganbayan *rollo*, Vol. II, pp. 6-7 and 10-13.

³⁰ Id. at 36-39; penned by Associate Justice Sarah Jane T. Fernandez with Associate Justices Karl B. Miranda and Zaldy V. Trespeses, concurring.

³¹ Id. at 165.

³² Id. at 166.

³³ Id.

³⁴ Id. at 81.

³⁵ Id. at 167-168.

For Adana, she invoked good faith and limited technical knowledge on the procurement process, adding that she relied on the experience and competence of the accused-appellant-BAC members.³⁶

As to the allegation that no contract was entered into between the Municipality of Naga and CVCK Trading, accused-appellants presented a Contract for the Acquisition of Heavy Equipment of Naga, Zamboanga Sibugay dated October 22, 2007 to refute the accusation.³⁷

The Ruling of the Sandiganbayan

On July 31, 2019, the Sandiganbayan rendered the assailed Decision³⁸ finding accused-appellants guilty beyond reasonable doubt of violation of Section 3(e) of RA 3019, the decretal portion of which provides:

WHEREFORE, in light of all the foregoing, accused GEMMA F. ADANA, ROLAND C. GRIJALVO, FELIX A. TIMSAN, EMMANUEL F. ENTERIA and JONATHAN K. CARTAGENA are found GUILTY beyond reasonable doubt of violating Section 3(e) of Republic Act No. 3019, and are each sentenced to imprisonment for a minimum of six (6) years and one (1) month and a maximum of eight (8) years, with perpetual disqualification from public office.

Let the records of this case be sent to the archive files without prejudice on the part of the prosecution to prosecute the case against accused Jose Ely H. Solivar, who remains at-large, as soon as he is apprehended.

SO ORDERED.³⁹

In convicting accused-appellants, the Sandiganbayan ruled that they worked together as head of procuring entity and as members of the BAC to cause the acquisition of the subject heavy equipment without complying with the basic requirements of the procurement law.⁴⁰ The bidding conducted did not meet the principles of transparency and competitiveness under RA 9184. As a result, it gave CVCK Trading

³⁶ Id. at 168-169.

³⁷ Id. at 167.

³⁸ *Rollo*, pp. 4-45.

³⁹ Id. at 44.

⁴⁰ Id. at 43.

unwarranted benefits, advantages, or preference, thereby making accused-appellants liable under Section 3(e) of RA 3019.⁴¹

Accused-appellants filed their respective Motions for Reconsideration⁴² questioning the Decision dated July 31, 2019 of the Sandiganbayan. In the assailed Resolution⁴³ dated October 4, 2019, the Sandiganbayan denied the motions for reconsideration.

Hence, this appeal.

The Issue Before the Court

The issue to be resolved in this case is whether accused-appellants are guilty beyond reasonable doubt for violation of Section 3(e) of RA 3019.

The Court's Ruling

The appeal is impressed with merit.

At the outset, settled is the rule that the appellate jurisdiction of the Court over decisions and final orders of the Sandiganbayan is limited only to questions of law. It does not review the factual findings of the Sandiganbayan which are generally conclusive upon the Court.⁴⁴ However, this rule admits of exceptions, such as where: “(1) the conclusion is a finding grounded entirely on speculation, surmise and conjectures; (2) the inference made is manifestly mistaken; (3) there is grave abuse of discretion; (4) the judgment is based on misapprehension of facts; and (5) the findings of fact of the Sandiganbayan are premised on a want of evidence and are contradicted by evidence on record.”⁴⁵

The issues raised in the present petition warrant a reevaluation of

⁴¹ Id. at 39.

⁴² Sandiganbayan *rollo*, Vol. III, pp. 66-80 and 85-101.

⁴³ Id. at 146-152.

⁴⁴ *Zoleta v. Sandiganbayan*, 765 Phil. 39, 52 (2015).

⁴⁵ *Lee v. Sandiganbayan*, G.R. Nos. 234664-37, January 12, 2021, citing *Agullo v. Sandiganbayan*, 414 Phil. 86, 99 (2001).

the evidence presented before the Sandiganbayan and the application of the above-stated exceptions.

Accused-appellants were charged with violation of Section 3(e) of RA 3019 which provides:

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:

x x x x

(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.

To sustain a conviction for violation of Section 3(e) of RA 3019, the following elements must be established: “(1) the offender is a public officer; (2) the act was done in the discharge of the public officer's official, administrative, or judicial functions; (3) the act was done through manifest partiality, evident bad faith, or gross inexcusable negligence; and (4) the public officer caused any undue injury to any party, including the government, or gave any unwarranted benefits, advantage or preference.”⁴⁶

The prosecution duly established the first two elements:

First, at the time material to the case, accused-appellants were holding public offices in the Municipality of Naga, Zamboanga Sibugay. Adana was the Municipal Mayor and the head of procuring entity while Grijalvo was the Municipal Engineer and BAC Chairperson. BAC members Timsan, Enteria, and Catagena were the Municipal Civil Registrar, Human Resource Management Officer, and Local Revenue Collection Clerk, respectively.

⁴⁶ *People v. Bacaltos*, G.R. No. 248701, July 28, 2020, citing *Sabio v. Sandiganbayan*, G.R. Nos. 233853-54, July 15, 2019.

Second, they were performing their official functions as the head of procuring entity (Adana) and members of the BAC (Grivaljo, Timsan, Enteria, and Catagena) when they awarded the procurement of the heavy equipment to CVCK Trading.

The issue now revolves on whether the third and fourth elements are present.

In *Coloma, Jr. v. Sandiganbayan*⁴⁷ (*Coloma, Jr.*), the Court enunciated that Section 3(e) of RA 3019 may be committed in three ways, that is, through manifest partiality, evident bad faith, or gross inexcusable negligence. The Court defined these concepts in relation to Section 3(e) as follows:

“Partiality” is synonymous with “bias” which “excites a disposition to see and report matters as they are wished for rather than as they are.” “Bad faith does not simply connote bad judgment or negligence; it imputes a dishonest purpose or some moral obliquity and conscious doing of a wrong; a breach of sworn duty through some motive or intent or ill will; it partakes of the nature of fraud.” “Gross negligence has been so defined as negligence characterized by the want of even slight care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but wilfully and intentionally with a conscious indifference to consequences in so far as other persons may be affected. It is the omission of that care which even inattentive and thoughtless men never fail to take on their own property.”⁴⁸

The Court further stated in *Coloma, Jr.* that proof of any of the three ways in connection with the prohibited acts mentioned in Section 3(e) of RA 3019 is enough to convict an accused.⁴⁹

Indeed, accused-appellants conducted a public bidding riddled with procedural lapses. The published IAEB did not disclose the ABC for the contract in violation of Section 21.1(4)⁵⁰ of the 2003

⁴⁷ 744 Phil. 214 (2014).

⁴⁸ *Id.* at 229, citing *Fonacier v. Sandiganbayan*, 308 Phil. 660, 693-694 (1994).

⁴⁹ *Id.*, citing *Sison v. People*, 628 Phil. 573, 583 (2010).

⁵⁰ Section 21.1(4) of the 2003 Implementing Rules and Regulations-A (2003 IRR-A) of RA 9184

Implementing Rules and Regulations-A (2003 IRR-A) of RA 9184. The BAC also failed to include in the IAEB: (1) the source of funding; (2) the period of availability of the bidding documents; (3) the place where the bidding documents may be secured; (4) the name, address, telephone number, facsimile number, electronic mail and website addresses of the procuring entity, and its designated contact person; and (5) the date, time and place of the deadline for the submission and receipt of the eligibility requirements, the pre-bid conference, if any, the submission and receipt of bids, and the opening of bids, all in violation of Section 21.1 of the 2003 IRR-A.⁵¹

Moreover, the BAC did not conduct a pre-bid conference as it went from the publication of the IAEB to the opening of the bids in violation of Section 22.1⁵² of the 2003 IRR-A. The specifications of the road grader and road roller offered by CVCK Trading were also modified after the issuance of the Notice of Award without any of the conditions present under the 2003 IRR-A.⁵³ Lastly, the published IAEB

provides:

Section 21. *Advertising and Contents of the Invitation to Bid.* —

21.1. *Contents of the Invitation to Apply for Eligibility and to Bid*

The Invitation to Apply for Eligibility and to Bid shall provide prospective bidders the following information, among others:

x x x x

4. The approved budget for the contract to be bid;

x x x x

⁵¹ *Rollo*, p. 33.

⁵² Section 22.1 of 2003 IRR-A of RA 9184 reads:

Section 22. *Pre-bid Conference.* —

22.1. For contracts to be bid with an approved budget of one million pesos (P1,000,000.00) or more, the BAC shall convene at least one (1) pre-bid conference to clarify and/or explain any of the requirements, terms, conditions and specifications stipulated in the bidding documents. For contracts to be bid costing less than one million pesos (P1,000,000.00), pre-bid conferences may be conducted at the discretion of the BAC. Subject to the approval of the BAC, a pre-bid conference may also be conducted upon written request of any prospective bidder.

x x x x

⁵³ Annex D (Contract Implementation Guidelines for Procurement of Goods, Supplies and Materials) paragraph (1)(1.2) of the 2003 IRR-A of RA 9184 provides:

1. Amendment to Order

x x x x

1.2. An amendment to order may be issued only in emergency cases or during fortuitous events requiring necessary adjustments within the general scope of the contract in any one or more of the following is required in order to fully meet the requirements of the project:

a) drawings, design or specifications, if the goods to be furnished are to be specifically manufactured for the Government in accordance therewith;

b) method of shipment or packing; or

c) place of delivery.

x x x x

contained the brand name “Isuzu” as part of the description of the heavy equipment to be procured in violation of Section 18⁵⁴ of the 2003 IRR-A.⁵⁵

Thus the next question is whether the foregoing lapses constitute manifest partiality, evident bad faith, or gross inexcusable negligence that would satisfy the third element of Section 3(e) of RA 3019.

In *Martel v. People*⁵⁶ (*Martel*), the Court ruled that in criminal cases involving Section 3(e) of RA 3019 in relation to alleged irregularities in procurement committed by public officers, “findings of violations of procurement laws, rules and regulations, on their own, do not automatically lead to the conviction of the public officer under the said special penal law. It must be established beyond reasonable doubt that the essential elements of Section 3(e) of R.A. 3019 are present.”⁵⁷

As the Court explained in *Martel*:

Thus, in order to successfully prosecute the accused under Section 3 (e) of R.A. 3019 based on a violation of procurement laws, the prosecution cannot solely rely on the fact that a violation of procurement laws has been committed. The prosecution must prove beyond reasonable doubt that: (1) the violation of procurement laws caused undue injury to any party, including the government, or gave any private party unwarranted benefits, advantage or preference, and (2) the accused acted with evident bad faith, manifest partiality, or gross inexcusable negligence. This the prosecution failed to do. Specifically, the prosecution miserably failed to prove beyond reasonable doubt that petitioners acted with evident bad faith, manifest partiality, or gross inexcusable negligence in relation to the subject procurements.⁵⁸

Admittedly, procedural lapses were committed by accused-appellants in the exercise of their official functions during the conduct of

⁵⁴ Section 18 of 2003 IRR-A of RA 9184 states:

Section 18. *Reference to Brand Names.* —

Specifications for the procurement of goods shall be based on relevant characteristics and/or performance requirements. Reference to brand names shall not be allowed.

⁵⁵ *Rollo*, p. 36.

⁵⁶ G.R. Nos. 224720-23 & 224765-68, February 2, 2021.

⁵⁷ *Id.* Italics in the original omitted.

⁵⁸ *Id.*

the public bidding. However, there was no sufficient evidence to prove beyond reasonable doubt that they acted with malicious and fraudulent intent tantamount to bad faith or manifest partiality. Neither can their acts be characterized as wanting of even slight care with conscious indifference to consequences.

It must be stressed that accused-appellants complied with the relevant provisions of 2003 IRR-A of RA 9184 albeit with numerous procedural lapses. However, other than allegations that lapses or irregularities attended the conduct of the bidding, there was no sufficient evidence to prove that the acts of the accused-appellants were done with manifest partiality, evident bad faith, or gross inexcusable negligence. Verily, these conclusions cannot simply be based on mere conjectures and presumptions.

As to the last element, it is settled that there are two ways by which Section 3(e) of RA 3019 may be committed, namely: (a) by causing undue injury to any party, including the government; or (b) by giving any private party any unwarranted benefit, advantage or preference.⁵⁹

As correctly found by the Sandiganbayan, no undue injury to any party was established by the prosecution under the first mode. On the contrary, it was not disputed that the subsequent amendment on the specifications of the road roller and road grader even redounded to the benefit of the Municipality because they were of superior or upgraded quality compared to the original specifications.

On the other hand, “in order to be found guilty under the second mode, it suffices that the accused has given unjustified favor or benefit to another in the exercise of his [or her] official, administrative, or judicial functions.”⁶⁰ In the second mode, “the word 'unwarranted' means lacking adequate or official support; unjustified; unauthorized or without justification or adequate reason. 'Advantage' means a more favorable or improved position or condition; benefit, profit or gain of any kind; benefit from some course of action. 'Preference' signifies priority or

⁵⁹ *Coloma, Jr. v. Sandiganbayan*, supra note 47 at 231-232.

⁶⁰ *Ambil, Jr. v. Sandiganbayan*, 669 Phil. 32, 55 (2011), citing *Sison v. People*, 628 Phil. 573, 585 (2010).

higher evaluation or desirability; choice or estimation above another.”⁶¹

In the case, there is no sufficient evidence to prove that accused-appellants accorded unwarranted benefit, advantage or preference in favor of CVCK Trading. Mere allegation without proof would not suffice to prove their guilt for violation of Section 3(e) of RA 3019. “To hold otherwise is to let suppositions based on mere presumptions, not established facts, constitute proof of guilt. That holding is constitutionally impermissible, for suppositions would not amount to proof beyond reasonable doubt by virtue of their nature as conjectural and speculative.”⁶²

At this point, it must be emphasized that conviction in criminal actions demands proof beyond reasonable doubt under Section 2, Rule 133 of the Rules of Court.⁶³ “While not impelling such a degree of proof as to establish absolutely impervious certainty, the quantum of proof required in criminal cases nevertheless charges the prosecution with the immense responsibility of establishing moral certainty, a certainty that ultimately appeals to a person's very conscience.”⁶⁴ Here, the Court finds such moral certainty to be lacking. The State failed to establish the guilt of the accused-appellants beyond reasonable doubt which warrants their acquittal.

WHEREFORE, the appeal is **GRANTED**. The Decision dated July 31, 2019 and the Resolution dated October 4, 2019 of the Sandiganbayan in SB-16-CRM-0317 are **REVERSED** and **SET ASIDE**. Accused-appellants Gemma Florante Adana, Roland Cuenca Grijalvo, Felix Abelano Timsan, Emmanuel Fortuno Enteria, and Jonathan Kee Cartagena are **ACQUITTED** for failure of the prosecution to prove their guilt beyond reasonable doubt.

⁶¹ Id.

⁶² *Rivera v. People*, G.R. No. 228154, October 16, 2019, citing *Zapanta v. People*, 759 Phil. 156, 174 (2015), further citing *People v. Bautista*, 636 Phil. 535, 553-554 (2010).

⁶³ Section 2, Rule 133 of the Rules of Court states:

SEC. 2. *Proof beyond reasonable doubt*. — In a criminal case, the accused is entitled to an acquittal, unless his guilt is shown beyond reasonable doubt. Proof beyond reasonable doubt does not mean such a degree of proof as, excluding possibility of error, produces absolute certainty. Moral certainty only is required, or that degree of proof which produces conviction in an unprejudiced mind.

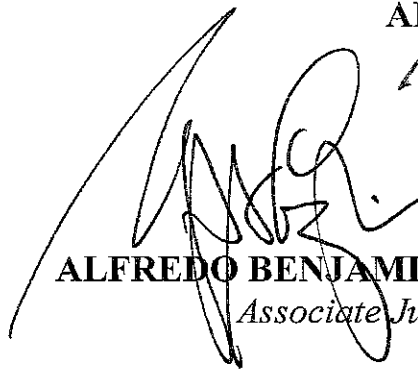
⁶⁴ *Daayata v. People*, 807 Phil. 102, 117-118 (2017).

SO ORDERED.


HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:


ALEXANDER G. GESMUNDO
Chief Justice
Chairperson



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice


SAMUEL H. GAERLAN
Associate Justice


JAPAR B. DIMAAMPAO
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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
Chairperson