



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
Quezon City
THIRD DIVISION

**PEOPLE
OF
PHILIPPINES,**

OF

THE

Plaintiff,

-versus-

Crim Case No.

SB-19-CRM-0143

*For: Violation of Section
3(e) of Republic Act No.
3019, as amended.*

CAROLINA LACSON DELLOSA,
Accused.

Present:

Cabotaje-Tang, A.M.,
PJ., Chairperson

Fernandez, B.R., J. and
Moreno, R.B., J.

PROMULGATED:

March 9, 2023

X - - - - - X

DECISION

Moreno, J.:

Accused Carolina Lacson Dellosa is charged before this Court with violation of Section 3(e) of Republic Act (R.A.) No. 3019, as amended. The accusatory portion of the *Information*¹ reads:

That on 27 August 2014, or sometime prior or subsequent thereto, in the Municipality of Baliwag, Bulacan, and within the jurisdiction of this Honorable Court, accused **CAROLINA LACSON DELLOSA**, a public officer, being then the Municipal Mayor of Baliwag, Bulacan, taking advantage of her official position and in relation thereto, while in the discharge of her official functions, with manifest partiality, evident bad faith or gross inexcusable negligence, did then and there willfully, unlawfully and criminally give unwarranted benefits, advantage or preference to Freeway Motor Sales of Baliuag Corp. by approving the award in its favor of the contract for the procurement of

¹ Dated May 17, 2018, *Records*, Volume I, pp. 1-3.

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one unit of 2.0L Mitsubishi MIVEC DOHC 4B11 1998 CC Active Sports Crossover although it was clear that the Bids and Awards Committee's recommendation thereon had been based on the supplier's access to some brand specified beforehand, particularly the Mitsubishi brand, in violation of Republic Act No. 9184 and its Implementing Rules and Regulations.

CONTRARY TO LAW.

Upon a finding of probable cause, the Court ordered the issuance of *Warrant of Arrest* and *Hold Departure Order* against the accused on June 3, 2019.² Accused posted bail on July 1, 2019.

Accused Dellosa filed a *Motion to Quash and/or Dismiss the Information*³ dated July 22, 2019. The prosecution filed its *Opposition* dated⁴ August 5, 2019. In its *Resolution*⁵ dated September 3, 2019, the Court denied Dellosa's motion for lack of merit. Accused moved to reconsider the denial of her motion,⁶ but the Court denied it in its *Resolution*⁷ dated October 7, 2019.

When arraigned on November 29, 2019, accused Dellosa, with the assistance of counsel, pleaded "*Not Guilty*" to the charge of violation of Section 3(e) of R.A. 3019.⁸

During the pre-trial, the parties made the following stipulations:⁹

1. Accused Dellosa is the same Carolina Lacson Dellosa charged in the Information; and
2. Accused Dellosa was the Municipal Mayor of Baliwag, Bulacan at the time material to the instant case.

Trial on the merits then ensued.

² *Id.*, p. 52.

³ *Id.*, pp. 83-92.

⁴ *Id.*, pp. 103-111.

⁵ *Id.*, pp. 127-132.

⁶ *Motion for Reconsideration* dated September 10, 2019, *Id.*, pp. 136-140.

⁷ *Id.*, pp. 162-166.

⁸ *Id.*, p. 185.

⁹ *Pre-Trial Order* dated February 6, 2020, *Id.*, pp. 250-254.

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DECISION

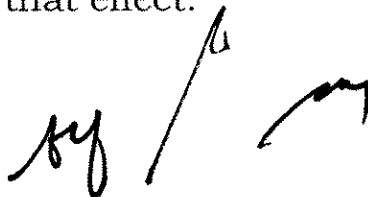
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EVIDENCE FOR THE PROSECUTION

Robert John I. Donesa¹⁰ is the Municipal Department Head I of the Municipality of Baliwag, Bulacan and designated as Chair of the Secretariat of the Bids and Awards Committee (BAC) of Baliwag, Bulacan since September 2017. As Chair of the Secretariat of the BAC, he is tasked to exercise custody over the official files, documents, and records of the BAC of Baliwag, Bulacan and to perform the clerical aspect of procurement activities to assist the BAC.

Donesa received a subpoena from the Office of the Special Prosecutor (OSP), directing him to locate the originals as well as to produce certified true copies of the following and other related documents available: (1) BAC Resolution No. 15, series of 2014, dated 27 August 2014; (2) Purchase Order dated 04 September 2014; (3) Disbursement Voucher No. 101-2014-9-519 (Payee: Freeway Motor Sales Baliuag, for the amount of Php1,198,000.00); (4) Vehicle Invoice No. 10319 dated 25 September 2014 (Freeway Motor Sales Baliuag Corp.); and (5) Inspection and Acceptance Report (for 1 unit of 2015 Mitsubishi Active Sports Crossover (ASX) 4 x 2 AT 2.0L MIVEC DOHC 4B11 1998 CC).

Upon searching in the BAC office, as well as in the offices of the concerned departments, Donesa found the originals of Purchase Order dated 04 September 2014;¹¹ Disbursement Voucher No. 101-2014-9-519 (Payee: Freeway Motor Sales Baliuag, for the amount of Php1,198,000.00);¹² Inspection and Acceptance Report (for 1 unit of 2015 Mitsubishi Active Sports Crossover (ASX) 4 x 2 AT 2.0L MIVEC DOHC 4B11 1998 CC);¹³ Purchase Request;¹⁴ Obligation Request; and Memorandum Receipt. He then prepared certified true copies of the originals of the said documents. However, he was not able to locate the original or any copy of BAC Resolution No. 15, series of 2014, dated 27 August 2014 and Vehicle Invoice No. 10319 dated 25 September 2014 (Freeway Motor Sales Baliuag Corp.). Hence, he prepared a certification to that effect.



¹⁰ *Judicial Affidavit* dated February 13, 2020, *Records*, Volume I, pp. 234-241.

¹¹ Exhibit B.

¹² Exhibit C.

¹³ Exhibit E.

¹⁴ Exhibit M-1.

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On cross-examination,¹⁵ Donesa stated that the BAC Secretariat should be the official custodian of the Purchase Order, Memorandum Receipt, Inspection and Acceptance Report, Vehicle Invoice, and Disbursement Voucher, as well as the BAC Resolution. However, the files were lost thus, he issued a certification to that effect. As for the documents that could still be recovered, he obtained copies thereof from different offices. He believes that BAC Resolution No. 15 was lost beyond recovery since the mayor's office was being renovated and several files were not turned over during the change in administration in 2016.

The first time he learned that the BAC Resolution was lost was when he received the subpoena. He admitted that he did not see the original copy of BAC Resolution No. 15 and that he has no knowledge as to its preparation or execution.

On re-direct examination,¹⁶ he said that there was no proper turnover of the documents when he assumed office as Chair of the BAC Secretariat.

On re-cross examination,¹⁷ Donesa explained that the chairperson before him did not properly turnover the documents when he became the Chair of the BAC Secretariat in September 2017.

Answering questions from the Court, he said that there was no proper turnover of documents in all the municipal offices during the change in administration from that of former Mayor Delloso to Mayor Ferdinand V. Estrella. He confirmed that his Sworn Certification was not notarized and that he did not categorically declare therein that the documents were already lost beyond recovery.

The testimony of **Eric M. Sioson** was dispensed with after the parties agreed to stipulate on the following:¹⁸

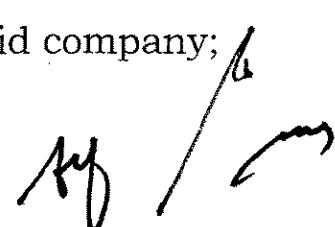
1. That he is currently the Assistant Vice President for Vehicle Sales of Mitsubishi Motors Freeway Motor Sales of Baliuag;
2. That he is the custodian of records of said company;

¹⁵ *TSN* dated February 24, 2020.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Order* dated March 4, 2020, *Records*, Volume I, p. 289.



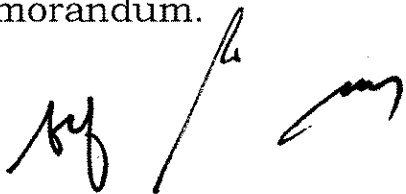
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3. That he brought with him the photocopies of Official Receipt dated November 14, 2014 and the Certificate of Registration No. 202403950 dated November 17, 2014; (b) the duplicate original of the Vehicle Delivery Receipt No. 10319 dated September 25, 2014; (c) the duplicate original of the Vehicle Invoice No. 10319 dated September 25, 2014; and (d) the photocopy of the Purchase Order dated September 4, 2014; and
4. That these documents were compared with the certified copies which are the documents marked on record and the same are faithful reproductions of the source documents.

The testimony of **Noel G. Encarnacion** was likewise dispensed with after the parties agreed to stipulate on the following:¹⁹

1. That he is currently the Municipal Government Assistant Department Head I and Concurrent Head of the General Services Office of the LGU of Baliwag, Bulacan;
2. That he has in his custody the documents requested;
3. That he brought with him the original as well as certified copies of the Memorandum Receipt for Equipment, Semi-Expandable and Non-Expandable Property dated July 20, 2016 pertaining to a "2.0L 1998 CC SUV 2015 Mitsubishi Active Sports Crossover 4x2 with Plate No. SJL-458";
4. Thereafter the comparison, the defense further stipulate that the certified true copy is a faithful reproduction of the original brought by the witness; and
5. The three (3) pictures attached to the Memorandum Receipt are digital reproductions of the vehicle subject of the Memorandum.



¹⁹ TSN dated March 5, 2020; Order dated March 5, 2020, Records, Vol. I, pp. 291-292.

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Martiniano D. Javier²⁰ is the Municipal Treasurer of Baliwag, Bulacan since January 2012. As such, his functions include the disbursement and collection of municipal funds and exercising custody over registration, insurance, and other related files of the official vehicles of the municipality.

He received a subpoena from the OSP, directing him to appear for a case conference and for the preparation of a Judicial Affidavit, and to bring the original or official copy, or his official file copy of Resolution No. 15, series of 2014. He was able to find the original copy of the said Resolution.

On cross-examination,²¹ he confirmed that as Municipal Treasurer, he is also a member of the BAC. He narrated that in 2018, the Office of the Mayor was looking for BAC Resolution No. 15. He insisted that their office does not keep the documents attached to disbursement vouchers since they transmit them to the Accounting Office, which would then forward the same to the Commission on Audit (COA). All the while, he thought that BAC Resolution No. 15 was already transmitted to the COA. Nonetheless, he looked into the file of that particular vehicle and he was surprised to see therein the original copy of the BAC Resolution.

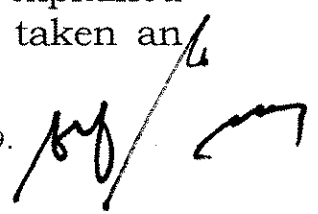
He confirmed that he did not sign BAC Resolution No. 15. He could not recall the first time he saw the BAC Resolution, but he signed and paid for the disbursement of the transaction subject of the Resolution. It is usually the Accounting Office that audits all the documents and certifies their completeness. Once the Accounting Office signs the documents, he presumes that everything is in order. He would sometimes check the documents, but it is the municipal accountant that should review them during pre-audit before submitting them to the treasury for payment. Considering that the accountant has already determined that the documents were complete, he then signed the disbursement voucher.

He clarified that he located the BAC Resolution in 2019 and the mayor of Baliwag, Bulacan at that time was Mayor Estrella.

When asked by the Court why he just recently found that the BAC Resolution was not forwarded to the COA, he explained that the Assistant Municipal Treasurer might have taken an

²⁰ *Judicial Affidavit* dated March 11, 2020, *Records*, Volume I, pp. 295-299.

²¹ *TSN* dated June 4, 2021.



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extra copy from the voucher and placed it in the file of that particular vehicle. That is why he was surprised to see a copy of the BAC Resolution in that file.

Further, he said that he could no longer remember why his signature does not appear in BAC Resolution No. 15 and whether he participated in its deliberation. He confirmed that BAC Resolution No. 15 is an attachment to the disbursement voucher, which he signed.

After presenting its witnesses, the prosecution filed its *Formal Offer of Evidence*.²² The Court, taking into consideration the *Comment/Opposition*²³ of the accused, resolved to admit the following exhibits:²⁴

EXHIBIT	DESCRIPTION
A	Certified True Copy of Resolution No. 15, series of 2014, dated 27 August 2014, signed by Martiniano D. Javier
B	Certified True Copy of Purchase Order dated 04 September 2014, signed by Robert John I. Donesa
C	Certified True Copy of Disbursement Voucher No. 101-2014-9-519 for the amount of Php1,198,000.00, signed by Robert John I. Donesa
E	Certified True Copy of Inspection and Acceptance Report for 2015 Mitsubishi Active Sports Crossover (ASX) 4 x 2 AT 2.0L MIVEC DOHC 4B11 1998 CC, signed by Robert John I. Donesa
H	Certified True Copy of Official Receipt dated 14 November 2014 and Certificate of Registration No. 202403950 dated 17 November 2014, signed by Eric M. Sioson
I	Certified True Copy of Vehicle Delivery Receipt No. 10319 dated 25 September 2014, signed by Eric M. Sioson
J	Certified True Copy of Vehicle Invoice No. 10319 dated 25 September 2014, signed by Eric M. Sioson
K	Certified True Copy of Purchase Order dated 04 September 2014, signed by Eric M. Sioson
L	Certified True Copy of Memorandum Receipt for Equipment, Semi-Expandable and Non-

²² Records, Volume I, pp. 385-405.

²³ Id., pp. 453-458.

²⁴ Id., p. 428.

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	Expandable Property dated 20 July 2016, signed by Noel G. Encarnacion
L-1	Certified True Copy of Printouts of Photographs of a white Mitsubishi ASX Crossover SUV with Plate Number SJL 458 (red plate), signed by Noel G. Encarnacion
M-1	Certified True Copy of Purchase Request, signed by Robert John I. Donesa

Accused Dellosa, through counsel, filed a *Motion for Leave to File Demurrer to Evidence*,²⁵ to which the prosecution filed its *Opposition*.²⁶ The Court denied the motion of the accused to file a demurrer for lack of merit.²⁷

Dellosa then filed a *Motion for Reconsideration*,²⁸ to which the prosecution filed its *Opposition*.²⁹ The Court denied the motion as it merely restated the grounds cited in her *Motion for Leave to File Demurrer to Evidence* and no new arguments were raised that would warrant a reversal of the Court’s Resolution dated July 23, 2021.³⁰

EVIDENCE FOR THE DEFENSE

Carolina L. Dellosa³¹ was elected as municipal mayor of Baliwag, Bulacan in May 2013 until 2016. As such, she supervised all the head departments and was in charge of implementing local government projects. Sometime in 2018, a certain Reynaldo Dela Cruz filed a complaint against her before the OMB for violation of the Anti-Graft Law for her supposed involvement in the procurement of a Mitsubishi ASX when she was still the mayor of Baliwag, Bulacan. She allegedly approved BAC Resolution No. 15, which recommended the purchase of a motor vehicle in 2014.

She was surprised by the allegations in the Complaint, claiming that she is not familiar with the documents attached thereto, particularly the BAC Resolution. She could not recall approving the procurement of a Mitsubishi ASX in 2014. Since she had no knowledge of the said procurement, she tried to

²⁵ *Id.*, pp. 431-438.

²⁶ *Id.*, pp. 440-448.

²⁷ *Resolution* dated July 23, 2021, *Id.*, pp. 508-509.

²⁸ *Id.*, pp. 512-516.

²⁹ *Id.*, pp. 521-526.

³⁰ *Id.*, p. 528.

³¹ *Judicial Affidavit* dated September 29, 2021, *Id.*, pp. 557-566.

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check the authenticity of the documents attached to the Complaint and noticed that they were certified. She thus wanted to know how the complainant was able to get certified copies thereof. She also tried to obtain the pertinent official records, but the present administration did not allow her. She claimed that she does not know the complainant, Reynaldo Dela Cruz.

Upon seeing the documents, Dellosa initially noticed the signature appearing above her name, particularly in the BAC Resolution,³² the purchase order,³³ and the voucher.³⁴ They were mere initials, which she did not use as signature in official documents involving contracts, memorandum, executive order, or resolution.³⁵ She customarily used her long-form signature in official documents, hence, she immediately knew that there was irregularity. She asserted that the signatures appearing on the documents relative to the subject procurement were not hers and it appears that someone placed her signature thereon without her knowledge and authority. At first, she could not determine the person who affixed the signature above her name. Based on the *Inspection and Acceptance Report*,³⁶ the motor vehicle was from Freeway Motor Sales of Baliuag, Bulacan, and was delivered to and accepted by the Municipal Administrator, Christopher Rivera. She claimed that she does not know anyone from Freeway Motor Sales of Baliuag, Bulacan.

Dellosa asserted that she has not at all participated in the preparation, execution, and approval of BAC Resolution No. 15. She did not participate in any BAC meeting and could not remember affixing her signature in the BAC Resolution as the approving authority. She tried to request for assistance of a handwriting expert but the original document subject of the inquiry must be inspected. Since she did not have the original copy of the BAC Resolution, purchase order, and voucher, she has yet to secure the report of a handwriting expert.

Dellosa received an information that Nestor Loza, a former member of the BAC, issued a sworn statement, stating that it was Christopher D. Rivera who placed the signature above her name on the aforesaid documents. She was also informed that a complaint against Rivera and other BAC members was filed

³² Exhibit 2.

³³ Exhibit 12.

³⁴ Exhibit 11.

³⁵ Official Order 15-006 (*Exhibit 9*); Executive Order No. 15-016 (*Exhibit 9-A*); Executive Order No. 15-0012 (*Exhibit 9-B*).

³⁶ Exhibit 8.

Handwritten signature and initials in black ink, appearing to be 'Nestor Loza' with a checkmark-like flourish.

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with the OMB, but she is not aware of the status thereof. She elaborated that Christopher D. Rivera served as the Municipal Administrator of Baliwag from January 2014 to January 2016. His position was based on trust and confidence. All official transactions, records and documents, including resolutions and vouchers, were coursed through him for initial review before transmitting them to her office. Considering her lack of experience as mayor, especially during her first year in the office, she relied on the Municipal Administrator. Since she fully trusted Rivera, there is no assurance that she has personally reviewed and approved all the documents that passed through him. In so far as those documents that reached her, she ensured to review and study them before approving and affixing her signature thereon.

In 2015, she received reports that Rivera had been involved in some anomalies such as asking for money from contractors and making decisions without her knowledge or consent. Thereafter, she asked Rivera to resign.

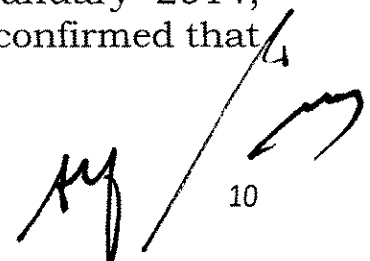
After learning about the sworn statement of Nestor Loza, she tried to search for Rivera, but she could not locate him. She declared that she would file the necessary charges against him once she gets a report from the handwriting expert.

On cross-examination,³⁷ Dellosa stated that she is aware that she was also the Head of the Procuring Entity of Baliwag, Bulacan. She was also the appointing authority of the Municipal Administrator.

In trying to obtain official records relative to the complaint filed against her before the OMB, she did not make a formal request to be granted access to the records. She just asked her former subordinates if they could provide her copy of the pertinent documents and they told her that they could not find any copy. Only when Martiniano Javier testified before the Court did she learn that he accidentally found the original copy of the BAC Resolution.

Dellosa revealed that she would sometimes use initials as her signature if the documents were not that important. She was confronted with documents from the official website of the municipality of Baliwag, Bulacan, www.baliwag.gov.ph. She remembered signing a Resolution dated 20 January 2014, entitled *Kapasyahan Bilang 05, Taong 2014* and confirmed that

³⁷ TSN dated October 4, 2021.



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she used her initials to sign the document. She also admitted that the signature above her name in Resolution dated 27 January 2014, entitled *Kapasyahan Bilang 07, Taong 2014*, appears to be hers. The same for the Ordinance dated 17 March 2014, entitled *Kapasyahan Bilang 21, Taong 2014*.

Additionally, Dellosa claimed that she mostly signs her name together with "MD" whenever she uses her long-form signature. She was then confronted with her Counter-Affidavit which she filed before the OMB. She admitted that the signature above her name therein appears to be hers. She also confirmed that her signature appearing in the Pre-Trial Order dated February 6, 2020 has no "MD". She explained that she was nervous when she signed the same since it was her first time attending a court hearing. Her signature sometimes appears to be initials, in long form with MD, or in long form without MD. Customarily, she tried to use her long-form signature but considering the voluminous documents she received daily, she could not sign in that form. She maintained that she does not remember signing BAC Resolution No. 15 or a procurement voucher pertaining to the subject vehicle.

During her term, there was no system for tracking documents from one office to another. She claimed that she reviewed all supporting documents even after Rivera had gone over them. She also validated the transactions despite a go-signal from him. The reports she received about the alleged involvement of Rivera in certain anomalies were merely verbal and no formal investigation was conducted regarding the matter. She confronted Rivera but he denied it. She no longer communicated with him after his resignation. She then learned that a complaint has been filed against him based on the Sworn Statement of Nestor Loza. She admitted that she has not seen the Sworn Statement of Loza nor has she verified if he indeed executed it.

Dellosa added that she does not recall seeing the Mitsubishi ASX subject of this case during her term. She is aware that all procurements, as a general rule, should undergo public bidding and indicate only the technical specifications; brand names cannot be specified.

On re-direct examination,³⁸ Dellosa was asked on why she could not recall signing BAC Resolution No. 15 while she could remember signing different documents from the official website

³⁸ *Id.*

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of Baliwag, Bulacan. She answered that she could not remember signing the BAC Resolution because she has no knowledge of the procurement of a Mitsubishi ASX by the municipal government of Baliwag. Regarding her signature, she explained that she would usually sign documents using her long-form signature. She would use the short-form when she was really tired and sometimes, when the papers were voluminous.

It was in December 2015 when she first heard of the anomalies involving Christian Rivera. She confronted him in January 2016 and he immediately resigned thereafter. After his resignation, Dellosa no longer checked the records or transactions undertaken during the time of Rivera. She thought that the issue about his involvement in the anomalies has already been settled, thus, she no longer conducted a formal investigation on the matter. Since there was already a complaint filed against Rivera, she thought it would be redundant to file one.

On re-cross,³⁹ she said that she has no knowledge if the transaction regarding the Mitsubishi ASX was recorded in the financial records or books of account of the municipality. She could not recall having seen vouchers relative to the payment of taxes or routine maintenance of the said vehicle.

The Court showed to Dellosa the signature in the Resolution, entitled *Kapasyahan Bilang 07, Taong 2014*, side by side the signature in BAC Resolution No. 15. When asked if the signatures appear to be the same, she answered that there are some discrepancies. She is certain that she did not sign the BAC Resolution and insisted that the signature thereon could not be hers. She agreed with the Court that looking at the BAC Resolution, it is very easy to copy her signature and that she is not sure whether she has indeed signed the same.

On further clarificatory questions from the Court, she said that she is familiar with Freeway Motor Sales of Baliuag, Bulacan. She learned about the purchase of the subject vehicle from Freeway Motor Sales of Baliuag only when she received the Complaint from the OMB. She did not verify with Freeway Motor Sales if the municipality actually purchased a vehicle therefrom since she merely relied on the documents.

³⁹ *Id.*

The image shows three handwritten marks in black ink. On the left is a cursive signature. In the center is a long, diagonal stroke that ends in a small hook. On the right is a checkmark.

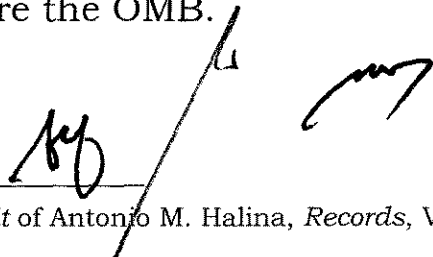
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Antonio M. Halina⁴⁰ was a resident of Baliwag, Bulacan during the incumbency of accused Dellosa. He is aware that a case was filed against Dellosa before the OMB regarding the irregular procurement of a vehicle. Upon learning about the case, Halina looked into the Complaint and the documents attached thereto and found out that accused Dellosa was charged with violation of the Anti-Graft and Corrupt Practices Act for allegedly approving BAC Resolution No. 15, which referred to a specific brand. He then secured a copy of the Complaint, the BAC Resolution, and the disbursement voucher from the campaign staff of Dellosa. He noticed that Dellosa was the lone respondent in the case while the other signatories in the BAC Resolution had no pending charges. He then talked to Nestor Loza and obtained the latter's Sworn Statement, wherein he stated his participation in the execution of the BAC Resolution.

Halina wanted to know if there were other officials involved in the transaction, hence, he checked BAC Resolution No. 15 to see who participated in its preparation, as well as the disbursement voucher. He found out that the BAC members who signed the Resolution were Engr. Nemecio De Leon, Nestor Loza, Dolores Lumabas, and Alejandro Dela Cruz. Christopher River, the Municipal Administrator, also attested to the Resolution. While Martiniano Javier did not sign the BAC Resolution, he signed the disbursement voucher. Halina then asked the legal team of accused Dellosa about the status of the case to know if he could still file a supplemental complaint against those other public officials. Upon learning that there was already a Resolution to the complaint against Dellosa, he decided to file a separate case against the other public officials.

Nestor Loza related to Halina that he was willing to execute a statement under oath, stating that he relied on the assurance of the BAC Chairman and the Municipal Administrator that the BAC Resolution was in order, and that he saw Christopher Rivera sign on the portion reserved for the signature of the municipal mayor. Loza gave him a copy of his *Sworn Statement*⁴¹ dated May 7, 2019, which Halina attached to his *Complaint-Affidavit*⁴² filed before the OMB. The complaint is still pending before the OMB.



⁴⁰ *Judicial Affidavit* of Antonio M. Halina, *Records*, Volume I, pp. 537-545.

⁴¹ Exhibit 3.

⁴² Exhibit 13.

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On cross-examination,⁴³ Halina revealed that he and former Mayor Dellosa were neighbors in Baliwag, Bulacan. He was appointed by Dellosa as Market Master of the Baliwag Public Market from 2013 to 2016.

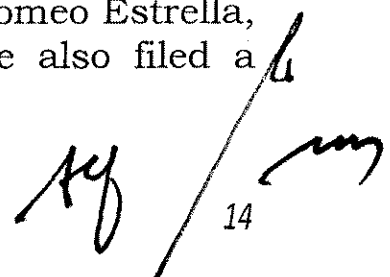
As far as he knows, Nestor Loza was the Vice Chair of the BAC of Baliwag, Bulacan in August 2014 and he is a signatory to BAC Resolution No. 15. In the first week of July, he and Loza chanced upon each other at the market in Brgy. Concepcion, Baliwag. He wanted to ask Loza about the complaint filed against former Mayor Dellosa and why the other signatories in BAC Resolution No. 15 were not included as respondents. Loza told him that it was Christopher Rivera who affixed the signature of Mayor Dellosa in the BAC Resolution.

To his knowledge, Loza did not file his Sworn Statement and was not presented as a witness for Dellosa in the case filed before the OMB. Loza executed the Sworn Statement in order to give it to Halina. Since the said Sworn Statement was not yet notarized when Loza gave it to him, he suggested to have it notarized before Atty. Placido De Leon. They then went to his office in Bustos, Bulacan.

When confronted with his Complaint-Affidavit and the Sworn Statement of Nestor Loza, Halina confirmed that the two documents bear similarities. He revealed that Atty. Diana Velasco, who assisted him in executing his Complaint-Affidavit, and Atty. Renato Galeon, who assisted him in the preparation of his Judicial Affidavit are from the same law office. Atty. Diana Velasco, who assisted him in preparing his Complaint-Affidavit, was also the one who notarized the same. The averments in his Complaint-Affidavit, particularly the statement that it was Rivera who signed the BAC Resolution above the name of Dellosa without her consent and authority, were based only on what Loza told him since he was not involved in the transaction, nor did he participate in the deliberations of the BAC in August 2014. He also did not personally witness Rivera sign BAC Resolution No. 15 and did not find any other witness to corroborate what Loza told him. He fully believes in the truthfulness of the Sworn Statement of Loza. Halina gave his Complaint-Affidavit to the legal counsel of Mayor Dellosa, Atty. Nunez, who then filed the same before the OMB.

In 2014, Halina filed a complaint against Romeo Estrella, the predecessor of Mayor Dellosa. In 2019, he also filed a

⁴³ TSN dated October 8, 2021.



Handwritten signature and the number 14.

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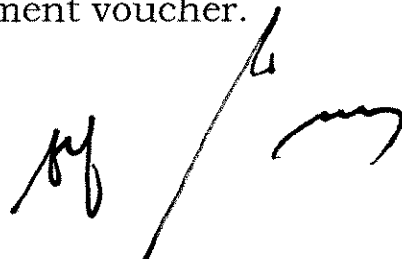
complaint against the son of former Mayor Romeo Estrella, Ferdie Estrella, who is the incumbent mayor of Baliwag, Bulacan.

On re-direct examination,⁴⁴ he claimed that he and Nestor Loza knew each other even prior to their meeting in July 2019. When asked why he chose Atty. De Leon to notarize the Sworn Statement of Loza, he said that Atty. De Leon was the only notary public he knew. He explained that Atty. Velasco assisted him in preparing his Complaint-Affidavit because he was already in Cebu at that time and he personally knew her. Halina gave Atty. Nunez a copy of his Complaint-Affidavit and asked the latter to file it since he did not know the process of filing in the OMB. He has no time to follow up the case, thus, he has no knowledge of the status thereof.

Halina revealed to the Court that he already knew accused Delloso prior to his appointment as Market Master because he served as the driver of her brother-in-law from 1997 to 1999. He said that no one urged him to file a case against former Mayor Romeo Estrella because he knew of his anomalies. He learned that Delloso was the lone respondent in the case when her staff gave him a copy of the complaint.

On further questioning by the Court, he stated that in 2018, he became interested in investigating the case against Delloso because he could not believe that she was charged with corruption. He inquired with the staff of Delloso and asked them for a copy of the BAC Resolution and the disbursement voucher. Upon obtaining copies of the said documents, Halina showed them to Atty. Nunez, who said that he would look into them. At that time, Halina was heading home to Cebu and he has carried with him the documents, so he was referred to a lawyer there. He was no longer able to follow up with Atty. Nunez on what happened to the documents. He confirmed that his investigation on the case was based on the statement of Nestor Loza, the BAC Resolution, and the disbursement voucher. He did not talk to the private complainant, Reynaldo Dela Cruz, or to Christopher Rivera regarding the case. He also did not visit Freeway Motor Sales where the subject vehicle was purchased. When he was still working at the public market, he was able to see Christopher Rivera use the Mitsubishi that is the subject of the BAC Resolution and the disbursement voucher.

⁴⁴ *Id.*

Handwritten signature and initials in black ink, appearing to be 'mf' and 'L' with a flourish.

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To his knowledge, Dellosa did not file any case for falsification against Rivera and the other members of the BAC. He agreed with the Court that Dellosa would be the aggrieved party if her signature was indeed falsified yet she did not file any case against Rivera and the other BAC members.

The last witness for the defense was NBI Senior Document Examiner, **Romeo E. Magcuro, Jr.**⁴⁵ During the presentation of his testimony, the parties stipulated on the following: (1) that Mr. Romeo E. Magcuro, Jr. is a forensic specialist from the Questioned Documents Division of the NBI; (2) that Mr. Magcuro conducted a forensic examination on the documents such as disbursement voucher, purchase request, and BAC Resolution; and (3) that all documents used in connection with the examination was given by the prosecution witnesses, Martiniano Javier and Atty. Robert John Donesa of the Municipality of Baliwag, Bulacan.⁴⁶

Magcuro narrated that upon receipt of the documents submitted for examination, he classified them into “questioned” and “standard”. He marked them for identification, had the sample signatures photographed and enlarged,⁴⁷ and then continued with the comparative examination using magnifying lens, stereoscopic microscope, camera and lightning processes.

Scientific examination made on the specimens submitted reveals that: (1) there exist significant similarities in handwriting characteristics and habits between the questioned signatures marked as “Q-1” (BAC Resolution No. 15) and “Q-2” (Purchase Order) and the sample/specimen signatures of one Carolina L. Dellosa; and (2) there exist differences between the questioned signatures of Carolina L. Dellosa marked as “Q-3” (Disbursement Voucher) as compared to the standard sample signature of one Carolina L. Dellosa.⁴⁸

On cross-examination, he said that he is aware that the Court, on its own, can also examine the handwriting.

Upon query from the Court, Magcuro explained on how he was able to arrive at the conclusion that the questioned signature marked as “Q-3” and the sample signatures of Carolina Dellosa were not written by the same person. There are significant differences particularly in letter “C” and there is an

⁴⁵ TSN dated May 26, 2022.

⁴⁶ Records, Volume II, pp. 222-223.

⁴⁷ Exhibit 14 and series.

⁴⁸ Exhibit 10.

Handwritten signatures and initials. On the left, there are initials 'fy'. To the right, there is a long, thin, diagonal signature that ends in a hook, and below it, a shorter, more horizontal signature.

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element in the questioned signature marked as “Q-3” that cannot be found in the series of standards. Further, it can be seen in the ink that there is stoppage or hesitation as compared to the other standard signatures.

The standard signature should be made within the period of, more or less, two (2) years prior and subsequent to the execution of the questioned documents. It is possible that elements of time, age, or emotional state of the person can have some effect on the person’s signature. There will always be differences in the signature but they are mere superficial since the characteristics are still there. They can still render an opinion even if the sample signatures were written beyond the two-year period because the characteristic still remains. However, the best samples are those written two (2) years before and after, depending on the appearance of the signature.

If somebody interrupted a person in the middle of signing, it would look like a hesitation. In forgery, the forger will try to imitate the characteristic and habit of another person. While adopting another person’s characteristic in writing, the characteristic of the forger will set in, resulting to an effect of hesitation.

In conducting an examination, they need the original copy of the questioned documents and at least seven (7) sample signatures, which are contemporaneous with the questioned documents and preferably from public documents. The Court asked for the manual of operations observed by the NBI in conducting the examination and directed the witness to provide the Court a copy thereof. Magcuro submitted to the Court a copy of the Duties and Services of the NBI-QDD and the QDD Work Flow Chart.⁴⁹

Thereafter, the defense submitted its *Formal Offer of Evidence*.⁵⁰ The Court, taking into consideration the objections of the prosecution,⁵¹ resolved to admit the following exhibits:⁵²

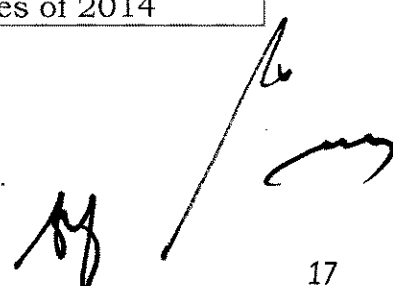
EXHIBIT	DESCRIPTION
1	Counter-Affidavit of Carolina Dellosa dated 07 March 2018
2	BAC Resolution No. 15, series of 2014

⁴⁹ Records, Volume II, pp. 236-239.

⁵⁰ Id., pp. 156-162.

⁵¹ Comment/Opposition dated June 16, 2022, Id., pp. 225-235.

⁵² Resolution dated June 17, 2022, Id., p. 250.



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(“A” for the Prosecution)	
3	Sworn Statement of Nestor Loza dated 09 July 2019
3-a	Proof of Identity of Nestor Loza
8 (“E” for the Prosecution)	Inspection and Acceptance Report
9	Office Order 15-006
9-a	Executive Order No. 15-016
9-b	Executive Order No. 15-012
10	Report of Handwriting Expert (Questioned Documents Report No. 105-422 refer to 276-1221)
11 (“E” for the Prosecution)	Disbursement Voucher No. 101-2014-9-519
12 (“K” for the Prosecution)	Purchase Order
13	Complaint-Affidavit of Antonio M. Halina dated 15 July 2019
14	Photo enlargement of handwriting signature of Carolina Dellosa

The prosecution filed a *Motion for Leave to File a Formal Offer of Rebuttal Evidence*⁵³ dated July 11, 2022, which was granted by the Court.⁵⁴ Thereafter, the prosecution filed a *Formal Offer of Rebuttal Evidence with Motion to Mark Exhibits*⁵⁵ dated July 25, 2022, offering the following documentary exhibits as rebuttal evidence:

Requested Markings	DESCRIPTION
N	Original copy of Questioned Documents Report No. 105-422 refer to 276-1221
N-1	Paragraph 1 of the “Findings” in the Report
N-2	Paragraph 1 of the “Conclusions” in the Report
N-3	Signature of Romeo E. Magcuro, Jr., Senior Document Examiner
N-4	Signature of Carolyn J. Moldez-Pitoy, Chief, Questioned Documents Laboratory Division

⁵³ *Id.*, pp. 258-263.

⁵⁴ *Resolution* dated July 11, 2022, *Id.*, p. 265.

⁵⁵ *Id.*, pp. 267-274.

Handwritten signature and initials, possibly 'Ry' and '6', located at the bottom right of the page.

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N-5	Signature of Ferdinand M. Lavin, OIC, Office of the Deputy Director, Forensic Investigation Service
O and series	Photographic enlargements of the questioned and standard signatures used for the conduct of the forensic handwriting examination by the NBI

Accused filed a *Comment/Opposition*⁵⁶ dated July 29, 2022. In its *Resolution*⁵⁷ dated August 4, 2022, the Court granted the Motion of the prosecution.

THE ISSUE:

The issue for the Court’s consideration is whether accused Delloso is guilty of violation of Section 3(e) of R.A. No. 3019, as amended, as charged in the Information.

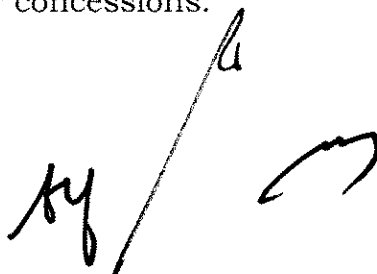
RULING OF THE COURT

In this case, accused is charged with violation of Section 3(e) of R.A. No. 3019, as amended, which 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:

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.



⁵⁶ *Id.*, pp. 276-278.

⁵⁷ *Id.*, pp. 281-282.

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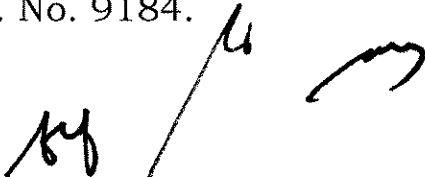
Reduced to its elements, a violation under this provision requires that: (1) the accused is a public officer discharging administrative, judicial or official functions; (2) the accused acted with manifest partiality, evident bad faith or gross inexcusable negligence; and (3) the accused caused undue injury to any party including the Government, or giving any private party unwarranted benefits, advantage or preference in the discharge of his functions.⁵⁸

There is no dispute as to the **first element**, there being a stipulation during the pre-trial that at the time material to the case, accused Dellosa was a public officer, being then the mayor of the Municipality of Baliwag, Bulacan.

The **second element** of violation of Sec. 3(e) of R.A. No. 3019 may be committed in three ways, that is, through manifest partiality, evident bad faith, or gross negligence. In *Sison v. People*,⁵⁹ the Supreme Court explained these terms in the following manner:

"**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 willfully and intentionally with a conscious indifference to consequences in so far as other persons may be affected. It is the omission of that care which even inattentive and thoughtless men never fail to take on their own property."

The Information in this case ascribed manifest partiality, evident bad faith, or gross inexcusable as the mode by which the alleged violation of Section 3(e) of R.A. No. 3019 was committed by the accused. The felonious act of the accused was her approval of the BAC'S recommendation to award the contract for the procurement of a vehicle of a specific brand in favor of Freeway Motor Sales of Baliuag Corporation, in violation of R.A. No. 9184.



⁵⁸ *Garcia v. Sandiganbayan*, G.R. No. 197204, March 26, 2014.

⁵⁹ G.R. Nos. 170339, 170398-403, March 9, 2010.

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Accused vehemently denied signing documents relative to the procurement of one “Mitsubishi 2.0L MIVEC DOHC 4B11 1998 CC Active Sports Crossover (ASX) 4X2”, particularly BAC Resolution No. 15.

The rule is that one who disavows the authenticity of his or her signature on a public document bears the responsibility to present evidence to that effect. Mere disclaimer is not sufficient.⁶⁰ Section 22, Rule 132 of the 2019 Revised Rules on Evidence provides:

Section 22. How genuineness of handwriting proved. -

The handwriting of a person may be proved by any witness who believes it to be the handwriting of such person because he or she has seen the person write, or has seen writing purporting to be his or hers upon which the witness has acted or been charged, and has thus acquired knowledge of the handwriting of such person. **Evidence respecting the handwriting may also be given by a comparison, made by the witness or the court, with writings admitted or treated as genuine by the party against whom the evidence is offered, or proved to be genuine to the satisfaction of the judge.** (Emphasis supplied)

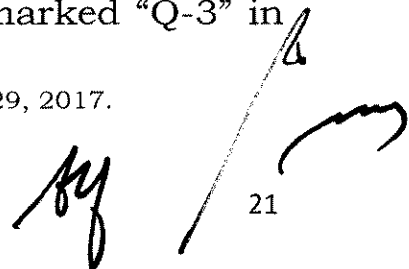
A comparative examination made by the NBI Senior Document Examiner, Romeo E. Magcuro, reveals that there are significant similarities in the handwriting characteristics and habits between the questioned signatures of “Carolina L. Delloso” as appearing on the BAC Resolution and the Purchase Order, and the specimen signatures of “Carolina L. Delloso”. Magcuro concluded that the questioned signatures of “Carolina L. Delloso” on the BAC Resolution and the Purchase Order, which are respectively marked as “Q-1” and “Q-2”, and the specimen signatures of “Carolina L. Delloso” were written by one and the same person.⁶¹

Upon careful scrutiny of the questioned signatures vis-à-vis the specimen signatures of Carolina L. Delloso, the Court subscribes to the said findings and believes that the signatures appearing on the BAC Resolution and Purchase Order are that of the accused. The apparent similarity of the signatures unquestionably indicates that they were made by the same person.

The Court is mindful of Magcuro’s findings that the questioned signature of “Carolina L. Delloso” marked “Q-3” in

⁶⁰ *Philippine Trust Company v. Gabinete*, G.R. No. 216120, March 29, 2017.

⁶¹ Exhibit 10.

The image shows two handwritten signatures in black ink. The first signature is a stylized, cursive 'CD'. The second signature is a more fluid, cursive signature. Below the signatures, the number '21' is printed in a small, black font.

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the Disbursement Voucher and the sample signatures of “Carolina L. Dellosa” were not written by one and the same person.⁶²

However, it is important to note that the authenticity of a signature, though often the subject of proffered expert testimony, is a matter that is not so highly technical as to preclude a judge from examining the signature himself and ruling upon the question of whether the signature on a document is forged or not.⁶³ In *Manzano, Jr. v. Garcia*,⁶⁴ the Supreme Court held:

It bears stressing that **the trial court may validly determine forgery from its own independent examination of the documentary evidence at hand. This the trial court judge can do without necessarily resorting to experts, especially when the question involved is mere handwriting similarity or dissimilarity, which can be determined by a visual comparison of specimen of the questioned signatures with those of the currently existing ones.** Section 22 of Rule 132 of the Rules of Court explicitly authorizes the court, by itself, to make a comparison of the disputed handwriting "with writings admitted or treated as genuine by the party against whom the evidence is offered, or proved to be genuine to the satisfaction of the judge." (Emphasis supplied)

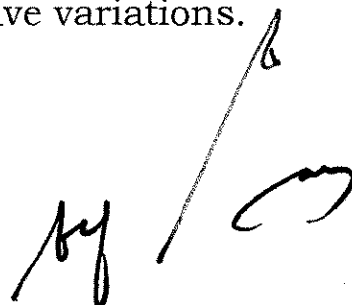
Besides, based on Magcuro’s testimony, a person’s signature could be affected by some elements such as time, age, or emotional state of a person.⁶⁵ Thus, notwithstanding the findings of Magcuro, the Court, after an independent examination, does not find manifest discrepancy in the signature above the name Carolina L. Dellosa on the questioned Disbursement Voucher and the submitted specimens as well as her signatures on the documents in the records in this case, i.e., Counter-Affidavit submitted to the Ombudsman, Pre-Trial Order, Waiver of Appearance. Looking at the signature in the Disbursement Voucher vis-à-vis her other signatures, the Court finds that there is no showing of an effort to imitate the signature of Carolina L. Dellosa. If there are any dissimilarities, to the Court, they are just inevitable variations which are naturally and usually found in signatures. Even the sample signatures of Carolina L. Dellosa appear to have variations.

⁶² *Id.*

⁶³ *Belgica v. Belgica*, G.R. No. 149738, August 28, 2007.

⁶⁴ G.R. No. 179323, November 28, 2011.

⁶⁵ *TSN* dated May 26, 2022, p. 21.

The image shows three handwritten signatures in black ink. The first signature on the left is a cursive 'CD'. The second signature in the middle is a long, thin, vertical stroke that tapers at the top. The third signature on the right is a cursive 'CD' similar to the first one.

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To further support her defense that she did not sign the BAC Resolution and other pertinent documents relative to the procurement of the subject vehicle, accused Delloso contended that she customarily used her long-form signature in signing official documents. However, when confronted with documents from the official website of the municipality of Baliwag, Bulacan, she confirmed using her initials or short-form signature in signing them.⁶⁶ She even admitted that she would sometimes use her initials or short-form signature in signing some official documents.

The Sworn Statement of former BAC Vice-Chair, Nestor Loza, stating that he saw Christian Rivera sign on the portion of BAC Resolution No. 15 reserved for the signature of the municipal mayor cannot be given evidentiary weight considering that it was not identified, and its averments were not affirmed by Loza himself. Jurisprudence dictates that an affidavit is merely hearsay evidence when its affiant or maker did not take the witness stand.⁶⁷ Here, it was defense witness, Antonio Halina, who identified the Sworn Statement of Loza. Halina was not the proper party to identify it since he is not the affiant of the Sworn Statement. Section 22 of Rule 130 of the 2019 Revised Rules on Evidence states that a witness can testify only to those facts which he or she knows of his or her personal knowledge, that is, which are derived from his or her own perception. While the testimony of Halina may be taken as an independently relevant statement with respect to the fact that Loza had made a statement to the effect that it was Christian Rivera who affixed the signature above the name of Carolina Delloso in BAC Resolution No. 15, it does not prove the truth of such statement.

Further, Delloso herself admitted during her testimony that she is not sure whether she has indeed signed the BAC Resolution. Thus:

JUSTICE MORENO:

Given that this is not a BAC resolution, by merely looking at it, would it not be possible that that is your signature?

A That maybe possible that it might be my signature because, but it can be easily done by anybody.

The image shows three handwritten marks in black ink. On the left is a stylized signature that appears to be 'Df'. In the center is a long, thin diagonal line with a small hook at the top right end. On the right is another stylized signature or set of initials.

⁶⁶ TSN dated October 4, 2021, pp. 18-20.

⁶⁷ *Gumabon v. PNB*, G.R. No. 202514, July 25, 2016.

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JUSTICE MORENO:

Okay, so by merely looking at the document you could not categorically say that that is not your signature. All you're saying is that one, it is very easy to copy your signature and two, you are not sure whether indeed you have signed the BAC Resolution?

A Yes, Justice.

JUSTICE MORENO:

Safe po 'yong dalawang sagot na 'yon, tama?

A Yes, Justice.⁶⁸

The foregoing circumstances lead the Court to the conclusion that accused Dellosa signed and approved the questioned procurement documents. The issue now revolves on whether manifest partiality, evident bad faith, or gross inexcusable can be ascribed to her act.

A reading of BAC Resolution No. 15 clearly shows that it specified the brand name, Mitsubishi, which violates Section 18 of R.A. No. 9184 or the Government Procurement Reform Act, prohibiting reference to brand names.⁶⁹ BAC Resolution No. 15 is hereunder reproduced:

RESOLUTION NO 15

Series of 2014

RESOLUTION RECOMMENDING THE ALTERNATIVE MODE OF PROCUREMENT – SECTION 50(C) OF THE REVISED IMPLEMENTING RULES AND REGULATIONS AND RECOMMENDING THE AWARD OF CONTRACT FOR THE PROCUREMENT OF ONE (1) UNIT MITSUBISHI 2.0L MIVEC DOHC 4B11 1998 CC ACTIVE SPORTS CROSSOVER (ASX) 4X2 FOR THE USE OF THE OFFICE OF THE MUNICIPALITY OF BALIWAG, BULACAN TO FREEWAY MOTOR SALES OF BALIUAG CORPORATION AUTHORIZED DEALER OF MITSUBISHI MOTORS TO BE PROCURED PURSUANT TO REVISED IRR OF RA 9184

WHEREAS, the MUNICIPALITY OF BALIWAG, is in need for THE SUPPLY OF ONE (1) MITSUBISHI MIVEC DOHC 4B11

⁶⁸ TSN dated October 4, 2021, pp. 46-47.

⁶⁹ SEC. 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.

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1998 CC ACTIVE SPORTS CROSSOVER in performing official business with the National and Local Agency;

WHEREAS, under Section 29 of the Revised Implementing Rules and Regulations of RA 9184, limited source bidding or selective bidding is a method of procurement of goods that involves direct invitation to selected suppliers;

WHEREAS, under the guidelines amending the pre-selection procedure in the conduct of limited source bidding under GPPB Resolution 05-211, the procuring entity shall ensure that the most advantageous price for the government is obtained;

WEREAS, the offer of Freeway Motor Sales of Baliuag Corporation, DRT Highway, Tarcan, Baliwag, Bulacan for the same unit is Php One Million One Hundred Ninety Eight Thousand Pesos including LTO 3 Years Registration (TPL);

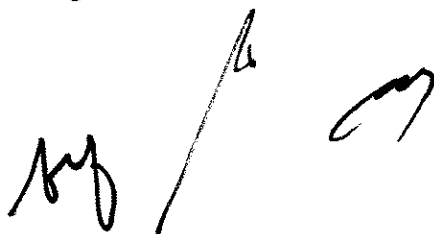
WHEREAS, Freeway Motor Sales of Baliuag Corporation is the exclusive distributor of Mitsubishi Motors in Baliwag, Bulacan;

WHEREAS, upon post qualification or careful examination, validation, and verification of all eligibility, technical and financial requirements submitted by the bidder Freeway Motor Sales of Baliuag Corporation, its bid has been found to be responsive;

WHEREAS, pursuant to Sec. 29 of the Revised Implementing Rules and Regulations of R.A. 9184 and or LIMITED SOURCE BIDDING can be adopted by the procuring entity provided that the most advantageous price for the government is obtained;

NOW, THEREFORE, for and in consideration of the foregoing, We, Member of the Bids and Awards Committee of the Municipality of Baliwag, by the power vested on us by law, hereby resolve and recommend the use of Section 50(A) as alternative mode of procurement and recommend the award of contract for the procurement of One (1) **Unit 2.0L MIVEC DOHC 4B11 1998CC MITSUBISHI ACTIVE CROSSOVER TO BE PROCURED PURSUANT TO THE REVISED IRR OF RA 9184 TO FREEWAY MOTOR SALES OF BALIUAG CORPORATION** in the amount of for **ONE MILLION ONE HUNDRED NINETY EIGHT THOUSAND PESOS (Php 1,198,000.00)**.

RESOLVED, at the office of the Municipal Mayor this 27th day of August 2014.

The block contains three handwritten signatures or initials in black ink. The first is a stylized signature on the left, the second is a long, thin diagonal stroke in the center, and the third is a signature on the right.

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(signed)

NEMENCIO M. DE LEON
Chairman

(signed)

NESTOR A. LOZA
Vice Chairman

MARTINIANO D. JAVIER
Member

(signed)

DOLORES S. LUMABAS
Member

(signed)

ALEJANDRO A. DELA CRUZ
Member

Attested:

(signed)

CHRISTOPHER D. RIVERA
Municipal Administrator

Approved:

(signed)

CAROLINA L. DELLOSA, M.D.
Municipal Mayor

It appears that the municipality merely wanted to acquire a Mitsubishi vehicle as the BAC Resolution refers only to Mitsubishi, to the exclusion of other brands. To reiterate, Section 18 of R.A. No. 9184 is clear, with no exceptions, that reference to brand names in procurement is prohibited.

While the prosecution limited its accusation to reference to a specific brand name, the Court deems it necessary to discuss the non-observance of public bidding and consequently resorting to alternative mode of procurement.

Section 10 of R.A. No. 9184 provides that as a rule, all procurement shall be done through competitive bidding. By its very nature and characteristic, a competitive public bidding aims to protect the public interest by giving the public the best possible advantages thru open competition and to avoid or preclude suspicion of favoritism and anomalies in the execution of public contracts.⁷⁰

⁷⁰ *Lagoc v. Malaga*, G.R. No. 184785, July 9, 2014; *Danville Maritime, Inc. v. COA*, G.R. No. 85285, July 28, 1989.

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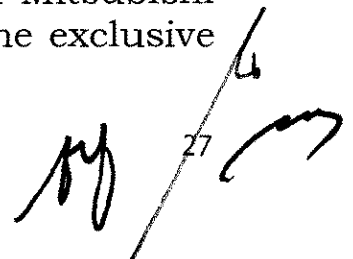
The title of BAC Resolution No. 15 clearly shows that the recommended mode of procurement was Section 50(c) of the IRR of R.A. No. 9184 or direct contracting. However, a cursory reading of the Resolution reveals that the justification for direct contracting was limited source bidding or selective source bidding under Section 29 (when it should be Section 49) of the IRR. Citing limited source bidding or selective source bidding as justification for direct contracting is misplaced since they are two different alternative modes of procurement that call for different conditions and requirements. Direct contracting under Section 50 of the IRR of R.A. No. 9184 states:

Section 50. Direct Contracting

Direct Contracting or single source procurement is a method of procurement of goods that does not require elaborate Bidding Documents. The supplier is simply asked to submit a price quotation or a pro-forma invoice together with the conditions of sale. The offer may be accepted immediately or after some negotiations. Direct contracting may be resorted to by concerned Procuring Entities under any of the following conditions:

- a) Procurement of goods of proprietary nature which can be obtained only from the proprietary source, i.e. when patents, trade secrets, and copyrights prohibit others from manufacturing the same item;
- b) When the procurement of critical components from a specific supplier is a condition precedent to hold a contractor to guarantee its project performance, in accordance with the provisions of its contract;
- c) Those sold by an exclusive dealer or manufacturer which does not have sub-dealers selling at lower prices and for which no suitable substitute can be obtained at more advantageous terms to the GoP.

Resort to direct contracting under Section 50(c) in this case has no basis. From the provision above, before direct contracting can be resorted to, it is required that: (1) the goods must be sold by an exclusive dealer or manufacturer; (2) the exclusive dealer or manufacturer does not have sub-dealers selling at lower prices; and (3) no suitable substitute can be obtained from the market at more advantageous terms to the government. It could be true that Freeway Motor Sales of Baliuag Corporation is the exclusive distributor of Mitsubishi Motors in Baliuag, Bulacan, however, it became the exclusive

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distributor only because the BAC Resolution specified the brand. It should also be noted that the purpose for the procurement of the subject vehicle was to perform "official business with the national and local agency". It has not been justified that no suitable substitute could be obtained from the market at more advantageous terms to the government. There is no justification that no brand other than Mitsubishi could be procured to serve as vehicle to perform official business with the national and local agency at more advantageous terms to the government. If the intent was to procure such vehicle, it should have been done through competitive public bidding based on technical specifications, and not brand names.

On the other hand, Section 49 of the IRR provides:

Section 49. Limited Source Bidding

49.1. *Limited Source Bidding*, otherwise known as selective bidding, is a method of procurement of goods and consulting services that involves direct invitation to bid by the procuring entity from the list of pre-selected suppliers or consultants with known experience and proven capability on the requirements of the particular contract. This alternative method of procurement may be employed under any of the following conditions:

- a) Procurement of highly specialized types of goods (*e.g.*, sophisticated defense equipment, complex air navigation systems, coal) and consulting services where only a few suppliers or consultants are known to be available, such that resorting to the public bidding method will not likely result in any additional suppliers or consultants participating in the bidding; or
- b) Procurement of major plant components where it is deemed advantageous to limit the bidding to known qualified bidders in order to maintain uniform quality and performance of the plant as a whole.

Limited source bidding cannot likewise be adopted as a mode of procurement since the vehicle involved in this case does not fall under any of the conditions laid down above. It also bears to note that while the title mentioned **Section 50(c)**, the dispositive portion of the Resolution stated **Section 50(a)** as the alternative mode of procurement to be used.

The foregoing underscores the irregularity in the BAC Resolution. This was ostensible on its face and should have forewarned the accused, especially being the chief executive of the local government of Baliwag, who was charged with the

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responsibility of ensuring that all the transactions of the municipality are done within the bounds of law. It must be stressed that even accused Delloso is aware that brand names cannot be specified under the procurement law.⁷¹ The striking irregularity should have prompted her to look deeper into the documents presented to her for signature.

The Court is convinced that accused committed gross inexcusable negligence in the act imputed in the Information. Indeed, there is evident irregularity in the BAC Resolution for the procurement of the subject vehicle, particularly the specification of a brand name, in violation of R.A. No. 9184. Yet, she approved the recommendation of the BAC. As the local chief executive and Head of Procuring Entity, it behooves upon her to have exercised reasonable degree of caution and sound judgment before stamping her approval on official documents. Had she been more circumspect in examining the documents, she would have noticed the irregularities and the patent disregard of the law. Her approval was indispensable considering that the award of contract to Freeway Motor Sales of Baliuag could not have been made without her signature on the pertinent procurement documents.

Interestingly, accused Delloso testified that she does not recall seeing the vehicle subject of this case during her term. The Court is not persuaded considering that the place of delivery indicated in the Purchase Order was at the 'Office of the Mayor'.⁷² Moreover, upon the end of her term, the Municipality of Baliwag "received from Carolina L. Delloso, MD., former Municipal Mayor" the subject vehicle, as evidenced by the Memorandum Receipt for Equipment, Semi-Expandable, and Non-Expandable Property dated July 20, 2016.⁷³ Besides, accused's own witness, Antonio M. Halina, testified that he has seen the subject vehicle, thus:

JUSTICE FERNANDEZ:

Were you able to see the Mitsubishi that was the subject of the disbursement voucher and the BAC resolution?

WITNESS:

Yes, Your Honors.

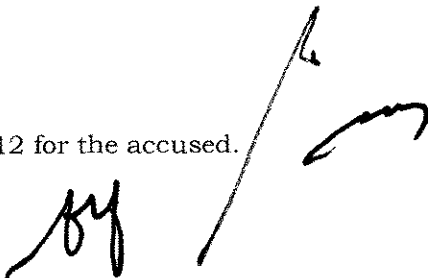
JUSTICE FERNANDEZ:

Ah you saw. You saw it? When was it?

⁷¹ TSN dated October 4, 2021, p. 35.

⁷² Exhibit B for the Prosecution; Exhibit 12 for the accused.

⁷³ Exhibit L.

The image shows two handwritten signatures in black ink. The signature on the left is more stylized and appears to be 'JF'. The signature on the right is a cursive signature, possibly 'AH'.

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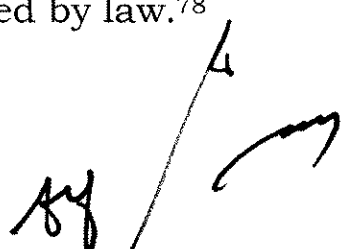
WITNESS:

When I was working in public market Your Honors sa Baliuag, Bulacan gamit po ng Municipal Administrator, Your Honors.⁷⁴

The position accused Delloso was occupying as municipal mayor and Head of the Procuring Entity required her to be more circumspect in her actions and in the discharge of her official duties.

Parenthetically, the Court also takes into consideration that accused, after finding out the allegations against her, did not even take any step to verify if the municipality of Baliwag indeed purchased the subject vehicle from Freeway Motor Sales of Baliuag.

Even assuming, for the sake of argument, that someone has placed Delloso's signature on the pertinent procurement documents without her consent or authority, the Court cannot discount her testimony that she generally relied on the Municipal Administrator, Christian D. Rivera. To recall, accused revealed that before official transactions, records and documents were transmitted to her office, they were first coursed through Rivera for initial review.⁷⁵ She also confirmed that there was no system for tracking documents from one office to another.⁷⁶ Accused further admitted that there is no assurance that she has personally reviewed and approved all the documents that passed through Rivera.⁷⁷ Such admissions illustrate the negligence of accused in placing too much confidence in the Municipal Administrator. Her act falls short of what was expected of her as mayor since the procurement of the subject vehicle was nonetheless made under her watch. The Court reiterates that due diligence demands that Delloso, as the municipal mayor, should be more circumspect in her actions and in the discharge of her official duties. As the municipal mayor, accused is mandated to ensure that all executive officials and employees of the municipality faithfully discharge their duties and functions as provided by law.⁷⁸

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⁷⁴ TSN dated October 8, 2021, pp. 55-56.

⁷⁵ *Judicial Affidavit* of Carolina L. Delloso, *Records*, Volume I, p. 563.

⁷⁶ TSN dated October 4, 2021, p. 32

⁷⁷ *Judicial Affidavit* of Carolina L. Delloso, *Records*, Volume I, p. 564.

⁷⁸ Section 444(b)(1)(x), Local Government Code of 1991.

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The Court is aware of the pronouncement of the Supreme Court in *Martel v. People*⁷⁹ that not every violation of R.A. No. 9148 gives rise to a violation of R.A. No. 3019. Thus:

In criminal cases involving Section 3(e) of Republic Act No. (R.A.) 3019, or the Anti-Graft and Corrupt Practices Act, 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.

However, the ruling in *Martel* cannot be applied to this case since the Supreme Court therein ruled that not one of the modes in committing violation of Section 3(e) of R.A. No. 3019 was present.

On the inexistence of evident bad faith, the Supreme Court in *Martel* held that there was no evidence showing that the accused were animated by fraudulent motives since they honestly believed that their resort to direct purchase was proper. After studying their previous procurement experiences, accused deemed direct purchase to be a viable and allowed mode of procurement for the subject vehicles in that case. Thus, the Supreme Court concluded that the accused did not possess a state of mind operating with furtive design or some motive of self-interest or ill will for ulterior purposes.

As for the absence of manifest partiality, the evidence therein failed to establish beyond reasonable doubt that the accused were animated with malicious intent, and consciously pursued a notorious scheme to deliberately favor Toyota Davao City, Inc., Kar Asia, Inc., and Ford Davao. It was revealed that their decision not to follow the competitive bidding requirement of procurement law was motivated not by any evil scheme to profit, but by their honest, albeit mistaken, belief that the alternative mode of direct contracting was warranted. With regard to the specification of the brands, the accused's reliance on COA Circular 92-386, although mistaken, nonetheless revealed a measure of good faith on their part. Hence, the Supreme Court concluded that the degree of preference for a specific brand did not rise to the level of manifest partiality that would show an ulterior motive or purpose on the part of accused.

⁷⁹ G.R. Nos. 224720-23 & 224765-68, February 2, 2021.

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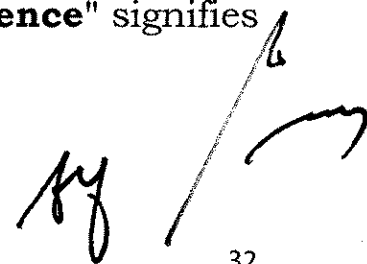
On the failure of the prosecution to establish gross inexcusable negligence, the records therein showed that the accused BAC members conducted a study, albeit limited and not reduced to writing. Moreover, they no longer considered public bidding because of their past experiences and the belief that direct purchase was availing. The Supreme Court said that while it was arguable that a more thorough study would have led the accused to conclude that direct purchase was not proper for the subject procurements, their actions could not be characterized as without even slight care and conscious indifference as to the compliance with their duties so as to make them liable for gross inexcusable negligence.

In the present case, the only defense that accused Delloso interposed was her lack of knowledge of the documents, or any form of participation in the procurement transaction. It has already been determined that she approved the BAC's recommendation to award the procurement of one 2.0L Mitsubishi MIVEC DOHC 4B11 1998 CC Active Sports Crossover in favor of Freeway Motor Sales of Baliuag. There is nothing in the records that would show any justification in the specification of a particular brand. The act of Delloso is "characterized by the want of even slight care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally with a conscious indifference to consequences in so far as other persons may be affected."

Anent the **third element**, there are two (2) ways by which Section 3(e) of R.A. No. 3019 may be violated - first, by causing undue injury to any party, including the government, or the second, by giving any private party any unwarranted benefit, advantage or preference.⁸⁰ The accused may be charged under either mode or both.

Here, Delloso is charged under the second mode. As contemplated under Sec. 3(e) of R.A. 3019, "**unwarranted**" means lacking adequate or official support; unjustified; unauthorized or without justification or adequate reason. "**Advantage**," on the other hand, means a more favorable or improved position or condition; benefit, profit or gain of any kind; benefit from some course of action. "**Preference**" signifies

⁸⁰ *Ampil v. Office of the Ombudsman*, G.R. No. 192685, July 31, 2013.

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priority or higher evaluation or desirability; choice or estimation above another.⁸¹

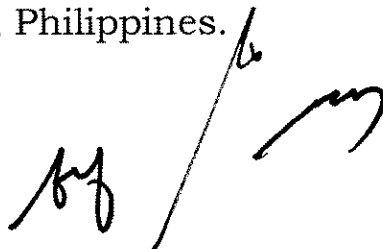
Indeed, as a result of her negligent act of approving the recommendation of the procurement of one unit of 2.0L Mitsubishi MIVEC DOHC 4B11 1998 CC Active Sports Crossover, unwarranted benefit, advantage, or preference was given to Freeway Motor Sales of Baliuag Corporation. The BAC Resolution approved by accused Dellosa already indicated and specified the Mitsubishi brand, instead of the technical specifications of a vehicle. As previously discussed, Freeway Motor Sales of Baliuag became the exclusive distributor only because BAC Resolution No. 15 specified the brand Mitsubishi. It is patently clear from the reading of the Resolution that the subject vehicle was procured with only the Mitsubishi brand in consideration, in violation of R.A. No. 9184.

It is a time-honored principle that a public office is a public trust and public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency, act with patriotism and justice and lead modest lives.⁸² Thus, public officers, as recipients of public trust, are under obligation to perform the duties of their offices honestly, faithfully, and to the best of their ability.⁸³ This constitutional mandate should always be in the minds of all public servants to guide them in their actions during their entire tenure in the government service.⁸⁴

WHEREFORE, premises considered, the Court finds accused Carolina L. Dellosa **GUILTY** of violating Section 3(e) of R.A. No. 3019, as amended, and is hereby 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 holding public office.

SO ORDERED.

Quezon City, Metro Manila, Philippines.

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⁸¹ *Id.*

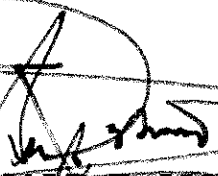
⁸² Section 1, Article XI of the 1987 Constitution.

⁸³ *Office of the Ombudsman v. Espina*, G.R. No. 213500, March 15, 2017.

⁸⁴ *City Mayor of Zamboanga v. CA and Argana*, G.R. No. 80270, February 27, 1990.


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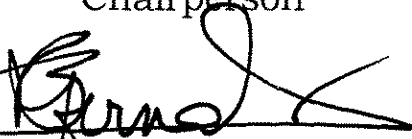


RONALD B. MORENO
Associate Justice

WE CONCUR:



AMPARO M. CABOTAJE-TANG
Presiding Justice
Chairperson



BERNELITO R. FERNANDEZ
Associate Justice

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ATTESTATION

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


AMPARO M. CABOTAJE-TANG
Chairperson, Third Division

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairman's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


AMPARO M. CABOTAJE-TANG
Presiding Justice

