



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

Seventh Division

PEOPLE OF THE PHILIPPINES,
Plaintiff,

Crim. Case No. 27753

- versus -

ALFREDO N. MACAPUGAY and
ROMEO M. MONTALLANA,
Accused.

X-----X

PEOPLE OF THE PHILIPPINES,
Plaintiff,

Crim. Case No. 27755

- versus -

ALFREDO N. MACAPUGAY, ROMEO
M. MONTALLANA, ROMUALDO C.
SANTOS, WILLIAM O. GENATO,
REBECCA G. GENATO, PORFIRIO
GERMINA, MARION FERNANDEZ,
DIONISIO C. ARENGINO,¹ ANTONIO
BELTRAN,² and CANDELARIA M.
ARAÑADOR,

Accused.

X-----X

PEOPLE OF THE PHILIPPINES,
Plaintiff,

Crim. Case No. 27756

- versus -

ALFREDO N. MACAPUGAY, ROMEO
M. MONTALLANA, ROMUALDO C.
SANTOS, GERARDO R. VILLASEÑOR,
RODEL A. MESA, WILLIAM O.
GENATO, REBECCA G. GENATO,
PORFIRIO GERMINA, MARION
FERNANDEZ, DIONISIO C.
ARENGINO, ANTONIO BELTRAN, and
CANDELARIA M. ARAÑADOR,
Accused.

Present:

Gomez-Estoesta, J.
Chairperson
Trespeses, J.
Hidalgo, JJ.

Promulgated: MARCH 29, 2019

¹ Deceased.

² At large.

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TRESPESES, J.:

Early in the morning of 18 August 2001, the Quezon City Manor Hotel ("QC Manor Hotel," "Manor Hotel" or "hotel" for brevity), occupying several floors of Wil-Vic Building located at 125 to 127 Kamias Road, Sikatuna, Quezon City, was razed by fire, causing death to seventy-five (75) persons³ and injury to several others⁴ then billeted thereat.

Subsequent investigation showed that at the time it was gutted by flames, the hotel was operating without a business permit. Moreover, less than a year before the conflagration, four of the five electric meters of the hotel had been disconnected by Meralco due to the former's use of jumpers. The meters were never reconnected until the tragic fire. Further, almost two years before the tragedy, the hotel had already been recommended for closure by the Bureau of Fire Protection ("BFP"). In addition, two and a half years prior to the incident, it had been found to have committed various violations of the National Fire Code ("Fire Code") and the National Building Code ("Building Code"), which it had been directed to remedy.

The incident prompted two government agencies – the Fact Finding and Intelligence Bureau ("FFIB") of the Office of the Ombudsman and the Philippine National Police ("PNP") – to conduct their respective investigations. As a result, the agencies instituted complaints against several public officers and private individuals for violation of the Anti-Graft and

³ The persons who died during the tragic fire based on Exhibits G-104-D and "H-1" and series are Marcialito P. Alvano III, Elizabeth Catelo Agustin, Kristina Catelo Agustin, Renato Navarro Agustin, Dante Andrade, Remedios Decano Ang, Anita Bunto Apanti, Rudy P. Bagiw, Jr., Sharon B. Baguidadol, Ailyn Pomadora Banag-Banag, Richard Carreon Barcelona, Soledad A. Bayachan, Evangeline Bayungubong, Hudson P. Bondocoy, Jennyrose Castro Breccia, Norman Dizon Breccia, Marie P. Cabaatan, Jonathan Gacad Cas, Edwin Casana, Librada E. Castillo, Dahlia Cathedral, Josue Dasalla, Eugene Miranda Decastro, Jerry Bofil Dela Cruz, Marcia Jis De Ortega, Ernie Sayong delos Reyes, Leonisa Par Dominguez, Cesar Fabelico, Marcellina Fabelico, Mary Ann Mijares Flaminiano, Myrna Tio Galia, Silverstre Galia, Moises B. Jamoles, Elaine Javier, Oliver Samson Lacanillao, Pedro Villanueva Laguardia, Ruth Erlyn Laudit delos Reyes, Mary Ruth Laudit delos Reyes, Linda Marigundon Laudit, Wendy Managtag, Elizabeth Fernandez Mangacu, Elmer dela Rosa Mangacu, Ignacio Pasion Mansilongan, Susan dela Cruz Mansilongan, Connie Marasigan, Jose Aldrin Marigundon, Merlinda B. Mina, Rowena Teresa B. Mina, Aida Mojica, Eduardo Mojica, Jesusa P. Olivas, Gloria Junlo, Gregorio S. Ondrade, Eliza Maglambayan, Aileen F. Pario, Joel U. Pado, Viktoria M. Tena, Marianne Perez, Elpidio G. Sagaoinit, Jordan Sagaoinit, Emerito Estanislao Sagcal, Jr., Chosen Salonga, Lionida Salonga, Herenita Manalang Samson, Amado Vecina Sarmiento, Jr., Sonia Vecina Sarmiento, Diane Carol S. Schofield, George Schofield, Marjorie Agbanlog Tabunda, Ofelia A. Tanteo, Wilma V. Tayag, Jocelyn Vecina, Samuel Cobile Vecina, Rogelio D. Villamor, Janice Bingil Wahi. For unknown reason, while 75 persons were recorded to have perished in the hotel fire, only 74 persons were alleged in the Informations to have done so.

⁴ EMS (Emergency Medical Services) Report as of 27 August 2001 signed by Dr. Joseph Bacareza (Exhibit "G-104") pegged the total number of victims of the tragic fire at 147 – with 75 dead, 49 confined to hospitals and 23 sustaining minor injuries.

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Corrupt Practices Act or Republic Act No. 3019 ("R.A. No. 3019") with the Ombudsman.

THE INFORMATIONS

On 2 April 2012, the Office of the Ombudsman issued a Joint Resolution⁵ that ordered the filing before the Sandiganbayan of the following seven Informations for violation of Section 3(e) of R.A. No. 3019:

In Criminal Case No. 27750⁶ for violation of Section 3(e) R.A. No. 3019:

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That, during the year 1996, or sometime prior or subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the above named accused ALFREDO N. MACAPUGAY, being the City Engineer/City Building Official of the City Government of Quezon City, a high ranking officer with Salary Grade 27 and ROMEO MONTALLANA Y MILITANTE, a low ranking public officer employed in the City Government of Quezon City as Acting Chief of the Electrical Division, Office of the City Engineer/Building Official, committing the offense in relation to office, while in the performance of their official and administrative functions, and taking advantage of the same, conspiring with one another and mutually helping with private persons, namely: WILLIAM O. GENATO, REBECCA G. GENATO, PORFIRIO GERMINA, MARION FERNANDEZ, DIONISIO CUA ARENGINO and ANTONIO BELTRAN, being the owners and/or incorporators of Manor Hotel Inc.(:) CANDELARIA ARAÑADOR Y MAYNIGO, being the Hotel Manager; and, EDGARDO M. MERIDA, being the Hotel Licensed Electrical Engineer, did then and there willfully, unlawfully and criminally give unwarranted benefit, advantage, undue preference or favor to the MANOR HOTEL, INC. through evident bad faith and manifest partiality by allowing the said hotel to operate its business despite prior knowledge that it has no business permit/license duly issued by the Quezon City government, to the damage and prejudice of the government and the public interest.

CONTRARY TO LAW.

In Criminal Case No. 27751⁷ for violation of Section 3(e) R.A. No. 3019:

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⁵ Record, Vol. I, pp. 21-36.

⁶ Id. at 1-3.

⁷ Id. at 4-6.

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That during the year 1997, or sometime prior or subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the above named accused ALFREDO N. MACAPUGAY, being the City Engineer/City Building Official, a high ranking officer with Salary Grade 27, employed in the City Government of Quezon City and ROMEO MONTALLANA Y MILITANTE, a low ranking public officer being the Acting Chief of the Electrical Division, Office of the City Engineer/Building Official, Quezon City Government, committing the offense in relation to office, while in the performance of their official and administrative functions, and taking advantage of the same, conspiring with one another and mutually helping with private persons, namely: WILLIAM O. GENATO, REBECCA G. GENATO, PORFIRIO GERMINA, MARION FERNANDEZ, DIONISIO CUA ARENGINO and ANTONIO BELTRAN, being the owners and/or incorporators of Manor Hotel Inc.(:) CANDELARIA ARAÑADOR Y MAYNIGO, being the Hotel Manager, and, EDGARDO M. MERIDA, being the Hotel Licensed Electrical Engineer, did then and there willfully, unlawfully and criminally give unwarranted benefit, advantage, undue preference or favor to the MANOR HOTEL, INC. through evident bad faith and manifest partiality by dispensing with the mandatory annual inspection of the structural, sanitary and electrical safety system of the MANOR HOTEL, INC. and despite prior knowledge of repeated violation incurred by the said hotel the above named accused ALFREDO N. MACAPUGAY and ROMEO MONTALLANA Y MILITANTE, allow it to operate a fire hazard and dangerous building, to the damage and prejudice of the government and the public interest.

CONTRARY TO LAW.

In Criminal Case No. 27752⁸ for violation of Section 3(e) R.A. No. 3019:

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That during the year 1998, or sometime prior or subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the above named accused ALFREDO N. MACAPUGAY, being the City Engineer/City Building Official of the City Government of Quezon City, a high ranking officer with Salary Grade 27 and ROMEO MONTALLANA Y MILITANTE, being the Acting Chief of the Electrical Division, Office of the City Engineer and Building Official, employed in the City Government of Quezon City, committing the offense in relation to office, while in the performance of their official and administrative functions, and taking advantage of the same, conspiring with one another and mutually helping with private persons, namely: WILLIAM O. GENATO, REBECCA G. GENATO, PORFIRIO GERMINA, MARION FERNANDEZ, DIONISIO CUA ARENGINO and ANTONIO BELTRAN, being the owners and/or incorporators of Manor Hotel Inc.(:) CANDELARIA ARAÑADOR Y MAYNIGO, being the Hotel Manager; and, EDGARDO M. MERIDA, being the Hotel Licensed Electrical Engineer, did then and there willfully,

⁸ Record, Vol. I, pp. 7-9.

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unlawfully and criminally give unwarranted benefit, advantage, undue preference or favor to the MANOR HOTEL, INC. through evident bad faith and manifest partiality by dispensing with the mandatory annual inspection of the structural, sanitary and electrical safety system of the MANOR HOTEL, INC. and allowing it to operate even without a business permit/license duly issued by the Quezon City government, to the damage and prejudice of the government and the public interest.

CONTRARY TO LAW.

In Criminal Case No. 27753⁹ for violation of Section 3(e) R.A. No 3019:

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That during the year 1999, or sometime prior or subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the above named accused ALFREDO N. MACAPUGAY, being the City Engineer/City Building Official, a high ranking officer with Salary Grade 27, employed in the City Government of Quezon City and ROMEO MONTALLANA Y MILITANTE, being the Acting Chief of the Electrical Division, Office of the City Engineer and Building Official, a low ranking public officer, employed in the City Government of Quezon City, committing the offense in relation to office, while in the performance of (their) official and administrative functions, and taking advantage of the same, conspiring with one another and mutually helping with private persons, namely: WILLIAM O. GENATO, REBECCA G. GENATO, PORFIRIO GERMINA, MARION FERNANDEZ, DIONISIO CUA ARENGINO and ANTONIO BELTRAN, being the owners and/or incorporators of Manor Hotel Inc.(:) CANDELARIA ARAÑADOR Y MAYNIGO, being the Hotel Manager; and, EDGARDO M. MERIDA, being the Hotel Licensed Electrical Engineer, did then and there willfully, unlawfully and criminally give unwarranted benefit, advantage, undue preference or favor to the MANOR HOTEL, INC. through evident bad faith and manifest partiality by dispensing with the mandatory annual inspection of the structural, sanitary and electrical safety system of the MANOR HOTEL and despite prior knowledge that the said hotel is due for closure per recommendation by the City Fire Marshall of Quezon City for repeated violations of the Manor Hotel against the provisions of the National Building Code and the Fire Code of the Philippines the above-named public officers did not impose any sanction or cause the closure and abatement of the said hotel thereby allowing it to operate a fire hazard and dangerous building, to the damage and prejudice of the government and the public interest.

CONTRARY TO LAW.

⁹ Record, Vol. I, pp. 10-12.

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In Criminal Case No. 27754¹⁰ for violation of Section 3(e) R.A. No. 3019:

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That during (the) month of December 1991, or sometime prior or subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the above named accused DONATO C. RIVERA, being the City Building Official of the City Government of Quezon City, a high ranking officer with Salary Grade 27; ROMUALDO SANTOS Y CASAS and SEVERINO T. MARIANO, both low ranking officers employed in the City Building Official's Office, Quezon City Government as Inspectors committing the offense in relation to office, while in the performance of their official and administrative functions and taking advantage of the same, conspiring with one another and mutually helping with private persons, namely: WILLIAM O. GENATO, REBECCA G. GENATO, PORFIRIO GERMINA, MARION FERNANDEZ, DIONISIO CUA ARENGINO and ANTONIO BELTRAN, being the owners and/or incorporators of Manor Hotel Inc.(:) CANDELARIA ARAÑADOR Y MAYNIGO, being the Hotel Manager; and, EDGARDO M. MERIDA, being the Hotel Licensed Electrical Engineer, did then and there willfully, unlawfully and criminally give unwarranted benefit, advantage, undue preference or favor to the MANOR HOTEL, INC. through evident bad faith and manifest partiality by issuing a certificate of occupancy and certifying thereat that the building structure of the MANOR HOTEL, INC. conform(s) with safety standards under the National Building Code of the Philippines when in truth and in fact it is not safe for occupancy, as it constitute(s) a fire hazard, dangerous to human life and a hazard to safety to the damage and prejudice of the public interest.

CONTRARY TO LAW.

In Criminal Case No. 27755¹¹ for violation of Section 3(e) R.A. No. 3019:

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That during the year 2000, or sometime prior or subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the above named accused ALFREDO N. MACAPUGAY, being the City Engineer/City Building Official, a high ranking officer with Salary Grade 27; ROMEO MONTALLANA Y MILITANTE, being the Acting Chief Electrical Division, City Engineer's Office; ROMUALDO SANTOS Y CASAS(:) being the Engineer V, City Engineer's Office; all low ranking public officers, all of whom are employed in the City Government of Quezon City, committing the offense in relation to office, while in the performance of their official and administrative functions as such and taking advantage of the same, conspiring with one another and mutually helping with private persons, namely: WILLIAM O. GENATO, REBECCA G. GENATO, PORFIRIO GERMINA, MARION FERNANDEZ, DIONISIO CUA ARENGINO and

¹⁰ Record, Vol I pp. 13-14.

¹¹ Id. at 15-17.

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ANTONIO BELTRAN, being the owners and/or incorporators of Manor Hotel Inc.(); CANDELARIA ARAÑADOR Y MAYNIGO, being the Hotel Manager; and, EDGARDO M. MERIDA, being the Hotel Licensed Electrical Engineer, did then and there willfully, unlawfully and criminally give unwarranted benefit, advantage, undue preference or favor to the MANOR HOTEL, INC. through evident bad faith and manifest partiality by dispensing with the mandatory annual inspection of the structural, sanitary and electrical safety system of the MANOR HOTEL, INC. despite prior knowledge of the repeated violations of the management of the Manor Hotel against the provisions of the Fire Code and National Building Code of the Philippines, and allowing it to operate its business until a tragic fire transpired on August 18, 2001 resulting (in) the death of seventy four (74) innocent people as well as the injuries suffered by several persons who were then billeted at said hotel.

CONTRARY TO LAW.

In Criminal Case No. 27756¹² for violation of Section 3(e) R.A. No. 3019:

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That during the period from January to August 18, 2001, or sometime prior or subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the above named accused ALFREDO N. MACAPUGAY, being the City Engineer/City Building Official, a high ranking officer with Salary Grade 27; ROMEO MONTALLANA Y MILITANTE, being the Acting Chief Electrical Division, City Engineer's Office; ROMUALDO SANTOS Y CASAS(), being the Engineer V, City Engineer's Office; GERARDO VILLASEÑOR Y REYES, being the Inspector, Electrical Division, City Engineer's Office; low ranking public officers, all of whom are employed in the City Government of Quezon City, committing the offense in relation to office, while in the performance of their Official and administrative functions as such and taking advantage of the same, through evident bad faith, manifest partiality or gross inexcusable negligence by failing or omitting to close the Manor Hotel or to impose sanctions knowing fully well that it incurred repeated violations against the provisions of the Fire Code and National Building Code of the Philippines, conspiring with one another and mutually helping with private persons, namely: WILLIAM O. GENATO, REBECCA G. GENATO, PORFIRIO GERMINA, MARION FERNANDEZ, DIONISIO CUA ARENGINO and ANTONIO BELTRAN, being the owners and/or incorporators of Manor Hotel Inc.(); CANDELARIA ARAÑADOR Y MAYNIGO, being the Hotel Manager; and, EDGARDO M. MERIDA, being the Hotel Licensed Electrical Engineer, did then and there willfully, unlawfully and criminally cause undue injury for the untimely death of about 74 innocent people as well as the injuries suffered by several persons who were then billeted in the Manor Hotel arising from its defective electrical system, to the damage and prejudice of the victims of the said tragic incident.

CONTRARY TO LAW.

¹² Record, Vol. 1, pp. 18-20

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In an Order of the Sandiganbayan dated 4 November 2002,¹³ the prosecution's motion amending the Information in Criminal Case No. 27756 to include Rodel A. Mesa as an accused in the case was granted. Pursuant thereto, the prosecution filed the corresponding Amended Information¹⁴ on 7 November 2002.

COURT PROCEEDINGS BEFORE TRIAL

The cases were raffled to the Fifth Division of the Sandiganbayan.

In due course, the accused separately posted their respective bonds to secure their temporary liberty.¹⁵

In a Resolution dated 26 March 2003¹⁶ the Sandiganbayan granted accused Rivera's Motion to Quash the Information¹⁷ in Criminal Case No. 27754. It directed that the records of the case be remanded to the Regional Trial Court ("RTC") which, it held, has original jurisdiction over the case.

In the same Resolution, the Court also granted the respective motions for reinvestigation and/or reinvestigation filed by accused Romualdo Santos¹⁸ ("Santos") and accused spouses William and Rebecca Genato ("Genato spouses"), Porfirio Germina ("Germina"), Marion Fernandez ("Fernandez"), Dionisio Arengino ("Arengino") and Candelaria Arañador¹⁹ ("Arañador") for Criminal Case Nos. 27755 and 27756. It directed the accused to file amplified motions for reinvestigation with the Office of the Special Prosecutor. Finally, it issued an alias writ for the arrest of accused Antonio Beltran (Beltran) who was, and remains, at large.

Meanwhile, accused Romeo Montallana ("Montallana") filed a Motion to Quash²⁰ the Informations in Criminal Case Nos. 27750, 27751, 27752, 27753, 27754, and 27755 and 27756. However, the same was denied by this Court for lack of merit on 28 August 2003.²¹

On 14 November 2003, accused Gerardo Villaseñor ("Villaseñor"), Alfredo Macapugay ("Macapugay"), Rodel Mesa ("Mesa") and Romeo Montallana were arraigned and pleaded not guilty to the charges against

¹³ Record, Vol. I, pp. 294-294-A.

¹⁴ Id. at 412-415.

¹⁵ Resolution dated 5 November 2003, Record, Vol. IX, pp. 75-77.

¹⁶ Record, Vol. II, pp. 102-123.

¹⁷ Record, Vol. I, pp. 187-205.

¹⁸ Id. at 177-185.

¹⁹ Record, Vol. I, pp. 221-225.

²⁰ Record, Vol. II, pp. 193-195.

²¹ Id. at 243-255.

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them.²² On 16 January 2004, accused Edgardo Merida ("Merida") was arraigned and pleaded not guilty.²³ On 26 March 2004, accused Arañador, Arengino, Fernandez, Germina and the Genato spouses were also arraigned for Criminal Case Nos. 27750 to 27753 and entered pleas of not guilty.²⁴

After the reinvestigation was completed, accused Genato spouses, Germina, Fernandez, Arengino and Arañador were arraigned for Criminal Case Nos. 27755 and 27756 on 27 August 2004 and again pleaded not guilty.²⁵ On 17 September 2004, accused Santos was arraigned in Criminal Case Nos. 27755 and 27756, pleading not guilty.²⁶

Following a series of consolidated preliminary conferences held on 1 and 8 October 2004, 10 November 2004, 7 January 2005, 18 February 2005 and 20 May 2005,²⁷ pre-trial was set on 15 July 2005.²⁸ On the same date, the Court issued its Pre-trial Order, adopting the Consolidated Minutes of Preliminary Conference signed by the parties for the purpose of pre-trial.²⁹ In the same Resolution, the Court noted that accused Beltran remained at large and directed the issuance of an alias warrant for his arrest.

PROSECUTION EVIDENCE

The prosecution presented the following witnesses who gave their testimonies:

1. *Rosendo V. Cabillan, Jr. – then a Fire Officer II assigned as Arson Investigator of the Quezon City Fire Station at the time of the incident*³⁰

Witness Rosendo Cabillan ("Cabillan") testified that at around 4:12 a.m. of 18 August 2001, he got a report from the main radio room that a fire incident at the hotel along Kamias St. had already progressed to the third or fourth fire alarm level. He arrived at the scene 15 to 20 minutes later, finding the fire to have escalated to the fifth stage. Around 20 to 30 firemen, led by

²² Record, Vol. II, p.348.

²³ *Id.* at 411.

²⁴ Record, Vol. III, p. 35-36.

²⁵ *Id.* at 177-178.

²⁶ Record, Vol. III, p. 236.

²⁷ Consolidated Minutes of the Preliminary Conference, Record, Vol. IV, pp. 95-115.

²⁸ Record, Vol. IV, p. 59.

²⁹ *Id.* at 116-136.

³⁰ TSN, 26 July 2005.

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the Chief of the Fire Investigation Unit of Fire District II, then Inspector Samuel Tadeo ("Inspector Tadeo"), were working to put it out.

Upon Inspector Tadeo's instruction, Cabillan interviewed the Duty Security Officer of the Manor Hotel, Nelson Chin, who reported that one room occupant called in to report that they smelled and noticed smoke at the fourth floor of the hotel. Cabillan claimed that another witness confirmed this report. Cabillan also asked a security guard to identify the owner of the hotel and the latter pointed to William O. Genato ("Mr. Genato"),³¹ who confirmed the same. Meanwhile, Alma De Santos, Front Desk Clerk of the hotel, reported that there were about 172 people inside the hotel.

According to Cabillan, Senior Superintendent Romeo Villafuerte ("Villafuerte") declared that the fire was under control at about 5:23 a.m. of August 18, 2001. "Fire under control" means that the fire can no longer affect the surrounding buildings or residential areas. Chief Superintendent Francisco S. Senot declared "fire out" at 6:36 a.m. of August 18, 2001. "Fire out" means that there is no more fire, debris, and smoke.

Cabillan prepared the following reports: (1) Spot Investigation Report,³² (2) Initial Investigation Report³³ and (3) Progress Investigation Report.³⁴ He submitted them to the Fire District Headquarters at *Pinagkaisahan* Fire District II addressed to Fire Marshall Ricardo Lemence, with a copy to Inspector Tadeo.

After writing down his initial report at 5:30 a.m., Cabillan went up to the hotel for ocular inspection and spot investigation. He noted that the fire exit at the left side of the fourth floor was locked. He also saw pieces of wires, still with electric current in front of what was a big spalling (i.e., big crack) in the corners of the wall in either the third or fourth floor. Cabillan verbally reported the finding to Inspector Tadeo, but did not include it in his written report.

The next day, Cabillan was instructed by one of the members of the task force created by Senior Superintendent Villafuerte to go to the hospitals where fire victims were confined. Five of the fire victims interviewed by Cabillan were members of the Jesus Is Lord Movement (JIL), who stayed at the hotel to attend a religious conference.

During his cross-examination, Cabillan explained that most of the time, though not infallibly, spalling occurs where fire is most concentrated and where it started. He agreed that there is also a possibility that the cause of the

³¹ Witness Cabillan identified accused William Genato in open court.

³² Exhibit "G-8."

³³ Exhibit "G-9" and "G-10."

³⁴ Exhibit "G-11" and "G-12."

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spalling is an outlet or appliance in the area where the fire started. In the case of the QC Manor Hotel, Cabillan did not see any appliances near the spalling because the place was totally burned. What he saw at the hotel were electrical wires. He failed to put the spalling observation in the initial investigation report because he saw it after submitting his report. He no longer made a follow up report to mention the spalling because a task force had, by then, already been created. He merely relayed the information to Inspector Tadeo.

**2. *Dionisio Cabote - a Fire Officer
III assigned to the Quezon City
Fire Station***

Witness Dionisio Cabote ("Cabote") testified that he has been a fire investigator since 1996. In August 2001, he was then a Senior Fire Officer II. He went to the fire scene with Senior Fire Officer III Honesto Ladia, the Sub-Station Commander of Marilag Fire Station. They went inside the hotel's third, fourth and fifth floors after fire out was declared at 6:30 a.m. They stayed in the establishment until 4 p.m.

Cabote observed that the hotel's windows have grills, and this may be the reason why some of the victims were unable to escape. He reported that based on testimonies of the witnesses, fire started at the ceiling of the third floor. He also noticed that the beam near the panel board had signs of welded steel and that the wires were attached to the welded steel.

As to the cause of fire, he opines that "maybe the wire vibrated or it came into contact with the steel that is why it might have caused the insulation to be damaged and that caused the sparking and the short circuit."³⁵ He was among those who prepared the Final Investigation Report,³⁶ which he identified in court.³⁷

**3. *Senior Superintendent Victoriano
C. Remedio - currently the
Regional Director of the Bureau of
Fire Protection Region 7***

Witness Victoriano Remedio ("Remedio") testified that in August 2001, he held the rank of Senior Superintendent and was designated as Chief of the Intelligence and Investigation Division (IID) of the BFP National Office in charge of fire investigations nationwide.

³⁵ TSN, 8 August 2005, p. 20.

³⁶ Exhibit "G."

³⁷ TSN, 9 August 2005, p. 9.

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He was also designated chairperson of the task force that investigated the QC Manor Hotel fire. The task force was created on 24 August 2001 by Quezon City Fire Chief, Chief Superintendent Francisco Senot.

Remedio was in Cebu at the time of the fire but IID responded to the incident upon his instruction. He, himself, conducted ocular inspection of the establishment on 20 August 2001 upon his return to his office, together with Chief Inspector Aguto, Inspector Pepito, Chief Inspector Dante and some of his men at IID. They also wrote a request for technical assistance³⁸ on the electrical aspect of the investigation from the National Bureau of Investigation (NBI), which responded by sending Engineer David Aoanan to help them.

Based on their team's own observation and the witness' account, the fire originated at the third-floor ceiling, where they noticed that the switches were in a tripped off position in four distribution panel boards. Remedio explains that a tripped off position occurs "when there is unusual situation in the current. For example, there is a grounding, there is an arching, ... the switch will automatically (move to) ... a switch off position so that it is, tripped off."³⁹ The panel board had spalling, showing that there was extreme heat in the wall where the panel board were attached. "Spalling" occurs when the area is exposed to extreme heat, the surface becomes whiter.⁴⁰

He concluded that the fire was caused by "electrical ignitions due to overloaded electrical circuits."⁴¹ The task force reached this conclusion on 16 September 2001 and their findings were reduced to writing in their Final Investigation Report.⁴² The signatures in the Final Investigation Report were identified by the witness. Annexed to the Final Investigation Report is the report dated 27 August 2001 prepared by the Emergency Medical Services (EMS) of the Bureau of Fire and Investigation Division.⁴³

Remedio directed Inspector Pepito in taking pictures of the important angles of the fire scene. Remedio identified 11 pictures, some of which showed beading of the wires, indicating that grounding occurred.⁴⁴ Remedio described what the photos showed. He stated that some photos showed that one of the hotel's exits was obstructed by air conditioning units.⁴⁵ One exit was so small that it required a person to walk sideways to pass through.⁴⁶ Another exit from the second floor going to the ground floor was locked up.⁴⁷

³⁸ Exhibit "VVV-12."

³⁹ TSN, 4 October 2005, p. 23.

⁴⁰ *Id.* at 26.

⁴¹ TSN, 5 October 2005, p. 41.

⁴² Exhibit "G."

⁴³ Exhibit "G-8" and series.

⁴⁴ Exhibits "CCCC-8" and "CCCC-9."

⁴⁵ Exhibits "XXX-5," "XXX-6" and "XXX-7."

⁴⁶ Exhibit "XXX-10."

⁴⁷ Exhibit "DDDD-4".

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There are exits that do not terminate in an open space, court, a yard, or a street or an alley, as they are supposed to.⁴⁸ All of the windows were also covered by grills and could not be opened.⁴⁹ A room in the fourth floor has an air conditioning unit pulled out by some victims to escape from the building.⁵⁰ On the corridor, there is a label "exit" which does not lead to an exit door.⁵¹

On the other hand, Remedio explained the requirements of the law. In a two-storey building, there should be at least two fire exits remote from each other. The exit door must swing towards the direction of the exit. There should also be a luminous marking in the direction of the exit. As much as possible, there must be a dry stand pipe. This, he explains, refer to a tube constructed in the building on every floor. There should be an opening where a hose on every floor should be attached so that in case of fire, the fire truck will park at the front door and there is access to water on the other floors. An automatic suppression system on the exit door is also needed. The construction must be fire resistant. Also, the windows must open towards an open space, alley, court or yards and there must be a portable fire extinguisher equipment.⁵²

Remedio stated that compliance with the Building Code and the Fire Code is the responsibility of the building officials. Building officials are required to conduct inspection before, during and after the construction of the building. They issue the *building* permit and *occupancy* permit. A building permit is issued once the applicant submits an application with fire exit plans (which has been reviewed by the building officials if conforming to the standards required by Building Code) and payment of taxes.

Meanwhile, an occupancy permit is issued after the architect or engineer in charge of the building construction submits the application therefor upon final completion of the building. The building official must conduct a final inspection report to verify if all safety features of the building are complied with. Once the building official sees that a building is safe for occupancy, he issues a Certificate of Occupancy.

Remedio stated that the building permit's effectivity has no duration, except when there is a violation of the Building Code, in which case the permit is automatically cancelled or revoked by building officials. Aside from this, a building permit can be cancelled if construction did not follow approved plans and safety features. Likewise, an occupancy permit's effectivity has no expiration, except where there is a violation of Building Code, in which case it can be cancelled by building officials.

⁴⁸ Exhibits "DDDD-1," "DDDD-2," "XXX-3" and "XXX-4."

⁴⁹ Exhibit "DDDD."

⁵⁰ Exhibits "XXX-17" and "XXX-18."

⁵¹ Exhibits "XXX-19" and "XXX-20."

⁵² TSN, 5 October 2005, pp. 53-54.

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Remedio confirmed that the documents they gathered shows that QC Manor Hotel has a building permit and occupancy permit. There were two building permits issued to the hotel: Building Permit No. 91-59978 issued on 18 December 1991 and Building Permit No. 02-59333 dated 26 January 1991. The records did not show any revocation of these permits issued to the hotel.

As to the *business* permit, Remedio reported that QC Manor Hotel's business permit to operate a hotel for the year 1992⁵³ is valid only until 31 December 1993. The permit refers to the hotel's operation of a standard class hotel with 58 air-conditioned rooms. On 9 September 1992, the hotel obtained an additional permit for the operation of the cocktail lounge and restaurant and was effective only until 31 December 1992.⁵⁴ The hotel renewed its business permit on 22 February 1993, which was valid until 31 December 1993.⁵⁵ On 28 March 1994, another business permit was issued, which was valid until 31 March 1995.⁵⁶

On 22 March 1995, the hotel's business permit was stamped valid until 31 March 1996.⁵⁷ The hotel's next permit was issued on 13 January 1997, indicating an additional area of 2,567 sq m, with a remark on the right side "to collect payment effective 1992 first quarter up to the present".⁵⁸ Another business permit issued on 17 February 1999⁵⁹ and valid until 30 June 1999 has the remark "... SUBMIT FSIC, SP & LC BY 06-30-99 ..."⁶⁰ On 14 February 2000, the hotel's business permit, which was valid until 30 June 2000, has the remark to "SUBMIT FSIC, CEI & PS BY 06-30-00. COND/S # 1, 5, 13 & 16 STATED AT BACK".⁶¹

Remedio reported that as per Certification⁶² dated 24 August 2001 of the Records and Statistics Division Chief, Natividad N. Fetil, the hotel was given Business Permit No. 97-086-011 (92-05209), renewed on 29 January 2001 and valid until 30 June 2001 only. The permit was only to operate the business as amusement place, billiards hall, cocktail lounge and restaurant.⁶³

Remedio testified that the documents they gathered showed that there was no Fire Safety Inspection Certificate (FSIC) for Manor Hotel from 1999 to 2001. The FSIC is issued by the City Fire Marshall.⁶⁴ In contrast, the

⁵³ Exhibit "G-37."

⁵⁴ Exhibit "G-37-A."

⁵⁵ Exhibit "G-35."

⁵⁶ Exhibit "G-38."

⁵⁷ Exhibit "G-40."

⁵⁸ Exhibit "G-42."

⁵⁹ Exhibit "G-43."

⁶⁰ Exhibit "G-43-A."

⁶¹ Exhibit "G-44."

⁶² Exhibit "G-45."

⁶³ Exhibit "G-10" and series.

⁶⁴ TSN, 15 November 2005, p. 15.

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Certificate of Electrical Inspection (CEI) is issued by the Electrical Division of the Office of the Building Official.⁶⁵

He further testified that per their record, there were 75 dead and some injured as a result of the incident.⁶⁶

Remedio also identified a document recovered from the hotel ruins during the post fire ocular investigation⁶⁷ captioned as a "Memo" dated 25 October 2000⁶⁸ signed by William Genato as "Owner/Manager" and addressed to "All Front Desk Clerk." It lays out guidelines on the limitations on the use of air conditioning units because Meralco has not reinstalled its electricity at the time.⁶⁹

On cross-examination,⁷⁰ Remedio named the members of Task Force Manor, which included Chief Inspector Simpao ("Simpao").⁷¹ He admitted that they come from the Bureau of Fire Department. He also confirmed that Simpao signed the Fire Safety Inspection Certificate⁷² issued on 19 December 1991. This is why Simpao inhibited himself from the investigation.

Remedio summarized what caused the fire, as follows: when the hotel's electric current was cut off on 25 September 2000, it tapped current from another building owned by Mr. Genato. (This was later identified as Wil-Vic Building II, which is distinct from Wil-Vic Building, where the hotel was located.) During the incident, the hotel was fully booked, so all rooms were utilized and all air conditioning systems were being used.⁷³ The load then exceeded the capacity of the current supplied to the building. This generated heat within the electrical current or electrical circuit. Because of the heat, the rubber insulations of the electric current melted. Remedio explained that when the wires are left bare after their insulation melts, they develop electric

⁶⁵ TSN, 5 October 2005 pp. 89-90.

⁶⁶ *Id.* at 49.

⁶⁷ *Id.* at 96-98.

⁶⁸ Exhibit G-66."

⁶⁹ The body of the memorandum states:

Our electricity have (sic) not been installed by the MERALCO, temporarily, we can use a maximum of nine (9) aircon rooms at the 4th floor simultaneously and on the 3rd floor aircon rooms can also be used simultaneously. And if there is a function going on at the coffee shop, we can only use two (2) aircon rooms at the 3rd floor and on the 4th floor remains the same. And if a function was done on the function room, we can only use four (4) aircon rooms at the 4th floor and on the 3rd floor remain the same.

In case all the said units had been occupied, we can offer/talk to our customers to occupy the remaining units ventilated only with an electric fan but they can transfer to an aircon room once it is vacated.

The following rates are as follows:

From 9:01A.M. to 9:00P.M. (12 hours) the rate is = P=550.00

From 9:01P.M. to 9:00A.m. (12 hours) the rate is =P=450

For your strict compliance.

⁷⁰ TSN, 14 November 2005.

⁷¹ Members of Task Force Manor are Remedio, Fire Chief Supt. Francisco Cenon, PO3 Cabote, SPO4 Navia, Insp. Tadeo, Sr. Insp. Dagan, Sr. Insp. Aguto and Chief Insp. Simpao.

⁷² Exh "9-Genato."

⁷³ TSN, 15 February 2006, p. 18.

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magnetic field, which then produces the electrical arc, which may cause fire⁷⁴ when it comes in contact with flammable materials. Thus, the burning occurred first before the circuit breaker was tripped off.

Witness Remedio agreed with defense counsel that another purpose of a circuit breaker is to stop the flow of current in case of fire. However, he points out that insulation wires at the hotel were burned because of heat, not fire.

On further cross, Remedio testified that he is a licensed mechanical engineer, with a Master's Degree in Management and a Fire Correspondence Course from Washington, D.C. He was designated head of the fact-finding body due to his being the Chief of the Intelligence Division of the Fire Bureau. He conducted investigation on 20 August for the whole day, and gathered testimonies for almost a month. His team conducted laboratory/forensic examination, tested for the presence of flammable materials, and submitted the gathered wirings to the NBI laboratory. They did not find any flammable liquid. He inhibited himself from investigating the fire department personnel to be fair, but placed in the report a recommendation to investigate them.⁷⁵

When confronted with the QC Central Police District report stating that the fire was caused by faulty electrical wiring, Remedio stated that his team was not aware thereof. Assuming they had been made aware of the report, the report of Remedio's own team would not have changed because in their parlance, there is no such thing as faulty electrical wiring. If there was faulty electrical wiring, the system would not have worked in the first place.⁷⁶

Remedio testified that the hotel was using electric current which was tapped from the electrical wiring of Wil-Vic Building II at the back portion of the hotel. He concluded this after tracing the origin of the wiring and noting that there is only one service entrance at the front of the hotel, according to Meralco. The wiring in front of the edifice housing the hotel was cut off and another wiring was tapped to Wil-Vic Building II at the back portion of the hotel. He identified pictures showing the wires running from Wil-Vic Building II to the hotel.⁷⁷ While Remedio did not take the rating capacity of the Wil-Vic Building II (which can be obtained as filed with the City Building Official at the Electrical Office), he is sure that its rating capacity is only intended for itself. When the hotel tapped into Wil-Vic Building II, the latter's current supply was not enough to support both buildings.⁷⁸

Further clarifying, Remedio stressed that overloading did not cause the panel board to trip. It was grounding that tripped the panel boards. When the

⁷⁴ TSN, 27 June 2006, p. 23.

⁷⁵ TSN, 23 March 2006, pp. 8-9, 19-20.

⁷⁶ TSN, 19 April 2006, pp. 15-16.

⁷⁷ TSN, 28 June 2006, pp. 7-9.

⁷⁸ TSN, 20 April 2006, pp. 13, 17-20.

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wires had their insulation melted and touched the metal beams and ceiling joints, grounding occurred. Overloading leads to grounding, causing the wires to create an electrical arc, which is very hot and will ignite any flammable materials it comes across. Remedio admitted that there is no rule requiring Meralco to inform the Electrical Division or Fire Department about their disconnections.⁷⁹

Remedio also testified that the Annual Inspection Report⁸⁰ indicated that the hotel has 87 air conditioning units, but the report of the Electrical Division (which is mandated to conduct annual electrical inspection as a prerequisite for the issuance of business permit) indicated that they found 58 air conditioning units. Although not an electrical engineer, Remedio concluded there was overloading after conferring with NBI's Engr. Aoanan.⁸¹

He confirmed that the cause of fire is electrical ignition due to overloading, so that if there were structural defects in the hotel, this is not the cause of the fire.⁸² As per the Fire Code, the necessary requirements for fire safety have to be complied with and the building has to be fully completed before a Fire Safety Inspection Certificate is issued. Remedio further confirmed that repeated violations can cause the closure of a building.

Remedio agreed that the hotel is a fire hazard and added that after inspection, there were Notices of Violation issued to it. The notices were served on the hotel's manager on 10 August 2000. However, the Fire Department cannot immediately abate such a fire hazard. Under Section 10 of the Building Code, the Fire Department needs to obtain permits, like a demolition permit, before it can enforce the abatement of a fire hazard.⁸³

He further testified that the BFP made a recommendation to the Quezon City Mayor for the closure of Manor Hotel. He also clarified that he headed a task force to determine the cause of the fire, while a PNP task force was created to determine criminal liability.

On redirect examination, Remedio identified Exhibit "W", which pertained to a Memorandum dated 1 February 1999 with subject "list of establishments recommended for administrative sanctions" signed by Regional Fire Marshall of NCR June C. Ocampo. He also stressed that the building plans and certificate of occupancy and fire safety inspection certificate indicate that William Genato owns Manor Hotel.⁸⁴

⁷⁹ TSN, 20 April 2006, p. 25.

⁸⁰ Exhibit "G-19."

⁸¹ TSN, 20 June 2006, pp. 18-19.

⁸² TSN, 26 June 2006, p. 12.

⁸³ TSN, 28 June 2006, pp. 31-32.

⁸⁴ TSN, 30 June 2006, pp. 17-18.

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He clarified that while it is true that the circuit breakers of the hotel were working, they were unable to prevent the fire because there was already a fire before the circuit breaker tripped off. The guard of Wil-Vic Building II noticed the fire, and turned off its main switch. For this reason, Wil-Vic Building II was not burned down, although it supplied electricity to Manor Hotel (which is located at Wil-Vic Building). Finally, Remedio stressed that although structural defects of the hotel did not contribute to the fire, it led to the death of 75 people occupying the hotel at the time of the fire.

**4. *Rodolfo M. Espina - a Senior Fire
Safety Inspector of Quezon City
since 2000***

Witness Rodolfo Espina ("Espina") was assigned to conduct fire safety inspection of both residential and business establishments in Quezon City. Together with Senior Fire Safety Inspector Arnel Pinca ("Pinca"), he was given a Mission Order dated 8 August 2000,⁸⁵ signed by Quezon City Fire Marshall Ricardo D. Lemence ("Lemence"), to inspect QC Manor Hotel. A notation in the Order reads:

PROCEED TO : Manor Hotel
Kamias Street, Quezon City

PURPOSE : Fire safety inspection to determine compliance with
existing provisions of the Fire Code of the Philippines (P.D.
1185) and other pertinent ordinances, laws and regulations.

Espina testified that he showed the Mission Order to the manager of QC Manor Hotel, Candelaria Arañador, who permitted him to go ahead with inspection.⁸⁶ Arañador signed⁸⁷ the middle portion of the mission order, stating:

This is to acknowledge that permission was granted to above Fire
Safety Inspectors accompanied by authorized representative to conduct a
fire safety inspection within the premises in accordance with law.

Espina and Pinca were accompanied by a representative of the establishment, who guided them during the inspection inside the premises. He described the hotel as being housed at the third, fourth and fifth floors of a five-story building, mostly made of reinforced concrete materials with commercial establishments on the lower floors.

⁸⁵ TSN, 15 January 2007, pp. 19-20.

⁸⁶ Exhibit "VVV-48." Exhibit "G-71."

⁸⁷ Exhibit "VVV-48-a."

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Espina went to the top floor first, going down to the succeeding floors. After investigation, he made the following findings⁸⁸ in the same document, which were all are explained to the authorized representative of the establishment:

1. Defective standpipe system
2. Defective manual fire alarm system
3. Main stair is not enclosed w/ self (-) closing fire door
4. Doors at fire exit should swing towards route of exit
5. Emergency generator is not equipped w/ automatic transfer switch (ATS)
6. No automatic fire suppression system
7. Obstructed route of fire exit (exhaust duct at mezz [sic])
8. Inadequate secondary stair/fire exit
9. No smoke and heat detectors
10. Inadequate portable first aid fire protection equipment
11. Existing portable fire extinguishers is (sic) not (compliant with) ISO/global standards

He also directed the hotel to submit the following documents:

- A. Occupancy Permit
- B. Certificate of Electrical Inspection CY2000
- C. Business Permit
- D. Fire Brigade Organizational Charts
- E. Fire Safety Inspection Certificate (if any)

Espina concluded that the standpipe was defective because when he tried to open the glass door of the faucet and tried to pull, it was brittle. There was also no water coming out of the sprinkler when he opened it.

Espina concluded that the fire alarm was defective because the bell did not ring even after one switch of the manual fire alarm was already triggered. Had the fire alarm been working properly, its bell should have sounded.

He cited as a violation of P.D. 1185 the fact that the main stairway was not enclosed with a self-closing fire door. He explains that the Fire Code requires that in case of fire or smoke, the stairs should not become the channel where smoke and fire can go up.

Espina also noted the hotel's violation of the Fire Code requirement that the fire exit doors should swing towards the route of exit. The rationale for the requirement is so that when people go out of a building during fire, they can easily open and get out of it using the exit.

He went out of the building as the emergency generator was located outside the structure. He was told by his guide that the emergency generator

⁸⁸ Exhibit "G-72."

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will operate only manually. Espina considered this a violation of the Fire Code, which requires that the emergency generator be equipped with an automatic transfer switch so that in case of power failure, there is immediate emergency power.

Espina also observed that the hotel did not have an automatic fire suppression system, contrary to the Fire Code, which mandates that all high-rise buildings be equipped with an automatic fire suppression system (i.e., a sprinkler water system that activates when the sprinkler is exposed to excessive heat).

Regarding his finding that the route to the fire exit was obstructed, Espina elaborated that the hotel has one fire escape with steel flooring, screened on the mezzanine floor. In the middle of this flooring protrudes a metal exhaust duct of another establishment from the lower portion of the building.

He also noted that there were inadequate secondary stair/fire exits, because on the third floor, there is a restaurant and another conference room which do not have an alternate exit in case of fire.

Espina observed that the hotel had no smoke and heat detectors, which would have given advance warning for occupants in case of fire.

He noticed the hotel's inadequate portable protection equipment. There was only one such equipment on each floor of the building, while he estimates the need for at least four units of them per floor.

He also found violations in the hotel's existing portable fire extinguishers. Espina explained that portable fire extinguishers should be maintained in accordance with International Standard Organization (ISO) standards or carry a global marking from the Philippines. The hotel's portable fire extinguishers had no such markings on them and are, therefore, not up to ISO or global standards.

Espina explained that he made an annotation for the hotel to submit other documents to serve as reference and to determine the hotel's compliance with other requirements of the Fire Department. However, the hotel did not submit the required documents.

After Espina submitted his findings to his superior, Lemence, the latter issued a Notice of Violation⁸⁹ to the hotel, containing the following:

⁸⁹ Exhibit "VVV-48-b." Exhibit "G-73."

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DEFECT/DEFICIENCIES NOTED PERIOD ALLOWED TO CORRECT DEFECTS

- | | |
|---|---------|
| 1. No automatic fire suppression system
(Sec. 40.105, PD 1185) | 60 Days |
| 2. Defective standpipe system
(sec. 6.103, PD1185) | 60 Days |
| 3. Defective manual fire alarm system
(sec. 6.103, PD1185) | 60 Days |
| 4. Obstructed route of fire exit
(Sec. 4.102, PD 1185) | 24 Hrs. |
| 5. Inadequate secondary stair/fire exit
(Sec. 3.201, PD 1185) | 60 Days |
| 6. No smoke and heat detectors
(Sec. 3.1003 C (4), PD 1185) | 60 Days |
| 7. Inadequate portable fire extinguisher
Sec. 6.101A.) | 60 Days |

Espina stated that this document was received by the hotel, and he was not informed of any compliance therewith. He did not follow up the submission of the documents because he was not given authority to do so.

On cross-examination, Espina confirmed that there is nothing in the mission order which showed that a copy thereof was furnished the Office of the Building Official. He was not instructed to coordinate with the Office of the City Engineer and the Building Official before or after conducting his inspection.

Espina also confirmed that he did not make a follow-up inspection after 8 August 2000, nor did he personally inspect the hotel prior to the said date. He further confirmed that the annual inspection is conducted by the BFP through the QC Fire Department and that the findings are submitted to the QC Fire Marshall. The latter, in turn, is obligated to submit the findings to the BFP. The Fire Code also makes the Fire Marshall responsible for seeing to its compliance. Espina testified that the defects mentioned in the report are deemed violations of the Fire Code.

**5. Elmer R. Dantes - a Service
Inspector at Meralco Center**

Witness Elmer Dantes ("Dantes") testified that a service inspector's duty is to conduct electrical inspection of electrical services of all metering facilities of Meralco customers within the franchise area. The inspection is held to detect any abnormalities (i.e., illegal connection) in the electrical connection of a customer.⁹⁰

⁹⁰ TSN, 16 January 2007, p. 8.

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He recalled an inspection with his team, Squad 22, in the metering facilities of Wil-Vic Building, located at No. 125 Kamias Road, Quezon City, on 22 September 2000 at around 10 a.m. He first asked the guard's permission to inspect and then called the maintenance personnel/building electrician, Danny Hernandez ("Hernandez"), who handed the guard key to the power room, to lead them to where the metering facilities of the building was located.

When the room was opened, Dantes' team proceeded with the inspection while the guard stayed beside the door. After a minute, Squads 23 and 24 arrived with SPO4 Edgardo Cervantes. The group found that there were six pieces of wires connected at the line side of the Meralco lines "deliberately ... going directly to the circuit breaker" without passing through the metering facility of Meralco. In short, jumper wires were connected directly to the breakers. A jumper is an illegal connection because in bypassing the Meralco meter, a customer's electricity consumption is not registered therein.

Dantes told Hernandez that they need to trace where the jumper wires go to determine which meters are involved in the illegal connection, considering that there are other tenants in the building. He further explained that his team will also conduct a check load, which determines the loads of customers or appliances connected to the meters. He was informed by Hernandez that the owner will not allow them to check the load so they must wait for the latter. Dantes and his team waited accordingly.

At 12 noon, Dantes and his team met Mr. William Genato, who was apparently mad that there were Meralco personnel inside, and shouted at them, "Get out! This property is mine!" Dantes explained to Mr. Genato that under the service contract, Meralco is allowed to conduct inspection. He also informed Mr. Genato that they discovered illegal connections in the premises. Dantes called the lawyer of Meralco, Atty. Esta, who arrived at around 1:30 p.m. and met with Mr. Genato. After the meeting, Mr. Genato agreed to the conduct of a check load.

Accordingly, Dantes ordered people to trace jumper wires in every floor and check the loads of the customers of the building. To do this, they switched off the meters supplying a certain floor then observed if there is still power in the floor. Six floors were inspected in the building, including a mezzanine.

As a result, the team found that of the 13 meters installed in the meter room, four meters supplied the hotel. After tracing the connections, they found that the four jumper wires supplied the hotel.⁹¹ On cross-examination, Dantes clarified that the fifth meter with jumper wires was not registered in the name of Wil-Vic Construction.⁹²

⁹¹ TSN, 16 January 2007, p. 12.

⁹² TSN, 17 January 2007.

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As there were five meters involved in the illegal connection, the team prepared five power metering field order reports and service inspection reports.⁹³

Dantes testified that SINRO 1142-301 is the service identification number for registered customer Wil-Vic Construction, with address at No. 125 Kamias St., Quezon City.

He further testified that usually, there is outright disconnection when there is a violation of Meralco's contract. However, no outright disconnection was made at the time because Mr. Genato said he was willing to pay the penalty. As it was a Friday, and night had already fallen by the time the team finished inspection at around 10:30 p.m., the banks were already closed. Meanwhile, Meralco does not accept personal checks. For this reason, Mr. Genato and Atty. Esta agreed that the former will issue a check and will replace it with cash the following Monday.

When Mr. Genato did not exchange his personal check with cash on Monday, 25 September 2000, Meralco ordered the disconnection of the illegal meters. However, since Mr. Genato did not allow the Meralco people into the premises, the latter were compelled to cut off the building's fuse instead, leading to the disconnection of all of its 13 meters.

The next day, 26 September 2000, Mr. Genato agreed to let the Meralco people into their metering facilities. Hence, only 4 meters of Wil-Vic Construction supplying the hotel were disconnected permanently. These meters were never reconnected.

The resulting special investigation report was made in three copies – one given to Mr. Genato, and two to their superior. None was given to the Building Official or City Engineer or the Quezon City Fire Department as Meralco was not required by law to do so.

Dantes confirmed that QC Manor Hotel consequently had no electricity of its own, as it was never reinstalled, until the fire occurred a year later on 18 August 2001. He does not know where the hotel was getting its supply of electricity.⁹⁴

6. *Supt. Joselito Rodrigo - the
District Chief of Central Police
District (CPD) Crime Laboratory
Office*

⁹³ Exhibits "G-54 to 61."

⁹⁴ TSN, 5 February 2007, p. 14.

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The parties stipulated on the testimony of witness Joselito Rodrigo ("Rodrigo"). They agreed that if allowed to testify, Rodrigo will identify Exhibit "H," which refers to SOCO Report No. 082001269 issued by the CPD Crime Laboratory Office for Inspector Samuel Tadeo of Fire District II, Quezon City, stating details regarding the hotel fire victims, some of whom were brought to hospitals for treatment, while others were brought to funeral parlors. If allowed to testify, witness will also identify as Exhibit "H-1" and series the medico-legal reports with attached death certificates of those who perished in the hotel fire.

Rodrigo would have also testified on the SOCO team composition, the preparation of their report, notations of specimen entries and photographs taken. He would have further testified that the cause of death of each of the victims is asphyxia by suffocation, and that all the cadavers identified were recovered from the QC Manor Hotel.⁹⁵

**7. David R. Aoanan - Chief of the
Electrical Section of the Electrical
Communication Division at NBI**

Witness David Aoanan's ("Aoanan") duties include the maintenance and supervision of all NBI equipment in Manila and its regional offices. He is a member of the Inter-Agency Anti-Arson Taskforce, which has members from the Bureau of Fire Protection, PNP, NBI, DOJ and two other government agencies. As a member of the task force, he conducts investigations on all fires and fire matters.⁹⁶

As task force member, Aoanan received a request for technical assistance in the investigation of the QC Manor Hotel fire in August 2001 from the Forensic Chemistry Division.⁹⁷ He went to the site with two NBI chemists and waited for the taskforce head before entering the building.

The team started their ocular inspection at the third floor, which was damaged the most and where the fire started. They noticed that all electrical wirings were burned and the insulation, melted. Aoanan opened the panel boards (i.e., electrical boards where circuit breakers are connected) and found that some of the circuit breakers were burned. The main circuit breaker was also burned. His teammate took photos of the panel boards⁹⁸ and brought specimens to the NBI for analysis.

⁹⁵ TSN, 6 February 2007, p. 16.

⁹⁶ TS, 16 January 2007, pp. 52-53.

⁹⁷ Exhibit "BBB-12."

⁹⁸ Exhibits "CCCC," "CCCC-1 to 4," "CCCC-7," and "CCCC-9."

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The result of the analysis was reduced in writing as Electrical Report No. 08-29-01,⁹⁹ submitted to their superior for approval, and noted by the Deputy Director of Electrical Services. The report concluded that the cause of the fire was the overuse of electrical gadgets and appliances within the premises, considering the number of people then occupying the hotel.

On cross-examination, Aonan agreed that there was no deficiency in the electrical installation. If there weren't so many hotel occupants, there might have been no electrical overload. He could not determine when the overloading occurred. Answering the Court's clarificatory question, Aonan confirmed that the size of the wires on the 3rd floor was the correct size for the kind of load it is expected to carry. However, there were too many appliances that the wires had to sustain.¹⁰⁰

8. *Natividad N. Fetil - then Records Officer at the Business Permits and Licensing Division Office of the Mayor, Quezon City*

Upon application by the prosecution, witness Natividad Fetil ("Fetil") was directed via subpoena to submit Q.C. Manor Hotel's (a) business permit application for the calendar years 1995 to 2001, (b) business permit and license for the period 1995 to 2001, and (c) other documents relative to the application for its business permit for the same period. She was also asked to bring the pertinent rules and regulations for the issuance of business permits in Quezon City.¹⁰¹

For identification, comparison and marking, Fetil was shown certified photocopies of the hotel's business permits with the following dates: (i) 29 January 2001,¹⁰² (ii) 14 February 2000,¹⁰³ (iii) 30 June 1999,¹⁰⁴ (iv) 17 February 1999,¹⁰⁵ (v) 13 January 1997,¹⁰⁶ and (vi) 22 March 1995.¹⁰⁷ Based thereon, she also made a matrix¹⁰⁸ summarizing the Business Permits' numbers, dates of issue, expiry dates, and remarks.

No business permits of the hotel were presented for the years 1996 and 1998. On the business permits presented, there were remarks to "submit FSIC.

⁹⁹ Exhibits "G-102," "G-102-A," "G-102-C."

¹⁰⁰ TSN, 16 January 2007, pp. 83-86.

¹⁰¹ TSN, 7 February 2007.

¹⁰² Exhibit "QQQQ-8."

¹⁰³ Exhibit "QQQQ-11."

¹⁰⁴ Exhibit "QQQQ-14."

¹⁰⁵ Exhibit "QQQQ-15."

¹⁰⁶ Exhibit "QQQQ-16."

¹⁰⁷ Exhibit "QQQQ-21" and "QQQQ-22."

¹⁰⁸ Exhibit "QQQQ-3-a."

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CEL.”¹⁰⁹ “FSIC” refers to “Fire Safety Inspection Certificate” while “CEI” refers to “Certificate of Electrical Inspection.”

On cross-examination, Fetil admitted that their office only keeps records and does not issue licenses. Hence, the absence in their records of permits for some years only means that they don’t have copies thereof, and not necessarily that no permit was issued. She also confirmed that the Records Division is distinct from the Office of the Building Official or that of the City Engineer.

9. *Engineer Agustin Torres - a licensed civil engineer, and the Head of the Structural Processing Section at the Office of the Building Official of Quezon City since March 2006*

Witness Agustin Torres (“Torres”) was a building inspector at the Office of the Building Official, Department of Engineering in August 2001. As such, he was assigned to different areas of Quezon City to inspect buildings, including those with application for building permit and those buildings subject to annual inspection. He is a licensed Civil Engineer.

Since working for the Quezon City Hall’s Engineering Department in 1996, he has been assigned to three task forces concerning fire incidents, namely those involving Ozone Disco, Lung Center of the Philippines and QC Manor Hotel.¹¹⁰

In 2000, he became a consultant of the Department of Public Works and Highways in the amending of the Building Code, as well as one of the authors of its revised Implementing Rules and Regulations (IRR), particularly, Chapters 1 to 21 thereof. He adds that the Building Code was revised in 2004, but what applies to the present case is the 1977 version.

He was asked by the CIDG Chief to make a site inspection of the hotel after the fire to determine if the hotel had complied with the Building Code. Torres also inspected the hotel’s passageways as part of passive inspection. He was not officially designated to conduct observations on the hotel fire. He was just requested, via casual conversation, to aid the CID investigation through the Bureau of Fire Protection. He was not aware that there was also a task force investigating the hotel fire from the Bureau of Fire Protection.

¹⁰⁹ TSN, 7 February 2007, pp. 21-22.

¹¹⁰ TSN, 19 June 2007, p. 10.

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Torres conducted his investigation three days after the fire, as part of a five-man task force. He made his own observations and also wrote them down in affidavit form. He inspected the hotel premises from 9 a.m. to 3 p.m. on 22 August 2001, from the ground floor to the fifth floor. Thereafter, he submitted his report¹¹¹ to CID the next day. He did not furnish a copy thereof to the Bureau of Fire Protection or the Office of the Building Official.

As reference, he gathered documents pertaining to the hotel, such as its building plans, as built plan, building permits, application for certificate of occupancy, and clearances from various government agencies. On cross-examination, he clarified that the CID task force supplied the documents. On redirect,¹¹² Torres stated that he was with the task force when they requested from the Mayor's Office the pertinent records/documents.

He was shown the following documents: (a) 1989 Building Permit No. 89-80399¹¹³ issued to Mr. Genato for the construction of a four-story residential/commercial building with mezzanine signed by then Building Official, Domingo Tapay; (b) 1991 Building Permit No. 91-59338¹¹⁴ for the addition of one story to the existing four-story commercial building issued by OIC Building Official Oscar Cruz; and (c) 1991 Building Permit No. 91-59978¹¹⁵ for renovation and conversion of existing building from the third to fifth floor issued by Acting Building Official Donato Rivera Jr.

Torres commented that the building permits do not jive with the perspective plans, because they bore different numbers. At the time of its approval, the building permit was issued by Donato Rivera. Meanwhile, the electrical inspection was conducted by the Electrical Division, which, at the time, was headed by Montallana.

He also noted that the building had no certificate of occupancy for the first two floors. It only had a certificate of occupancy acknowledging the addition of the third, fourth and fifth floors. Also, its Certificate of Occupancy was not posted in a conspicuous place within the area, as required by law.

Torres explained that the issuance of a Certificate of Occupancy signifies that a building has complied with the requirements of occupying a building. He assumed that no certificate of occupancy was issued because there was none supplied to the team. Also, it is mandatory to post the certificate within the establishment, and there was none posted in the hotel. While the hotel burned down, the first two floors of the building where the hotel was located, were intact and did not have the said certificate posted.

¹¹¹ Exhibit "O."

¹¹² TSN, 20 June 2007, p. 7.

¹¹³ Exhibit "2-Genato, et al."

¹¹⁴ Exhibit "4-Genato, et al."

¹¹⁵ Exhibit "3-Genato, et al."

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Torres was confronted by defense counsel with a photocopy of a Certificate of Occupancy with stamp "released" by the Office of the Building Official, signed by Donato Rivera. Counsel alleged that the original was presented for comparison during the marking of exhibits. Torres, however, explained that the said document should have a corresponding true copy lodged with the Office of the Building Official, as the records with the latter is the way to verify if a copy was authentic.¹¹⁶ Torres, moreover testified that there is no record of an as-built plan corresponding to the certificate of occupancy.

The certificates of occupancy on record referred only to the approved construction plan, and not the as-built plan. He wonders why there would be a certificate of occupancy without a corresponding as-built plan considering that an as-built plan (document showing the construction of the structure, including all amendments and proposals that have been incorporated) is required¹¹⁷ to secure a Certificate of Occupancy.¹¹⁸ On re-cross, Torres confirmed that the issuance of a Certificate of Occupancy presupposes that a final inspection had been made.

Torres stated that the enforcement of the Building Code, as well as the conduct of the annual inspection, is the responsibility of the Building Official. The Building Official is appointed by the local government, as well as the Public Works Secretary. Only the Building Official may issue building permits in his jurisdiction. On cross, he confirmed that the Building Official has the authority to suspend or cancel a building permit on the ground of violations of the Building Code.

Further on cross, Torres stated that he attended a seminar conducted by the DILG on the Fire Code in 1998, particularly on its active provisions. From there, he learned that both the Bureau of Fire Protection and the Building Official have responsibilities with respect to fire safety requirements.¹¹⁹ The Bureau of Fire Protection is concerned with the active provisions, while the Building Official is concerned with the passive provisions. Passive provisions refer for instance, to how the door should be constructed or installed, the width of the hallway, or the height of the building.

Torres clarified that what he identified were structural hazards. These structural hazards did not cause the fire, but contributed to the difficulty of occupants in moving out of the building.

¹¹⁶ TSN, 19 June 2007, p. 23-24.

¹¹⁷ Torres testified that the following documents are required to be submitted to obtain a Certificate of Occupancy: as built plan, certifications from the Bureau of Fire Protection, Department of Health, and Office of the Building Official, as well as plumbing, electrical and mechanical inspection

¹¹⁸ TSN, 19 June 2007, p. 60

¹¹⁹ Chapter 12, Presidential Decree No. 1096.

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On cross by Atty. Tuliao, Torres confirmed that the guideline he used in his inspection was the Building Code, and not the Fire Code. For this reason, although he may have seen Fire Code violations, he did not include them in his report. He noted that there were violations of both the Fire Code and the Building Code, such as non-illumination of the exit door, absence of emergency lighting, and faulty construction of steel stairs. Meanwhile, the horizontal gap of 25 centimeters between the edge of the fifth-floor landing and the first step plank of the steel sheet exit stair is a violation only of the Building Code, and not of the Fire Code.

Torres observed that the hotel had illegal constructions. Among the findings were that the hotel constructed an additional floor (at the fifth floor) apart from that indicated in the floor area. Also, at the fourth and fifth floors, a portion allotted for open space in the approved construction plan in the building permit was used by the hotel both as fire exit passageway and dumbwaiter.¹²⁰ The hotel's exit doors do not swing outside and have dead bolts. Its stairs have irregular steps, which are liable to make users fall down. Its passageways also had obstructions.

The tables summarizing Torres' findings and contained in his Affidavit¹²¹ is reproduced below:

A. Observation of the Building as related to the requirements of PD1096

OBSERVATIONS		REQUIREMENTS	JUSTIFICATION/S
1. Illegal Construction:			
a)	At the 3 rd floor there was constructed an additional floor area on portion allotted for open space as described on the approved construction plan of Building Permit No. 91-59978. The additional area is being utilized as Fire Exit Passageway and dumbwaiter well.	A building or structure shall be deemed to be illegal construction when it is constructed, existing or is maintained in violation of any specific requirements ... of PD1096 and its implementing rules & regulations.	PD 1096, Chap. 3, Sec. 301, PD 1096, Rule 7, Sec. 3.8
b)	At the 4 th floor there was constructed an additional floor area on portion allotted for open space as described on the approved construction plan of Building Permit No.	-do-	-do-

¹²⁰A small elevator used for conveying food and dishes from one story of a building to another.
<<https://www.merriam-webster.com/dictionary/dumbwaiter>> (Last visited 20 September 2018).

¹²¹Exhibit "Q."

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	91-59978. The additional area is being utilized as Fire Exit Passageway (4A) and dumbwaiter well (4D).		
c)	At the 5 th floor there was constructed an additional floor area on portion allotted for open space as described on the approved construction plan of Building Permit No. 91-59978. The additional area is being utilized as Fire Exit Passageway and dumbwaiter well.	-do-	-do-
d)	Construction and maintaining excessive distance of dead ends of more than 6.00 meters, in fact causing occupants to travel a distance of more than 18.00 meters only to find out that it was a dead-end corridor.	-do-	Ref. - PD 1096, Section 1207.d.4
2. Non-Conforming Installation and Type of Exit Door Assembly		Requirement/s	Reference
a)	At 3 rd floor, Exit Door assembly is not the prescribed type, the fact that the door has a dead locking latches and can open by key manipulation.	Exit door shall be openable from inside without the use of key.	PD 1096, Chap. 12 Sec. 1207.c.1
b)	At 3 rd floor, Exit Door leave swing inside, and not in the direction of exit.	Exit door shall swing in the direction of exit travel.	PD 1096, Chap. 12 Sec. 1207.c.1
c)	At 3 rd floor, Exit Door ... (is not) mark(ed) (so as to be) ... readily distinguished from the adjacent construction.	(Exit Door) (s)hall be illuminated (with lights) at any time the building is occupied ...	PD 1096, Chap. 12 Sec. 1207.k
d)	With similar observations on 4 th floor for items 2a, 2b & 2c.	Similar requirements to comply (with) PD 1096	Similar reference.
e)	With similar observations on 5 th floor for items 2a & 2b.	Similar requirements to comply (with) PD 1096	Similar reference.

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3. No emergency Lighting Installed at Exit Passageway at 3 rd , 4 th & 5 th Floors		Required to illuminate all exit passageway(s)	PD1096, Chap. 12 Sec. 1207.k
4. Structural Hazards –		Requirement/s	Reference
	The construction of steel stair installed the passageway is faulty and substandard at the at 5 th floor. It has a horizontal gap of about 25 centimeters between the edge of the 5 th floor landing and the first top rung of the steel exit stair, tending to put the occupant during emergency to fall on this gap.	Whenever the building or structure, or any portion thereof, because of 1) dilapidation ... 2) faulty construction ... is a structural hazard.	PD 1096, Rule 7, Sec. 3.1.5
5. Insufficient Number and Capacity of Fire Exit		Requirement/s	Reference
a)	At the 3 rd floor, only one (1) Fire Exit is available serving the whole floor level	The Manor Hotel having an occupant load of 10 shall have at least two (2) exits every floor above the first floor and	PD 1096, Chap. 12 Sec. 1207.b.1
b)	At The 4 th floor, only one (1) Fire Exit is available serving the whole floor level.	Two (2), exits (are) required for the purpose of alternative use, that if one becomes blocked, the other will be available, and	PD 1096, Chap. 12 Sec. 1207.b.3
c)	At The 5 th floor, only one (1) Fire Exit is available serving the whole floor level.	When more than one (1) exit is required, they shall be so arranged to allow going to either direction from any point in the corridor	PD 1096, Chap. 12 Sec. 1207.d.3
6. Illegal installation and maintaining for use dumbwaiter (freight lift) at Exit passageway.		Requirement/s	Reference
	The installation of dumbwaiter (lift) at the center of exit passageway is non confirming and illegal, the fact that the said dumbwaiter is directly blocking and obstruct(ing) the discharge	Mechanical requirement to obtain installation and operation permit	Mechanical Implementing Rules and Regulations and Rule 3 of PD 1096

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	area of the exit stair, thereby making (it) difficult (for the occupant) to reach the next feed stair.		
7.	No Automatic Fire Extinguishing System	Requirement/s	Reference
	The Manor Hotel has in each floor level more than 200 square meter floor area and an Occupancy load of more than 20. It was observed the absence of Automatic Fire Extinguishing System in all its floors, particularly 3 rd , 4 th and 5 th floor, being occupied by hotel guests, and public assembly areas for dining, disco and saunas.	Where required, standard automatic fire-extinguishing system shall be installed ... in every story, basements or cellar with an area of 200 square meters or more which is use(d) for habitation, recreation, dining, study, or work, and which has an occupancy load of more than 20.	PD 1096, Chap. 12 Sec. 1212.a.1
8.	No Occupancy Permit	Requirement/s	Reference
	The building occupied, operating and maintained as mix (hotel, etc.) occupancies shows that a Building Permit No. 91-59978 for the conversion/renovation of 3 rd , 4 th and 5 th floor levels and was not issued ... any Certificate of Occupancy, ... no Certificate of Occupancy was posted at the premises.	No building or structure shall be used or occupied and no change in the existing use or occupancy classification of a building of a building or structure or portion thereof shall be made until the Building Officer has issued a Certificate of Occupancy thereof.	PD 1096, Chap. 3 Sec. 309
9.	Non-Conforming Exit Passageway	Requirement/s	Reference
	The Manor Hotel Exit passageway has along its both walls, serving this opening as ventilation windows of adjoining rooms. The flooring made of steel or metal strips (plate) so arranged that it provide(s) slotted openings that one can see the next floor	Passageway shall be without openings other than the required exits and shall have walls, floors and ceiling of the same period of fire resistance as the walls, floors and ceiling of the building, but shall	PD 1096, Chap. 12 Sec. 1207.j

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	down through it. These opening render the passageway unprotected from transfer of fire, smoke and heat that will come from adjoining room or rooms.	not be less than one (1) hour fire resistive construction.	
10. Obstruction at Exit Passageway		Requirement/s	Reference
a)	The Manor Hotel exit passageway was obstructed on its both walls by protruding air conditioning units serving artificial ventilation of the adjoining rooms, thereby restricting and obstructing the passageway making it very difficult to pass through to reach the next exit feed stair.	The required width of Exit Passageway shall be unobstructed except as permitted in corridors (refer ... only to trim and handrails and not equipment)	PD1096, Chap. 12 Sec. 1207.d.2
b)	The installation of Dumbwaiter (freight lift) right at the middle of the fire exit passageway created an unprotected cavity or hole/well where the lift pass through tend to pose danger to the tenants of the building when using this passageway.	-do-	-do-
c)	The freight lift (dumbwaiter) on its support rails were installed uncovered or bare wiring that feed power to its switches, posing danger to the use of this passageway.	-do-	-do-

B. Failure of the Building Official and/or the owner of the Building to act on the following provisions of the PD1096 or the National Building Code

11. Annual Inspection of Existing Commercial and Industrial Buildings		Requirement/s	Reference
	No records from the Office of the Building Official that an Annual Inspection was conducted at Manor Hotel Building from 1996 up to the time of the fire, the fact that	This is a mandatory inspection requirement to assess structural stability, architectural presentability, fire	PD 1096, Chap. 2 Sec. 205 and Duties of Building Official - Appendix A, IRR

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	a) the building has no Certificate of Occupancy while ... already occupied and operating; b) has insufficient fire exits; c) has non-conforming architectural design having excessive corridor dead end; d) has illegal additional area constructed without approved amendatory permit; e) non-conforming exit door locking assembly; f) swing-in exit door; and g) structural hazards.	protection, conformity with the approved permit issued and zoning regulations.	
12. Report of Existing/Installed (Freight Lift) Dumbwaiter		Requirement/s	Reference
	Failure of the Mechanical and Industrial Safety Division to detect the presence of installed Dumbwaiter and utilizing the fire exit passageway as its location obstructing the fire exit. There is not report available and (it is) not included in the list of equipment inspected by said Department from 1996 up to the fire incident of August 18, 2001.	Guarding of moving and dangerous parts	PD 1096, Rule 10 Sec. 2 & Rule 3, Sec. 21.4.5
13. Improper Electrical Inspection/s		Requirement/s	Reference
	Failure of the Electrical Division to make a proper electrical inspection of Manor Hotel. No technical report was submitted. Incomplete entries on report on Notice of Payment for annual inspection. The Electrical Inspector rel(ied) the unauthorized certification of a master electrician to officially submit the annual inspection report for the year 2001 without the technical detail, causing ... the defective electrical	Annual Inspection requirements	PD 1096 Electrical Code Latest Revised Electrical Primer

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	installation of Manor Hotel (to remain) undetected.		
14.	Failure of the Building Official to make proper evaluation of the Building application, the fact that no attachment corresponding to the documents of the existing 1 st and 2 nd storey building was submitted before the evaluation for conversion was done for the conversion of 3 rd , 4 th and 5 th floor; the fact that evaluation of architectural aspect was improper as shown by excessive length of corridors without fire exit, insufficient number and capacity of exit, non-availability of fire exit requirements as required by PD 1096.	Processing Procedures	PD 1096 Rule 1 & 2 Application and Processing of Building Permit
15.	Failure to submit Certificate of Completion	Requirement/s	Reference
	Failure of the owner to submit Certificate of Completion and its attachment, the fact that the building has been occupied, operating and maintained without the necessary Certificate of Occupancy.	Requirements for the issuance of Certificate of Occupancy	PD 1096 Rule 2, Sec. 2.1.1
		-----	.. End of report --

10. *Honesto Gilberto Lagamon*
Salcedo II - Records Officer II of
the Quezon City Legal Department

Witness Honesto Salcedo ("Salcedo") was presented to prove that the Office of the Quezon City Legal Office, through the Legal Division, was furnished, and received on 15 February 1999 a copy of the 11 February 1999 Memorandum issued by Carlito Romero ("Romero") and addressed to the City Mayor.¹²²

The Memorandum made a recommendation for closure of certain Quezon City establishments.

¹²² TSN, 18 June 2007, p. 9.

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Attached to this Memorandum is another Memorandum from June C. Ocampo ("Ocampo"), Superintendent Regional Fire Marshall – National Capital Region, dated 1 February 1999, which lists the establishments for closure. "Quezon City Manor Hotel" is named therein under paragraph 3, item j. This was certified as a true copy by Salcedo, and marked as Exhibits "W-1" and "W-2."

The defense counsels stipulated on the fact of receipt of this document by the Legal Division, Office of the City Mayor on 15 February 1999.

**11. Elizabeth Medalla - Chief of the
Records Section (Records Officer)
of the Department of Engineering,
Office of the Building Official of
Quezon City**

Witness Elizabeth Medalla ("Medalla") received a subpoena to appear in court on 11 April 2007 and bring a certified true copy of the documents received by their office on 15 February 1999 from Romero.¹²³ She appeared in court but failed to bring the copies, saying she could not locate them anymore.

She clarified that the Office of City Engineering and the Office of the City Building Official are different offices.

Medalla was shown a photocopy of Romero's 11 February 1999 Memorandum with attachment containing a stamp received by the Office of the Building Official.¹²⁴ She identified the signature on the stamp received¹²⁵ in the document as that of Adela Padua, her officemate, and the Receiving Officer of the Building Official at the time. Padua is now deceased.

**12. Elizabeth Mariano¹²⁶ - now Clerk IV
at the Business Permits and Licenses
Office under the Office of the City
Mayor, in charge of releasing section
of business permits and licenses
office, releasing business and renewal
permits**

¹²³ TSN, 18 June 2007, p. 23.

¹²⁴ Exhibits "W-3" and "W-4."

¹²⁵ Exhibit "W-3-A."

¹²⁶ TSN, 18 June 2007, p. 43.

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In 1999, witness Elizabeth Mariano ("Mariano") was a receiving clerk at the Business Permits and Licensing Office. As receiving clerk, she receives documents, stamps them and affixes her signature. After this, she forwards the received document to the Chief of Office. For this reason, she does not know the whereabouts of any particular document.

She identified her signature in the stamp received portion of the photocopy of Romero's 1 February Memorandum with attachment.¹²⁷ However, she noted that the document is a photocopy and the stamp/logo therein was hazy ("*malabo*"). Hence, she has doubts about the stamp mark.

On cross, she confirmed that the Business Permits and Licensing Office is different from the City Engineering Department.

13. Senior Superintendent Carlito S. Romero - Fire Officer of the Bureau of Fire Protection, who was the Quezon City Fire Marshall from 1999 until April 2000

As City Fire Marshall, it was witness Carlito Romero's ("Romero") duty and responsibility to prevent fires, and when there is a fire, to suppress it. He was also tasked to maintain the fire truck at the fire station, conduct fire drills and inspection seminars on the Fire Code, and other matters related to his job.¹²⁸

He identified Memorandum Circular No. 98-235¹²⁹ dated 14 December 1998 issued by DILG Undersecretary Rolando Puno, which authorizes the local government to supervise the inspection and investigation conducted in case of fire, and to augment their firefighting capabilities.

He likewise identified the After-Mission Report¹³⁰ dated 5 December 1998 accomplished by Inspector Gerardo Santos on the QC Manor Hotel. The Report indicated that in violation of various Fire Code provisions specified, the hotel had no smoke detectors, sprinkler system, smoke alarm detector and fire wall. It had not established a fire brigade and fire drill/seminar. It had neither fire alarm system nor fire safety device that will automatically sound an alarm to the nearest fire station. The establishment also had insufficient emergency lights, fire exits and portable fire extinguishers.

¹²⁷ Exhibit "W-5" and "W-6."

¹²⁸ TSN, 20 June 2007, p. 36.

¹²⁹ Exhibit "W-7" to "W-9."

¹³⁰ Exhibit "W-10" to "W-11."

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The establishment's existing fire exits were obstructed. It had neither fire resistive self-closing door at the fire exit, nor safety device attached/connected to gas tanks. It also failed to comply with the rule that every vertical way of exit and other vertical opening between floors should be enclosed or protected to afford reasonable safety to occupants while using exits and to prevent the spread of fire smoke or fumes through vertical opening from floor to floor before the occupants have entered the exits.

He also identified a Memorandum¹³¹ dated 1 February 1999 issued by Regional Fire Marshall, June C. Ocampo. The Memorandum enumerated establishments, including QC Manor Hotel, to be meted with administrative sanctions due to "various deficiencies and violations of the Fire Code of the Philippines." It directed Romero to "coordinate with your respective City/Municipal Mayor and take necessary action to cause and ensure compliance with the following list of establishments for closure..."

Romero endorsed Ocampo's 1 February 1999 Memorandum to the local officials of Quezon City, particularly to the Legal Division, the Business Permit and Licensing Office and the Office of the Building Official. Romero's endorsement was in the form of a Memorandum dated 11 February 1999. Attached thereto was Ocampo's 1 February 1999 Memorandum.

The body of Romero's Memorandum reads:

Attached herewith is the list of bldgs./establishments who (sic) had been duly inspected verified and re-inspected for fire safety requirements of the Fire Code of the Philippines and its implementing Rules and Regulations (PD1185). The owners of said bldgs./establishments:

- a. "xxx fails or refuses to take any positive corrective action, or the hazardous condition is aggravated, or additional violations are found, xxx (Sec. 42.102(3) b FCP, PD 1185) or
- b. "xxx is recalcitrant in complying with repeated orders for him to correct the deficiency. The same recourse shall also be resorted to when the deficiency constitutes a clear and imminent danger to life and property such that evacuation of the building or establishment and stoppage of operations therein are extremely necessary." (Sec. 41.102 B FCP, PD 1185).

Attached is a letter from ARD/NCR of BFP to this Station requiring progress report for necessary action and compliance on the establishments recommended for closure.

This office IPSO FACTO caused any fire safety inspection certificates issued to become null and void and shall hold the owner of the building liable in case of fire. It is hereby recommended that said building establishments be closed

¹³¹ Exhibit "W."

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and or operation be stopped for non (-) compliance of fire safety requirements of the provisions of FCP and its IRR given the period to comply.

Request is hereby made for your acknowledgement and appropriate action regarding this matter. (Underscoring supplied.)

Romero claimed that his original Memorandum was lost, so he produced photocopies which he likewise identified. One photocopy was stamped received by the City Attorney's Office.¹³² Another was stamp received by the Office of the Building Official.¹³³ Yet another copy was stamp received by the Business Permits and Licensing Office.¹³⁴

On cross-examination, Romero testified that the power to abate fire hazards under the Fire Code is with the national office (central office), and not with the local BFP. The term "director general or his authorized representative," refers to the fire chief during PC-INP days. At his level, Romero stated that he only has recommendatory power. Also, his finding was not sent to their Central Office because his superior, Assistant Regional Director and concurrent District Fire Marshall June C. Ocampo, would be the one to accomplish that task. His superior directed him only to coordinate with local offices.

**14. Police Officer 3 Ben R. Corpuz -
Scene of the Crime Operatives
(SOCO) member**

Witness Ben Corpuz ("Corpuz") was part of the SOCO team who went to the hotel on 18 August 2001, right after the fire. The other members of the team were Police Senior Inspector Rowena Garado, Senior Police Officer I Zosimo Calub and Police Officer 2 Rene Equia.¹³⁵

Corpuz took pictures of the hotel because their team leader, Police Senior Inspector Mario Prado, designated him as SOCO photographer and evidence collector. He bought a Canon camera with lens and film, and took more than 29 pictures, each with a SOCO case number. He identified the pictures he took, which were marked Exhibits "HH" to "TTT."

The prosecution manifested that the purpose of the pictures was to show the condition of the hotel right after the fire.

¹³² Exhibit "W-1" and "W-2."

¹³³ Exhibit "W-3" and "W-4."

¹³⁴ Exhibit "W-5" and "W-6."

¹³⁵ TSN, 21 June 2007, p. 36.

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Defense counsels stipulated on and admitted Exhibits "PP" to "JJ," which are pictures showing the victims of the hotel fire.

Corpuz then identified the rest of the pictures and described what they depicted, as follows:

1. Exhibit "SSS-1" – steep fire exit going to the 4th floor
2. Exhibit "SSS-2" – steep fire exit going to the 5th floor
3. Exhibit "SSS-3" – fire exit, with obstruction at the 2nd floor
4. Exhibit "TTT-1" – closed fire exit which was forcibly opened, 4th floor
5. Exhibit "TTT-2" – closed fire exit which was forcibly opened
6. Exhibits "WW" "WW-1" and "WW-2" – the Manor Hotel along Kamias Road, Barangay East Avenue, Quezon City
7. Exhibit "RRR-1" – door with unilluminated fire exit which opened to a comfort room
8. Exhibit "RRR-2" – door opening to a narrow concrete platform
9. Exhibit "RRR-3" – concrete platform without stair, 3rd floor
10. Exhibit "QQQ-1" – fire exit that opens inward to the 3rd floor
11. Exhibit "QQQ-2" – fire exit with obstruction and steep ladder, 3rd floor
12. Exhibits "PPP-1" and "PPP-2" – fire exit that opens at the 3rd floor
13. Exhibits "OOO-1" and "OOO-2" – iron grill without fire escape at the 3rd floor
14. Exhibit "LLL-1" – fire exit with locked door, 2nd floor
15. Exhibit "LLL-2" – iron grill in one of the rooms at the 2nd floor
16. Exhibit "MMM," "MMM-1" and "MMM-2" – iron grills without fire escape

On cross-examination, Corpuz stated that their team did not find the bodies of the victims in the exits, but found some of them in the hallways.¹³⁶

15. Senior Fire Officer 4 Romulo dela Merced - Fire Safety Inspector since 1984, and from 21 October 2002, also the records custodian of the Quezon City Fire Department

Witness Romulo dela Merced ("dela Merced") brought a certified true copy of a photocopy of the Memorandum dated 11 February 1999 issued by City Fire Marshall Romero.¹³⁷

¹³⁶ TSN, 24 October 2007, pp. 40-41.

¹³⁷ TSN, 22 October 2007, p. 8.

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When asked where the original document is, dela Merced testified that it was lost due to termite infestation, together with other records of the Fire City Enforcement. The report on the termite infestation is embodied in a 11 June 2004 Memorandum by Angelito C. Flores (SF02 BFP FSIC Recorder/Releaser/Filer) addressed to the City Fire Marshall, Station 1, FD-II/NCR, regarding the damaged records.¹³⁸ Pictures of the infestation and destroyed documents accompanied the Memorandum.¹³⁹

On cross-examination, dela Merced clarified that the photocopies were intact and placed in a steel cabinet, while the originals were stored in stockroom. The steel cabinet is regularly accessed, while the stockroom is opened only once a year to store additional documents. He admitted that the report does not contain an inventory of the documents lost due to termite infestation.

On re-direct, dela Merced confirmed that the photocopy in his custody now forms part of his file, so he assumed that the original was destroyed by termites when it could no longer be found in the stockroom.

16. Marlene Aguilar - City Personnel
Officer of the Local Government of
Quezon City since 2001

Witness Marlene Aguilar ("Aguilar") testified on the appointment/designation and functions and duties of accused public officers Macapugay, Montallana, Santos, Villaseñor and Mesa, which are of public record.¹⁴⁰ She identified a set of documents pertaining to the accused's appointment papers, position description forms and designations, which consisted of 117 pages and marked as Exhibit "BBBBBB." She also identified several matrices which were based on the accused public officers' 201 files and personnel documents. The matrices pertaining to accused Macapugay, Montallana, Santos, Villaseñor and Mesa were respectively marked as Exhibits "AAAAAA-2" to "AAAAAA-9."

On cross-examination, she admitted that apart from being head of the Electrical Division, accused Mesa has no other special assignment. Also, though their 201 files indicate the period when the accused were suspended or on official leave, these were not indicated in the matrix because they were not asked of her. She also confirmed that when Macapugay was on leave from

¹³⁸ Exhibit "CCCCCC-5."

¹³⁹ Exhibit "CCCCCC-6" to "CCCCCC-11."

¹⁴⁰ TSN, 23 October 2007, pp. 6-8.

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January 1999 to August 3, 1999, the acting Building Official was Engr. Santos.¹⁴¹

She also agreed that there were other documents attached to accused Macapugay's appointment, but that she did not bring them to Court because this was not asked of her. She added that accused Macapugay was Acting City Engineer but that this was not indicated in the Position Description Form, which should only refer to a permanent position. Still, she pointed out that the duties of the City Engineer are the same as that of the Acting City Engineer.

She further stated that accused Macapugay was appointed as City Engineer in August 1991, when the old Local Government Code (LGC) (Batas Pambansa Blg. 337) was in effect. Meanwhile, when accused Macapugay assumed the position of City Engineer, the law in effect was the 1991 LGC. Finally, Aguilar affirmed that the Position Description Form for accused Macapugay as City Engineer was merely copied from the 1991 LGC, although not *in toto*. In fact, there is no difference between the Position Description Form of accused Macapugay as Acting City Engineer and as City Engineer.

On further cross, Aguilar also stated that other documents found in the accused's 201 files, which she did not bring, include their personal data sheets, position descriptions, appointment papers, notices of salary adjustments, copy of leave applications and designations, if any, as well as Office Orders pertaining to the accused and furnished the personnel office.¹⁴²

17. *Charito Soriano - License Officer*
II of the Business Permits and
Licensing Office, Records Office,
Quezon City

Witness Charito Soriano ("Soriano") is responsible for (a) recording, indexing, and encoding of data on the database file issued by the Inspection Division of the Business Permits and Licensing Office, including violation reports and other letter complaints against business establishments operating without business permits or violating conditions of their permit; (b) verifying business application forms prior to the issuance of business permits; (c) issuing certified true copies of business permits in the absence of the Chief Records Officer IV; and (d) other duties as may be assigned to her.¹⁴³

¹⁴¹ TSN, 23 October 2007, p. 37.

¹⁴² TSN, 25 October 2007, pp. 8-9.

¹⁴³ *Id.* at 19.

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Soriano produced a Certification¹⁴⁴ dated 25 October 2007 signed by Natividad Fetil, Chief, Records and Statistics Division, which states that as of date, available records do not show any communication letter or closure order, or revocation of permits from the Office of the City Engineer, and Building Officials of Quezon City against the Quezon City Manor Hotel, Inc., located at 125 Kamias St., Brgy. Sikatuna, Project 4, Quezon City.

On cross-examination, Soriano testified that they have no record of the business permit for the hotel since 2000. She also clarified that the documents their office received from the City Engineer and the Building Official include the endorsement from the Building Permit Office and approval of applications from the City Building Office. In other words, these are records prior to the issuance of business permits and licenses.

She further clarified that Fetil's 25 October 2007 Certification is limited to the records of the Business Permits and Licensing Division of Quezon City. She confirmed that the offices of the Building Official, Business Permits and Licensing, and City Engineer are separate offices. Also, the hotel has not since been issued a business permit up to present.¹⁴⁵

**18. *Anabelle Poblete - from the
Records Division of the City
Electrical Engineering Office***

Witness Anabelle Poblete's ("Poblete") testimony was dispensed with¹⁴⁶ after the parties stipulated that the photocopy of the Annual Notice¹⁴⁷ from the Office of the Electrical Engineer of Quezon City No. 01-00806 dated 15 February 2001, previously marked as Exhibit "G-48," is a faithful reproduction of the original which she brought to court.¹⁴⁸

**19. *Lorna B. Landayan -
Administrative Officer of
Meralco's Legal Services Division***

The parties stipulated that if allowed to testify, witness Lorna Landayan ("Landayan") would be able to identify the signature of Gil San Diego and the latter's 22 August 2001 letter addressed to Chief Superintendent Francisco Senot of the Bureau of Fire Protection, DILG.¹⁴⁹ The body of the letter read:

¹⁴⁴ Exhibit "DDDDDD-1."

¹⁴⁵ TSN, 25 October 2007, pp. 28-29.

¹⁴⁶ TSN, 10 December 2007, p. 13.

¹⁴⁷ Exhibit "G-48."

¹⁴⁸ Order dated 10 December 2007, Record, Vol. 6, p. 98.

¹⁴⁹ TSN, 10 December 2007, pp. 64-67.

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We refer to you letter dated 21 August 2001.

Our records show that the electric services of Quezon City Manor Hotel are registered under the name of WIL-VIC Construction and Development Corporation. The Hotel has only one (1) service entrance located along Kamias Road. These electrical services were inspected by our service inspectors on 22 September 2000. Four (4) services were found to have jumper connections. For failure to pay the value of the unregistered but used electricity in the sum of ₱9,157, 713.45 [Please refer to attached four (4) letters dated 27 September 2000 for the details.], these four (4) accounts were disconnected on 25 September 2000. A court action is presently pending between us involving these matters.

For unknown reason and in violation of the electric service contracts as well as RA 7832 in July 2001, our service inspectors were prevented by Mr. William Ong Genato for conducting follow-up inspection by denying them access to the metering point located at the ground floor of the hotel.¹⁵⁰

Gil San Diego has already retired from service.

Counsel for accused Macapugay, Santos, Montallana, and spouses Genato admitted that the letter is a faithful reproduction of the original. However, they did not admit the truth of its contents.

*20. Rener Musngi - Senior Manager
and Head of Meralco, Kamuning
Branch from 1 September 1998 to
31 August 2002*

As branch head, witness Rener Musngi's ("Musngi") duties include managing daily operations, such as service applications, billing, complaints, meter reading and collection.¹⁵¹ He testified that on 27, 28 and 29 September 2000, he, on behalf of Meralco, sent four letters corresponding to the four accounts¹⁵² of Wil-Vic Construction that was found on 22 September 2000 to have violated its contracts with Meralco by using jumpers.

He was present when Mr. Genato's representative, Charlie Anggo, paid Meralco via check amounting to over ₱ 1.391 Million as initial payment for contract violation on these four accounts, and not as payment for the regular bills. However, on the morning of 25 September 2000, Mr. Genato stopped the payment of the check. As per Security Bank Stop Payment Order¹⁵³ dated

¹⁵⁰ Exhibit "G-49."

¹⁵¹ TSN, 10 December 2007, pp. 17-18.

¹⁵² Exhibit "G-62" for the letter dated 27 September 2000 corresponding to Bill ID No. 0-508857301-927; Exhibit "G-63" for the letter dated 29 September 2000 corresponding to Bill ID No. 0-801142301-929; Exhibit "G-64" for the letter dated 28 September 2000 corresponding to Bill ID No. 0-508857401-927; and Exhibit "G-65" for the letter dated 27 September 2000 corresponding to Bill ID No. 0-508857501-927.

¹⁵³ Exhibit "G-62-1."

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25 September 2000 signed by William O. Genato, the reason given was that the check was "Issued although not due paying Meralco under pressure/intimidation/ to cut electric connection of Manor Hotel; subject of special civil action to be filed today, September 25, 2000."

When Musngi informed Meralco's Inspection Division of the Stop Payment Order, the latter disconnected the service for the four accounts.

During Musngi's stay with Meralco's Kamuning Branch, the four accounts were never reconnected. He was not aware of any payments received from any settlement with Mr. Genato because Musngi soon left this branch.

On cross-examination, Musngi confirmed that no copies of the Meralco demand letters were sent to the Office of the Quezon City Mayor, Office of the Quezon City Building Official, Quezon City Electrical Division, and the Quezon City Fire Department. He could not confirm if Wil-Vic Construction had 11 accounts, or whether QC Manor Hotel was serviced by the said 4 disconnected accounts.

**21. *Angelito C. Flores - Bureau of
Fire Protection Records Custodian***

Witness Angelito Flores ("Flores") prepared the Report¹⁵⁴ stating that inspection certificates from 1996 to 2003 were damaged by termites and that the attached pictures were taken in 2004.¹⁵⁵ They showed that documents such as fire safety inspection certificates and other relevant documents from 1996 to 2003 which were destroyed by termites. The originals of the pictures attached to the Report were photocopied by Flores's superior, Romulo dela Merced.

The originals of the pictures were with Flores the first time he was scheduled to testify. However, the hearing was reset and now, he could no longer find them in their office. He looked for the originals in his house, at his office and in the storage for important documents, to no avail.

On cross-examination, Flores stated that the list of records lost were part of the documents destroyed by termites. Even photocopies of records from 1996 to 2003 have also been similarly destroyed.

¹⁵⁴ Exhibit "CCCCC-5" to "CCCCC-11"

¹⁵⁵ TSN, 21 February 2008, pp. 10-18.

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DEMURRER TO EVIDENCE

The prosecution filed its Formal Offer of Exhibits¹⁵⁶ dated 1 July 2008 and the accused filed their respective comments/objections thereto.¹⁵⁷ The Court, in its Resolution dated 12 January 2009,¹⁵⁸ resolved to admit all exhibits offered by the prosecution, but noted: Exhibits "G-14" to G-15"; "W-13", "FF"; "VVV-8" to "VVV-9" were attached to the Formal Offer of Exhibits but were not offered; Exhibit "V" was not offered, Exhibit "H" was not attached; and there are no Exhibits "BBBBBB-107"; "GGGG"; "III" to "PPPP"; "RRRR" to "ZZZZ"; "II" and Exhibit H-25".

The accused thereafter respectively sought leave to file demurrer to evidence,¹⁵⁹ which the Court granted in its Resolution dated 28 April 2009.¹⁶⁰ The accused accordingly filed their respective demurrers to evidence,¹⁶¹ and the prosecution, its consolidated comment thereon.¹⁶²

Meanwhile, the Court received a motion to dismiss the charges against accused Merida on the ground of the latter's death on 8 February 2010 due to diabetic nephropathy, as shown by the latter's death certificate attached thereto.¹⁶³ Based on Article 89 (1)¹⁶⁴ of the RPC, his death results in the extinction of accused Merida's criminal liability. Upon submission of the original death certificate issued by the National Statistics Office, the Court granted¹⁶⁵ the motion and dismissed the charges against accused Merida.

On 5 November 2013, the Court resolved the demurrers in a 104-page Resolution,¹⁶⁶ the dispositive portion of which reads:

¹⁵⁶ Record, Vol VI, pp. 294-378.

¹⁵⁷ Id. at 416-434 for accused Villaseñor and Mesa; 74-80 for accused Santos and Montallana; 97-101 for accused Macapugay.

¹⁵⁸ Record, Vol. VII, p. 123-124.

¹⁵⁹ Id. at 125-c to 125-e for accused Villaseñor and Mesa; 131-135 for accused Santos and Montallana; 139-142 for accused Macapugay; 161-162 for accused spouses Genato, et al.

¹⁶⁰ Id. at 188.

¹⁶¹ Id. at 205-277 for accused Santos and Montallana; 278-323 for accused Spouses Genato, et al.

¹⁶² Id. at 328-336 for accused Macapugay.

¹⁶³ Id. at 489-491.

¹⁶⁴ Art. 89. How criminal liability is totally extinguished. — Criminal liability is totally extinguished:

1. By the death of the convict, as to the personal penalties and as to pecuniary penalties, liability therefor is extinguished only when the death of the offender occurs before final judgment.

2. By service of the sentence;

3. By amnesty, which completely extinguishes the penalty and all its effects;

4. By absolute pardon;

5. By prescription of the crime;

6. By prescription of the penalty;

7. By the marriage of the offended woman, as provided in Article 344 of this Code.

¹⁶⁵ Record, Vol. X, p. 438. Minutes dated 3 March 2015.

¹⁶⁶ Record, Vol. LX, pp. 70-173.

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WHEREFORE, premises considered, the Court hereby:

1. GRANTS the accused's demurrers to evidence in Criminal Case Nos. 27750, 27751 and 27752 and orders the DISMISSAL of the said cases for failure of the prosecution to present sufficient evidence to convict the herein accused of the charges therein;

2. DENIES accused Alfredo N. Macapugay and Romeo M. Montallana's demurrers to evidence in Criminal Case No. 27753 for utter lack of merit. However, the Court GRANTS accused William and Rebecca Genato, Porfirio Germina, Marion Fernandez, Dionisio Cua Arengino and Candelaria Arañador's Demurrer to Evidence dated May 25, 2009, for failure of the prosecution to present sufficient evidence to prove their guilt in this particular case; and

3. DENIES all the accused's demurrers to evidence in Criminal Case Nos. 27755 and 27756 for utter lack of merit.

SO ORDERED.

Motions for reconsideration¹⁶⁷ of the Court's denial of their demurrers to evidence were consequently filed by the accused. These were denied by the Court in its Resolution dated 13 March 2014.¹⁶⁸ Accused spouses Genato, et al. questioned the denial of their motion for reconsideration and demurrer to evidence before the Supreme Court through a petition for review on certiorari dated 12 May 2014.¹⁶⁹

With the earlier dismissal of Criminal Case No. 27754,¹⁷⁰ the resulting full dismissal of Criminal Case Nos. 27750, 27751 and 27752, and the partial dismissal of Criminal Case No. 27753 as to the accused Genato spouses, Germina, Fernandez, Arengino, and Candelaria, the Court is left to deal with three remaining cases:

- 1) Criminal Case No. 27753 – as to the criminal liability of the remaining accused therein, Macapugay and Montallana;
- 2) Criminal Case No. 27755 – against accused Macapugay, Montallana, Santos, Genato spouses, Germina, Fernandez, Arengino, and Arañador; and

¹⁶⁷ Record, Vol. IX, pp. 190-194 for accused Santos and Montallana, pp. 198-219 for accused spouses Genato, et al., pp. 221-233 for accused Villaseñor and Mesa.

¹⁶⁸ *Id.* at 319-341.

¹⁶⁹ Record, Vol. X, pp. 11-235.

¹⁷⁰ Resolution dated 26 March 2003, Record, Vol. II, pp. 102- 123

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- 3) **Criminal Case No. 27756** – against accused Macapugay, Montallana, Santos, Villaseñor, Mesa, Genato spouses, Germina, Fernandez, Arengino, and Arañador.

The cases against accused Antonio Beltran remain, as he is still at large.

As the Court earlier held in resolving the demurrer to evidence that the prosecution has presented sufficient evidence to convict the accused in **Criminal Case Nos. 27753, 27755 and 27756**, the accused were tasked to present evidence in support of their defense.

DEFENSE EVIDENCE

The accused presented witnesses who gave their testimonies as follows:

- 1) **Engineer Raymundo P. Aguaras** - former Administrative Officer V of the Quezon City Department of Engineering, testified as follows for accused Macapugay:

Witness Raymundo P. Aguaras ("Aguaras") affirmed¹⁷¹ the truthfulness of the contents of his Judicial Affidavit¹⁷² and identified the documents he issued as Administrative Officer V of the Department of Engineering, namely: Certification dated 2 October 2002,¹⁷³ Certification dated 18 March 2004,¹⁷⁴ Office Order No. 5, Series of 1999,¹⁷⁵ and Office Order No. 6, Series of 1999.¹⁷⁶

As Administrative Officer of the Department of Engineering, the following offices were under Aguaras's supervision: Records, Property, Personnel and Accounting Sections.

In the certificate dated 2 October 2002, Aguaras certified that "based on the record of the Office of the City Engineer, Department of Engineering of Quezon City, no letter was received from the Office of the Fire Department of Quezon City for date February 11, 1999."

¹⁷¹ TSN, 26 August 2014, p. 6.

¹⁷² Record, Vol X, pp. 254-258.

¹⁷³ Exhibit "4-Macapugay."

¹⁷⁴ Exhibit "6-Macapugay."

¹⁷⁵ Exhibit "7-Macapugay." This was signed by accused Macapugay, and contains the assignment of Engineering Department's personnel to such works as processing of building permits and the like.

¹⁷⁶ Exhibit "8-Macapugay." This was signed by accused Macapugay, and contains the distribution into districts and areas of the personnel assigned to inspect buildings and structures.

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Meanwhile, in the certificate dated 18 March 2004, Aguaras certified that accused Santos "was designated Acting Building Official of Quezon City, for the period January 27, 1997 to August 3, 1999 and January 10, 2000 to April 9, 2000 as per record available at the Department of Engineering."

Aguaras explained that during the time when accused Macapugay was the City Engineer and at the same time, actually heading the Office of the Building Official, all communications for the latter office would be sent to and received by the Engineering Department. However, in instances when another person was designated as head of the Office of the Building Official, then all communications intended for it was received by the Office of the Building Official, recorded in its own logbook and remain there to be acted upon by the acting Building Official or Officer-in-Charge.

Aguaras further testified that there are two kinds of inspections of buildings or structures in Quezon City, namely, regular and annual inspection. Both are conducted on a continuing basis, as shown by Office Order No. 05, Series of 1999 and Office Order No. 06, Series of 1999.

Aguaras concluded that it is impossible for any particular building or structure to be inspected once a year because the Engineering Department is sorely undermanned. Quezon City's area is very big and there are so many buildings to inspect.

On cross, Aguaras admitted having known accused Macapugay since 1980 as the latter was his immediate supervisor at the City Engineering Office.¹⁷⁷

He also clarified that the Office of the Building Official is separate from his office, the Department of Engineering. The other departments at Quezon City Hall are: City Legal, City Treasurer, City Accountant, City Planning and Development Office, Parks and Playground, Business Permit and Licensing Office, Urban Poor Affairs Office, Mayor's Office, City Library, City Administrator, Market Administration, and City Health Department.

Aguaras stated that his office was not involved in the issuance of the mayor's permit. Neither is any office in the Department of Engineering involved in it. Based on his understanding, his office is not supposed to receive any letter from Romero of the Bureau of Fire Protection, since they are not involved in issuing clearances and permit. He cannot remember ever receiving a letter from the Fire Department.

¹⁷⁷ TSN, 18 September 2014, p. 13.

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Regarding the 2 October 2002 certification, Aguaras could not remember if his issuance of the certification was recorded. As to Office Order No. 05 issued by Lourdes Santos, Aguaras explained that the Building Official deputized personnel from the Department of Engineering.

Upon his receipt of a verbal instruction from accused Macapugay, witness Aguaras, in turn, gave a verbal instruction to the head of the Records Section, Elizabeth Medalla, to examine logbooks and other possible records to show that they have that letter logged. Thus, the certification is based on records and the research of Medalla, and not based on the records of any other department under Aguaras.

The logbook is kept by the Department's Records Section and clerks put entries therein. The Engineering Department has four receiving clerks because is very busy – with about 30 to 100 communications a day. Every communication is recorded sequentially. Since the document asked for was dated 11 February 1999, the logbook entry on 11 February 1999 was examined. Aguaras looked at only one logbook in making the certification, which he issued on 2 October 2002.¹⁷⁸

2) *Engr. Alfredo Macapugay- former
Quezon City Building Official and City
Engineer*

Accused Macapugay authenticated his Judicial Affidavit,¹⁷⁹ wherein he alleged that because of the criminal cases filed against him before the Sandiganbayan, there were periods when he was not the sitting City Engineer. There were also times when he was not the sitting City Building Official. For instance, his co-accused Engr. Romualdo Santos was previously designated as Acting Building Official, in his stead. As stated in the Certification¹⁸⁰ dated 10 September 2001 issued by Assistant City Engineer for Administration, Cesar Andres, Macapugay had been ordered suspended from his position (a) for 90 days effective 3 November 1998, and (b) for 90 days effective 10 January 2000.

Macapugay stated that because some of the tasks required of his office could only be accomplished by engineers in other fields, he has to rely on the expertise of his subordinates who are experts in those fields.

¹⁷⁸ TSN, 18 September 2014, pp. 56-57.

¹⁷⁹ Record, Vol. X, pp. 266-271.

¹⁸⁰ Exhibit "2-Macapugay."

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He also claimed that he never dispensed with the mandatory inspections of the structural, sanitary and safety system of the QC Manor Hotel in the years 1999 and 2000. On the contrary, both regular and annual inspections of private buildings by the inspectors of the Office of the Building Official were conducted on a continuing basis during Macapugay's stint. However, the selection of particular buildings or structures for inspection were made at the discretion of the chiefs of the enforcement units, while annual inspections were based on the general guidelines he issued. When Macapugay noticed that the inspections were getting slower, he attempted to speed it up by tasking the enforcement units to conduct both the regular and annual inspections. He claimed that his issuance of Office Order Nos. 05 and 06, Series of 1999 supports his claims.

Macapugay further alleged that Quezon City is a very big area with many buildings and structures, but very few inspectors. Still, his request for additional inspectors were turned down due to lack of funds.

He denied hearing of any adverse report about the QC Manor Hotel, until the fire occurred. He was not aware that the hotel violated the Building Code and Fire Code, and that it had been recommended for closure by the City Fire Marshall of Quezon City. He likewise claimed that he has never seen the 11 February 1999 memorandum issued by Quezon City Fire Marshall Carlito Romero or the memorandum of Assistant Regional Fire Marshall June Ocampo to this effect. As proof thereof, Macapugay presented the Certification¹⁸¹ dated 2 October 2002 issued by Engr. Raymundo Aguaras.

He also denied having conspired with the other named accused in committing the crimes charged.

Macapugay also explained that ordinarily, all communications and correspondence for the City Building Official is forwarded to, and received and recorded by the Records Section of the Department of Engineering. However, when a person other than the City Engineer is designated as Acting Building Official or Officer-in-Charge, the communication must be received in the Office of the Building Official, duly recorded in its own logbook.

Macapugay additionally alleged that the authority to close a business establishment lies with the City Legal Officer of Quezon City, as mandated by Memorandum Circular No. 4¹⁸² issued by then Mayor Ismael Mathay, Jr.

On cross, Macapugay confirmed that he had been to the hotel before it got burned. He was invited by his former employee for a reunion of the Building, Construction and Inspection Division. He did not see anything

¹⁸¹ Exhibit "4-Macapugay."

¹⁸² Exhibit "9-Macapugay."

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wrong with the building at the time, as it has a stairway and elevator. He also never received any adverse report concerning the hotel. On the worst traffic, it takes 45 minutes to travel from the city hall to Kamias St. or Manor Hotel.

Macapugay also testified that as city engineer, he monitored the construction of government projects. Meanwhile, as building official, he monitored the construction of private buildings. Before being given a permit for construction, the application has to pass through his office and that of the Bureau of Fire Protection. The proposed building's architectural plans and engineering designs have to be evaluated by the processing section before they are given the permit and accused Macapugay is the approving officer. Before approving or disapproving an application, Macapugay asks random, probing questions to applicants to determine if they are telling the truth.

Accused Macapugay further testified that the office hierarchy starts with the inspector, reporting to the division chief. Above the Division Chief is the Chief of the Enforcement Section. The Enforcement Chief reports to the Division Chief, who, in turn, reports to the Assistant Department Head, and then to the Building Official or Department Head. Everyone, from the inspectors, to the Division Chiefs, to the Chief of the Enforcement Unit, are all under Macapugay. They all receive orders from him and their reports are subject to his review and approval.¹⁸³

During inspection, if the inspector finds a violation of the Building Code that is not originally included in his Mission Order, he reports it to the Division Chief. The latter then reports it to accused Macapugay.

Most reports are in writing, though some are verbal. Monthly Reports are compiled and accused Macapugay acts upon them. At least five copies of the report are made – a copy each is sent to accused Macapugay, the department head, and the Records Section of the Division, while one is kept by the inspector.

Accused Macapugay testified that now, records are kept by Lourdes Santos. However, he alleges that there is a standing memo from the General Services Office requiring department heads to dispose of all records exceeding five years old.

Macapugay assigned inspectors with their respective areas to inspect. The inspectors made inspections for 240 days in a year. Macapugay met with them every day to discuss how to combat violators.

¹⁸³ TSN, 9 October 2014, pp. 16-17.

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Quezon City has an area of about 15,106 hectares with around 60,000 to 70,000 business establishments.¹³⁴ While he was occupying his post, there were 23 permanent building inspectors in the plantilla – seven inspectors and sixteen (16) Engineer I. Accused Macapugay had to augment their number, so he detailed some engineers from the Engineering Department to the Office of the Building Official.

Further, he testified that Quezon City is divided into four districts, while each district is divided into four areas. For each area, accused Macapugay assigned a licensed civil engineer, a licensed architect and an inspector. The latter is usually not licensed so they are placed under the supervision of a licensed civil engineer. They are distributed as follows:

- District I: 8 inspectors, 4 licensed civil engineers or architects,
- District II: 4 licensed civil engineers or architects and 5 supporting building inspectors
- District III: 4 civil engineers or architects, 5 supporting building inspectors
- District IV: 4 licensed civil engineers and architects and 5 supporting building inspectors

The Quezon City Manor Hotel was located in Brgy. Sikatuna, Area 4 of District 4. It is the only hotel in the area.

Inspectors are directly supervised by the chief of the enforcement division, who gives them their mission orders. Before going out of the office, inspectors bring a notice of illegal construction (for ongoing constructions), notice of violations (for existing buildings), list of buildings to be inspected, and sometimes, an intervening order from the mayor or city engineer, and a memo, which includes their schedule. The Enforcement Chief is in charge of assigning to inspectors their day-to-day duties.

Inspectors issue the notices to the occupants and consolidate them. They submit their report to the Enforcement Chief, who reviews and evaluates whether the building is hazardous. If it is, the Enforcement Chief will report the building to the Building Official, who will evaluate what action to take. The Enforcement Chief evaluates and sets the meeting with the Building Official and issues the appropriate order or invites the violator for a conference.

¹³⁴ TSN, 11 March 2015, p. 22. However, in his Judicial Affidavit, Montallana testified that the city had 21 inspectors covering around 20,000 business establishments and residences at the time he was heading the Electrical Division. (Record, Vol XI, p. 25)

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In short, if a building owner has committed a violation, he will be subjected to administrative hearing and administrative fines. If he still fails to comply with the Building Official's order, then criminal prosecution will ensue. An occupancy permit may be revoked after due process. However, padlocking of an establishment is made under the authority of the mayor, who, through a circular the latter had previously issued, gave authority to the Safety Legal Officer to order the closure of violating business establishments.

As Building Official, Macapugay gave inspectors the authority to visit buildings, so they can check for discrepancy and violations. Apart from conducting inspections, building inspectors attend court and administrative hearings, seminars, or meetings called by the mayor, councilors or barangay.

Macapugay is aware that building inspectors have a duty to visit the construction site any time of day, without prior notice, during and after its completion. They inspect not only the interior but also the exterior of the building, looking for defects, violation of ordinances and laws, well-being and structural integrity, in conformity with Section 1201 of the Building Code.

A business permit is renewed every year, while a building permit is issued only once. The mayor's permit is issued by the Office of the Mayor, BPLO. The same is true for the business permit. Meanwhile, the building permit is issued by the Building Official.

The applicants for the issuance of a building permit have a checklist of documents to be submitted to the Office of the City Engineer and Building Official, part of which are drawings and plans, including electrical drawings (prepared by a licensed electrical engineer and later evaluated by the chief of division), sanitary drawings, and mechanical (especially with elevator) drawings. Also required before the issuance of a building permit is the inspection by the Bureau of Fire Protection prior to construction.

After completion of the building, the owner next applies for the issuance of an Occupancy Permit/Certificate of Occupancy, which is required for new building and renovations. There is another checklist of requirements before an occupancy permit is issued. Clearances from the Bureau of Fire Protection, Electrical, Health, and other departments must first be obtained. In addition, the engineer/architect who supervised the building's construction must submit a certificate of its completion in compliance with the approved plans and the Building Code. A certificate of occupancy is issued only once and is required to get the mayor's permit.

Then, an annual inspection is required as part of the renewal of business permit (which is issued by the Office of the Mayor) per the 1978 Memorandum of Agreement between the DILG and PNP (under which the

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Bureau of Fire Protection used to be). This includes a clearance after inspection by the Electrical Division of the Engineering Department to the effect that the building complied with electrical wiring requirements.

Accused Macapugay confirmed that the Building Official is authorized to order the discontinuance of occupancy or use of any building if found to be occupied or used contrary to the Building Code. However, he qualified that there must be a recommendation to this effect from the inspection team under Rule 8 of the Building Code.

Violations of the Fire Safety Code, which are under the jurisdiction of the Bureau of Fire Protection, are also noted in the inspector's report. Such violations are, in turn, reported to the BFP. However, the latter has its own inspectors who are required to make "periodic" inspections.

Macapugay opined that blocked fire exits, which caused the death of the victims in the hotel fire, are violations of the Fire Code and subject to summary abatement by the BFP under Rule 4, Sections 42 and 43 of the Fire Code.

He further testified that two or three years before the fire occurred, the Electrical Division conducted an inspection in 1998 and issued a Certificate of Electrical Inspection stating that the electrical installation was in compliance with the Electrical Code. The last inspection from the Electrical Division was in February 2001 (the fire occurred in August 2001) and there was no adverse report made.

He confirmed that there is a standard format (but not pre-printed) for the electrical inspection. It is addressed to the enforcement chief and the division chief and contains the date and place of inspection, nature of violations and recommendations, signature of the inspector and enforcement chief. When an inspector finds violations other than that indicated in the Building Code, he is supposed to call the attention of the particular division chief concerned.

Accused Macapugay further testified that one year after being appointed city engineer, he was appointed Building Official. He occupied the post of Building Official until he was relieved after the hotel fire happened. He mentioned that there was a time when he was on leave and when he was replaced by an officer-in-charge as acting Building Official.¹⁸⁵

Macapugay testified that at the time he was the Building Official, BFP was in charge of fire suppression and prevention. Under Section 8 of the Fire

¹⁸⁵ TSN, 11 March 2015, pp. 6-7.

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Code, BFP is mandated to conduct annual inspection (and issue fire safety certificates) for the issuance of the business permit and other requirements.

An ordinance passed in 1992 or 1993 caused the establishment of the Electrical Division under the Department of Engineering, but the personnel assumed their positions only in 1994. Before this, there was an Electrical Division under the BFP. Thus, before 1994, electrical plans of buildings were approved by the Electrical Division under the BFP.

Armando Santos was the chief of the Structural Section. He had under him Engr. Agustin Torres as field inspector, pursuant to Office Order No. 05, Series of 1999, issued on 30 August 1999. Engr. Torres was under the Processing Section, but is authorized to conduct structural inspection. Inspectors under the structural section are also inspectors for the purpose of enforcement and inspection.

Structural inspectors like Engr. Torres, in addition to their knowledge of the Building Code, are also well versed in the requirements of the Structural Code of the Philippines. They are allowed to inspect any area within the city.

On re-cross, accused Macapugay stated that he also created a six or seven-member task force on revenue collection who could also conduct inspections.

Due to lack of personnel, accused Macapugay did not find it unusual that there was only one time that a report on Manor Hotel was made during his term as Building Official. To address the issue on lack of personnel, he assigned contractual personnel, but those were not authorized to sign reports. He also reported the lack of personnel during staff meetings, but there was budgetary constraint. In fact, the employment of 30 to 33 contractual employees was terminated upon Mayor Belmonte's assumption to office.

3) *Romualdo Santos- Engineer V of the
Quezon City Department of
Engineering*

Accused Romualdo Santos ("Santos") authenticated¹⁸⁶ his Amended Judicial Affidavit,¹⁸⁷ where he denied having violated Section 3(e) of R.A. No. 3019.

He also claimed that he has nothing to do with the issuance of the certificate of occupancy of the hotel, except to confirm, after verification of

¹⁸⁶ TSN, 19 May 2015, pp. 5-6.

¹⁸⁷ Record, Vol. X, pp. 480-484.

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the plans and specifications, that the locational/zoning of land use conformed to and complied with the provisions of the Building Code. He added that in 1991, when the hotel's certificate of occupancy was issued, he was only a minor employee of the Quezon City Department of Engineering, with a salary grade of 10.

As to the hotel's building permit, Santos explained that he participated in its processing only once. He inspected the hotel's structure on the basis of the plans and specifications submitted to the Office of the Building Official, upon instruction of then Enforcement and Inspection Division Chief, Engr. Orlando Valenzuela. He found the structure to be in accordance with the requirements of the law.

Likewise, he denied participating in the issuance of the hotel's business permit, explaining that the Business Permits & Licensing Office is distinct and separate from the Department of Engineering.

Santos also denied having received any report regarding the hotel's Fire Code and Building Code violations. He had no authority to close or impose sanctions on the hotel, as only the Mayor and/or Building Official had it.

On cross-examination, Santos claimed that liability lies with the fire department because the violations found in the Manor Hotel pertains to the Fire Code.

He reiterated that when he conducted a verification of the building back in 1991, all documents submitted by the owner conformed with actual conditions (as built plan). Meanwhile, the fire happened in 2001. He did not visit or inspect the hotel in the interim, because he was not assigned to do the annual inspection. His duties and responsibilities are only to verify zoning and verification of applicants for building permits. Once the building is constructed and a certificate of occupancy is issued, the matter is already beyond his responsibility.

He admitted that among accused in the case, he knows accused Macapugay, Mesa, and Villaseñor.

**4) *Engr. Romeo M. Montallana - former
Chief of the Electrical Division in
Quezon City***

Accused Romeo Montallana ("Montallana"), who was 77 years old at the time his testimony was taken, suffered a stroke ten years prior thereto. Counsel

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manifested that this affected his mobility¹⁸⁸ and memory. He identified his judicial affidavit, in lieu of his direct examination.¹⁸⁹

In his Judicial Affidavit,¹⁹⁰ Montallana denied the charges against him. He claimed that prior to the issuance of a building permit to the hotel, he had no role in the inspection of its premises. He alleged that the inspection of the hotel during and after its construction, as well as the issuance of the necessary FSIC, is the job of the Fire Service. FSIC is a prerequisite to the issuance of a business permit.

He also denied having any participation in the issuance of a business permit to the hotel, pointing out that the Business Permit & Licensing Office is a distinct and separate office from the Department of Engineering.

At the time that he was Chief of the Electrical Division of the Engineering Department, he was assisted by co-accused Rodel Mesa. He had about six office clerks and twenty-one (21) inspectors covering about 20,000 business establishments and residences.

On cross, he confirmed that he was an electrical inspector prior to his appointment as Chief of the Electrical Division in 1992. As electrical inspector, it was his duty to inspect newly constructed buildings or any structure assigned to him. He only inspected whether the electrical system is properly installed. If it was improper, he would ask the owner to change it.

For high story buildings, an electrical plan signed by a professional electrical engineer is required. Montallana checks if the plan is properly followed. If there is anything illegal or improper in it, the electrical plan is given back to the professional electrical engineer who signed the instruction to have it changed or rectified. Thereafter, Montallana conducts another inspection to determine if there is compliance with his observation.

Montallana confirmed that the annual inspection of an establishment is the sole responsibility of the BFP, based on the Fire Code. Accordingly, the BFP inspects the structure, sanitation, electrical aspects of a building. He cannot recall when, but he remembers doing annual inspection because it adds to the city's income.

He stated that if there is a conflict between the result of an inspection conducted by the Fire Department and Electrical Department, the Electrical Department's inspection will prevail. He claimed that he is not aware of the

¹⁸⁸ Montallana testified while in wheelchair.

¹⁸⁹ TSN, 1 June 2015, p. 9.

¹⁹⁰ Record, Vol XI, pp.23-27.

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results of inspection of the Fire Department but that he indorses the findings of electrical inspectors to the BFP.

He never inspected QC Manor Hotel but assigned inspectors (like Jerry Villaseñor and others) to inspect it.

*5) Rebecca Genato - one of the
incorporators and manager of Quezon
City Manor Hotel*

Accused Rebecca Genato ("Mrs. Genato") affirmed¹⁹¹ the contents of her Judicial Affidavit,¹⁹² where she denied the charges against her. She identified herself as the owner/manager of QC Manor Hotel, which occupies the third, fourth and fifth floors of Wil-Vic Building located at No. 125-127 Kamias Road, Quezon City.

She stated that Wil-Vic Building is registered under the name of William Genato ("Mr. Genato"), her husband. However, Mr. Genato does not hold any position at the hotel. He is merely the hotel's lessor, as shown in the Lease Contract¹⁹³ she identified.

Wil-Vic Building was constructed in 1989, as shown by Building Permit¹⁹⁴ No. 89-80399 dated 6 September 1989. Mr. Genato paid a corresponding fee for the issuance of the building permit, as shown by Official Receipt No. 221770¹⁹⁵ in his name.

Mrs. Genato explained that initially, Wil-Vic Building had only four floors. However, on 28 January 1991, Mr. Genato applied for and was issued another building permit (Building Permit No. A02-91-59338 dated 28 January 1991),¹⁹⁶ this time, to construct an additional one story to the existing four-story Wil-Vic Building.

Again, Mr. Genato applied for another building permit, this time, for the renovation and conversion of the third to fifth floors of Wil-Vic Building into an apartel/hometel. After completion of its construction, a Certificate of Final Inspection¹⁹⁷ and a Certificate of Occupancy,¹⁹⁸ both bearing the number 91-013981 and dated 19 December 1991, were issued by the Office of the

¹⁹¹ TSN, 20 August 2015, pp. 19-20.

¹⁹² Record, Vol. XI, pp. 65-78.

¹⁹³ Exhibit "1-Genato."

¹⁹⁴ Exhibit "2-Genato."

¹⁹⁵ Exhibit "3-Genato."

¹⁹⁶ Exhibit "4-Genato."

¹⁹⁷ Exhibit "7-Genato."

¹⁹⁸ Exhibit "8-Genato."

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Building Official. A Fire Safety Inspection Certificate No. 4612-91 dated 19 December 1991¹⁹⁹ was also issued by the Fire Prevention and Inspection Division of the Fire District II, Quezon City Fire Station.

Mrs. Genato further produced the following documents to show compliance with the required permits and clearances:

- a. Official Receipt No. 2281568 dated 23 April 2001²⁰⁰ for the issuance of Fire Safety Inspection Certificate;
- b. Certificate of Annual Electrical Inspection No. 01-00829 dated 16 April 2001²⁰¹ with corresponding Official Receipt No. 2297796,²⁰² and
- c. Business Permit No. 97-08611 dated 29 January 2001 with Official Receipt.

Mrs. Genato identified her judicial affidavit during direct examination.

On cross, she stated that the idea of putting up the hotel was from Mr. Genato because he already has a building. They have prior experience in the hotel business with Sir William's Hotel in Timog Avenue owned by Mr. Genato as a single proprietorship. They also have a construction supply business, Wil-Vic Construction and Development Corporation at 96 V. Luna Road, Quezon City. She confirmed that Mr. Genato is still alive and that he is a businessman more experienced than her.

Mrs. Genato named the incorporators of the hotel, which do not include her husband. Mrs. Genato acted as president of the hotel. Mrs. Arañador is an incorporator but not a stockholder, and is her assistant who managed the hotel when she was not around.²⁰³ Mrs. Genato had no official designation but she was in charge of the maintenance of the hotel. At board meetings, they took up the hotel's maintenance and operation issues and problems like stock, cleanliness, orderliness, maintenance, and especially safety.²⁰⁴

The first floor of their building at 125 Kamias St. are different commercial establishments leased by different individuals. The second floor is occupied by different offices. Both of the Genato spouses also hold office at the building every day. The building is their conjugal property. The building

¹⁹⁹ Exhibit "9-Genato."

²⁰⁰ Exhibit "10-Genato."

²⁰¹ Exhibit "11-Genato."

²⁰² Exhibit "12-Genato."

²⁰³ TSN, 20 August 2015, p. 37.

²⁰⁴ *Id.* at 38-39

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permit was issued on September 6, 1989. Another building permit was issued on January 28, 1991. Yet another building permit was issued on December 18, 1991. They started hotel operation in April 1991.

She stated that the hotel operation was never interrupted until the fire. She also asserted that the hotel underwent annual electrical inspection. She further confirmed that Meralco cut off their meters and forced them to use the remaining meters.

Mrs. Genato confirmed that the hotel operates a restaurant. However, the cocktail lounge at the second floor is operated by another entity, which leases it from the building, but does not have a written contract with it. She later admitted that the operator of the restaurant and the cocktail lounge is her son. When confronted with the fact that the official receipts for the permits of the different establishments in Wil-Vic Building all pertained to Quezon City Manor Hotel, Inc., Mrs. Genato explained that they opened a single permit for all the establishments to make it simpler.

She claimed that up to the time of her testimony, she does not know the cause of the fire, although the report says it was faulty electrical wiring. She also does not remember how many employees they had at the hotel. She did not talk to them after the fire, and had no more communication with them after their separation pay was settled. She does not know if the Quezon City Office of Engineering ever held an event at the hotel.

On additional cross, she agreed that she and Mr. Genato were the owners of the Manor Hotel. She verified that receipts for the inspection fee for fire inspection, certificate of annual electrical inspection, and business permit were in the name of Rebecca Genato.²⁰⁵

She does not remember what commercial spaces occupied the ground floor of building (as the matter was 14 years ago), except maybe a canteen. She does not go to the first floor, because she seldom uses the stairs, and always uses the elevator to reach the third floor. The sauna facility is not managed by the hotel but is located in a floor occupied by the hotel. The hotel also has a billiard hall and a cocktail lounge. Except for the lease contract, the hotel is not specified in the permits and licenses as occupying only the third to fifth floors of Wil-Vic Building.

On further cross-examination, she confirmed that in claiming insurance for damage caused by fire, she needed a clearance or a report on the cause of fire from the fire department. The latter stated that the fire was caused by faulty wiring.

²⁰⁵ TSN, 25 August 2015, pp. 8-9.

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Engr. Merida prepared the electrical plan for the hotel.

She claimed that she did not know about the illegal connection. She admitted that she did not report this to the Quezon City officials. She also confessed that after the four meters, which were connected to the hotel, were cut off by Meralco, they were never reconnected until the fire razed the hotel.

Mrs. Genato decided to get electricity elsewhere, and did not think it was illegal to connect to power from other sources. She employed Engr. Merida, who, she knew, was a licensed electrical engineer. She was not shown evidence to this effect but she knew him for many years. She also does not have evidence to show that Merida's electrician staff, who made the realignment, is an electrical engineer. She is not aware of the number of Engr. Merida's staff, as she only employed Merida.

She had him realign the severed electrical wires to the nine existing meters. Only the electrical meter (equipment registering consumption of electricity) was cut off, and Meralco did not touch any of the existing wiring and power supplies or induction boxes. An electrician staff of Engr. Merida did the transfer of the wires to other meters, Merida gave instructions during the transfer and Mrs. Genato checked that it is properly rerouted. The realignment of cut wiring with existing meters was done a day or two after they were cut off (around September 2000).

From the plan made by Mrs. Genato's electrical engineer, it may be that the Electrical Department of the Office of the Building Official was informed of the realignment, but she does not personally know this as a fact. Later, she testified that their liaison officer submitted a wiring permit plan after realignment in September 2000, prepared by an electrical engineer (not Merida) which witness no longer has a copy of. They did not inform Meralco of the realignment.

She confirmed that the fire took place 11 months after the Meralco disconnection and around six months after the inspection.

Mrs. Genato paid for the hotel's fire safety inspection certificate for 2001. The date "April 2001" in the annual notice refers to the date of payment. She does not know when they received the notice since it was not she who wrote the date "February 2001" therein. The inspection made was only for the hotel and excluded the first and second floors of the building.

She did not interact or know the persons mentioned in the 16 April 2001 Certificate of Annual Inspection. She never experienced being treated in a special way by these persons or any government officers; neither is she related

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to any of them. Manor Hotel has a liaison officer who applies for the permits, although Mrs. Genato prepares the documents and requirements.

The fire safety inspection certificates for 1999 and 2000 were required by the Business Permit and Licensing Office of Quezon City for submission, but the hotel failed to submit them. Mrs. Genato testified that for the years 2000 and 2001, the fire safety inspection certificate was "almost" obtained or was in the process for release "because they allowed us already to pay the inspection certificate fee." She confirmed that until the fire occurred, they did not actually have the fire safety inspection certificate.

She was aware that they were required to remedy certain deficiencies in the hotel but says that they complied with them, as evidenced by her letter²⁰⁶ to Ricardo D. Lemence of the BFP dated 1 December 2000. Mrs. Genato's letter stated that they complied with majority of the deficiencies enumerated in the Bureau's letter dated June 28, 1998 with the heading "Notice to Correct Violation." In particular, they complied with all except two – i.e., installation of automatic sprinklers and automatic alarm signaling. Her letter alleged that they cannot comply with these two requirements because these costs too much. Mrs. Genato's letter also requested exemption from the remaining two requirements. She claims that the Bureau did not respond to her letter.²⁰⁷

Mrs. Genato affirmed that on 18 August 2001, the hotel was fully occupied. There was an unusual size of people booked at the hotel because there was a religious exposition in Cubao and most of the attendees stayed at the hotel that night. She agreed that most rooms were air conditioned but does not know if this caused a system overload that resulted in the fire. She said her employees went around for maintenance, safety and service of the hotel guests. Engr. Merida was not at the hotel on the said date, although he goes there thrice a week.

On redirect examination, Mrs. Genato explained that they had three building permits because the first is for construction of a four-story building. The second is for the construction of an additional story. The third is for their application to convert the third to fifth floor of the building into a hotel.²⁰⁸

She confirmed that Mr. Genato applied for the building permit, while QC Manor Hotel applied for the business permit.

On re-cross, Mrs. Genato testified that their sons Enrico and Christian lease from the building and operate the other businesses there but that they do not have contracts of lease because of their filiation. The hotel has a lease

²⁰⁶ Exhibit "22-Genato" marked but not offered as evidence.

²⁰⁷ TSN, 25 August 2015, pp. 26-28.

²⁰⁸ TSN, 24 September 2015, p. 11.

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contract because there are different incorporators. They share the cost of the business permits. Each establishment has its own meter.

6) Gerardo Villaseñor - Electrical Inspector II at the Electrical Division of the Quezon City Engineering Department

Gerardo Villaseñor ("Villaseñor") authenticated²⁰⁹ his Judicial Affidavit,²¹⁰ where he testified that he was instructed to undertake the annual electrical inspection of the hotel in 2001, as embodied in the Annual Notice No. 01-00806 dated 15 February 2001²¹¹ signed by their Acting Chief. He conducted the inspection to the best of his knowledge and ability, having in mind its primary purpose, which is to determine whether the electrical installations and equipment are properly maintained.

He claims that it was impossible for him to have acted with manifest partiality in favor of the hotel owners, officers and employees, whom he neither knew, nor interacted with prior to his 2001 inspection.

Villaseñor also asserts that, as testified by prosecution witnesses Aoanan and Remedio, there was no deficiency in the hotel's electrical installation.

While there apparently were illegal connections in the hotel, Villaseñor contends that he cannot be faulted for their non-discovery because the annual inspection is ocular in character. Also, it is not within the scope of his authority to determine the legality or illegality of some electrical connections. In addition, the prosecution's evidence showed that the alleged illegal connections were found at the ground floor of the building, which he did not have authority to inspect at the time.

On cross, Villaseñor confirmed that he is familiar with the BFP Rules and Regulations, having worked as Electrical Laborer II thereat for seven years (since 1986) prior to his job as Electrical Inspector II. Both jobs required inspecting establishments and entailed the same function.

Engr. Romeo Montallana, chief of Villaseñor's division, gives him written notice to inspect buildings (Notice of Electrical Inspection), without which, he cannot conduct the inspection. He is given this written instruction almost every day, or around four to five times a week. The instruction only indicates the name and address of the establishment to be inspected.

²⁰⁹ TSN, 12 November 2015, p. 9.

²¹⁰ Record, Vol. XI, pp. 232-246.

²¹¹ Exhibit "I-C-Villaseñor."

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Sometimes, the task is a final inspection of a building under construction. At other times, it is an annual inspection of an existing building (Annual Electrical Inspection). An Annual Electrical Inspection's purpose is to see if the building's electrical equipment is properly maintained. A Final Inspection, on the other hand, is meant to see if the establishment's electrical installation was made in accordance with the approved plan, which was submitted as a requisite for obtaining an electrical permit.

Villaseñor agreed that while at the BFP, he also conducted Annual Electrical Inspection. All Quezon City buildings are subject thereto.²¹²

The electrical inspection of the QC Manor Hotel included that of electrical installations and apparatus, circuit breakers and gadgets, appliances, fuse boxes, and anything and everything connected with the electrical system. In inspecting, Villaseñor looked at outlets to check if they were deteriorated already, or if the circuit breaker was already heating up. He inspected every room and counted outlets, working air conditioning units, lights and their loads. He wrote down his observations in his report. Had he found any defect during inspection, he would have included the same in his report to his superior, who, in turn, would then have issued an illegal installation notice. He did not see any illegal installation when he inspected the hotel.²¹³ Anyway, it is Meralco's job to find out if there was a jumper.

He also looked for the authorized person (the owner or whoever is authorized) to let him into the building. For Manor Hotel, he asked the guard where the hotel owner was. The guard went up and told him to go back at a certain date because the owner already left the building. He went back as requested, but still did not meet the owner and was not allowed to inspect the premises. When Villaseñor went back a third time, the owner's representative, who introduced himself as Engr. Merida, accompanied him.

Villaseñor confirmed that he did not inspect the hotel from 1995 to 2000 and that an inspection of the hotel was never included in his discussion with his superior prior to 2001. He did not know who is responsible for the hotel not being inspected.

He clarified that to secure a business permit, the Business License and Permit Office requires an establishment to obtain a fire inspection certificate.

Villaseñor checked the hotel's connection from the Meralco post up to the service entrance going to the building. However, he did not inspect the hotel's metering facilities because he was tasked to inspect only the hotel premises. The hotel's metering facilities were located at the ground floor of

²¹² TSN, 10 February 2016, pp. 6-8.

²¹³ TSN, 11 February 2016, pp. 27-28

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Wil-Vic Building, while the hotel itself was located only from the third to the fifth floor of the same building. He explained that if there are many establishments or tenants in a building, there is a separate inspection of the establishment and building by the inspector, because tenants have separate meters and wirings.

He admitted that he did not bring electrical tools, electrical test meters or other electrical testing device when he inspected the hotel. He only used his eyes and stayed at the hotel for two to three hours. He went inside the rooms, but was not able to inspect those that were then occupied by guests. He claimed to have counted all available air conditioning units at the hotel (87 pieces of 1.5 hp air conditioning units per his report/notice). Villaseñor recalled that the hotel was not fully occupied when he inspected, as there were only about nine to ten guests checked in then. When he stated that there were over 50 rooms therein, and only one air conditioning unit per room, Villaseñor was confronted by the prosecution with the application for business permit/license of the hotel in January 2001, in which Mrs. Genato disclosed having 158 air-conditioned rooms at the hotel.

On redirect, Villaseñor clarified that he did not bring electrical tools during the annual inspection because the electrical installations are inside the ceiling or division of a building. They can only do ocular inspection to ensure that electrical installations are prepared, maintained and in good condition.²¹⁴

He did not bring the building plan and certificate of electrical inspection from their office during inspection because their office was created only in 1994 via Ordinance No. SP-33, Series of 1992.²¹⁵ Meanwhile, the hotel was constructed four years earlier. For this reason, he had no basis to conclude that there were changes in the electrical layout system during the inspection. Engr. Merida only showed the hotel's electrical plan, which had been approved by the Bureau of Fire Protection in 1989 or 1990, the same year it approved the building permit.

Villaseñor stated that the Electrical Code of the Philippines does not have guidelines for actual inspection, so they follow the guidelines of the Building Code. He asserted that the Building Code allows them to make only ocular inspection during annual inspection. However, he was unable to cite the specific provision supporting his claim.

Villaseñor thought that the accusation against him for gross negligence in conducting the investigation is baseless because the arson investigation yielded that the cause of fire was overloading or overuse (i.e., incorrect usage of the installed electrical design) of appliances, and not electrical defect in

²¹⁴ TSN, 28 June 2016, pp. 4-5.

²¹⁵ Exhibit "4-Villaseñor."

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installation. He claimed that when he inspected the hotel six months before the fire, its electrical installation was in good condition and had been properly maintained.

On re-cross, Villaseñor confirmed that the certificate of final inspection is supposed to be issued annually. Section 3 of Ordinance No. SB-33-92 (the creation of the Electrical Division) states that the Electrical Division has the following duties and functions: to formulate, evaluate, supervise the electrical aspects of the constructed projects, inspect the electrical installations of newly constructed structures in the city, evaluate and process applications for wiring and electrical certifications, and perform other related functions, as may be required by the Philippine Electrical Code, R.A. No. 184 and other related laws and ordinances.

He stated that the hotel's main circuit breaker looked correct based on the plan. When he conducted an electrical inspection of the establishment, he did not see any violation in terms of electrical installation. He further declared that it took two weeks to complete the inspection. He started the inspection before 5 p.m. and ended at around 10 p.m. Sometimes rooms were available to be inspected.

**7) Rodel Mesa - Inspector, Quezon City
Electrical Engineering Office**

Accused Rodel Mesa ("Mesa") authenticated²¹⁶ his judicial affidavit.²¹⁷ Therein, he confirmed that at the time of the hotel fire, he was an Electrical Engineer III at the Electrical Division of the Quezon City Engineering Office; having been appointed to the position in 1994. He denied any actual participation in the issuance and implementation of the annual inspection of the hotel in February 2001. He fixed his initial on the annual notice only on 17 April 2001, to indicate the hotel's payment of the corresponding fees to secure its Certificate of Annual Electrical Inspection.

Mesa claimed that it was impossible for him to have prevented the hotel fire, which was caused by overloading, not by faulty electrical installation. As to the existence of the jumper, Mesa alleged that its discovery and removal lies with the BFP and Meralco, not the Electrical Division.

During his re-cross examination, Mesa testified that as Electrical Engineer III, his major functions are to evaluate electrical plans and process applications for electrical permits. His minor functions include monitoring the status of annual notice forms issued to inspectors by recording them in the

²¹⁶ TSN, 27 June 2016, p. 10.

²¹⁷ Record, Vol. XI, pp. 310-326.

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logbook, including the revenues derived therefrom. The logbook contains the date of release of annual notices of inspection. Once a notice returns to the office, it is crossed out from the logbook, to monitor the number of establishments remaining for inspection. He was given verbal direction to evaluate the electrical plan stated in the job order given by Montallana.

There were around 33 personnel at the Office of the City Engineer: 12 electrical engineers (one Engineer I, three Engineer II, three Engineer III, one Engineer IV, and a slot for an Engineer V that was vacant at the time) and around eight to ten clerks.²¹⁸

Mesa stated that he basically has a desk job because he is left at the office to validate the findings of inspectors when questions arise. He did not inspect buildings after they are built, but his signature appears in the annual notice. He affixes his signature on the annual notice on behalf of Engr. Montallana (then their acting division chief) simply to indicate that payment has been made. His signature has nothing to do with the processing and issuance of the annual notice. His duty to monitor revenue collection started in January 2001. Thus, he could not say if there was no annual notice to the hotel prior to 2001.

While the inspector is deputized by Engr. Montallana, the distribution of annual notice is actually done by the records clerk.

FORMAL OFFER OF EVIDENCE OF THE DEFENSE

After the accused presented their evidence, they filed their respective Formal Offers of Exhibits²¹⁹ and the prosecution filed its comment/objection to the formal offer of evidence of all the accused.²²⁰

In its 13 September 2016 Resolution,²²¹ the Court admitted all of the exhibits of all of the accused over the prosecution's objection. It also directed the parties to submit their respective Memoranda within thirty days from notice.

After several motions for extension of time to file the same, the parties filed their respective Memoranda (accused Genato spouses et al., accused Villaseñor and Mesa, and the prosecution),²²² with the exception of accused Macapugay.

²¹⁸ TSN, 28 June 2016, pp. 35-36.

²¹⁹ Record, Vol. XI, pp. 337-338 for accused Santos and Montallana; pp. 346-380 for accused Spouses Genato, et al.; pp. 394-397 for accused Villaseñor and Mesa; and pp. 414-435 for accused Macapugay.

²²⁰ Record, Vol. XII, pp. 59-67.

²²¹ Id. at 69-70.

²²² Id. at 82-97 for accused Genato spouses, et al.; 103-127 for accused Villaseñor and Mesa; and 164-183 for the prosecution.

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MACAPUGAY'S MOTION TO DISMISS

Macapugay, instead, filed a Motion to Dismiss dated 12 December 2016²²³ on the ground that the Court has no jurisdiction over the present cases. He argued that the offenses charged has no relation to Macapugay's functions as City Engineer. While offenses charged may have a relation to his functions as Building Official, he is not a department head. Neither is his position classified as a salary grade 27 because the LGC of 1991 did not expressly authorize him to receive additional compensation as Building Official. The prosecution filed its comment/opposition thereon dated 10 January 2017.²²⁴

On 27 January 2017, the Court issued a Resolution²²⁵ denying Macapugay's motion to dismiss for lack of merit, and directing him to file his Memorandum within a non-extendible period of 10 days from notice.

The Court held that the Sandiganbayan has jurisdiction over the subject matter of the present cases, which are offenses under the Anti-Graft and Corrupt Practices Act committed by Macapugay, in his capacity as City Engineer/Building Official. Under Section 4(a)(1)(b) of Republic Act No. 8249 (R.A. No. 8249), the City Engineer is among the officials whose commission of an offense under R.A. No. 3019 is cognizable by the Sandiganbayan. Also, the Information notably alleges failure to inspect and close the hotel for Building Code violations. Hence, contrary to Macapugay's claim, there is an obvious relation between the offenses charged and Macapugay's position as City Engineer/Building Official, tasked with the enforcement of the Building Code.

Even assuming that the Court had no jurisdiction over the present cases, Macapugay would have been barred from assailing the Court's jurisdiction after almost 15 years of active participation in the litigation of these cases under the principle of estoppel by laches.

Macapugay moved for reconsideration²²⁶ of the Court's 27 January 2017 Resolution, alleging that the Court should take judicial notice of two Quezon City Ordinances (QC SP-440 Series of 1996 and QC SP-639 Series of 1998), which states that the Office of the Building Official shall be headed by an Assistant Building Official.

The Court, however, denied Macapugay's motion reconsideration in its 28 March 2017 Resolution.²²⁷ The Court pointed out that the two cited ordinances have long been repealed and superseded by Quezon City

²²³ Record, Vol XII, pp. 186-198.

²²⁴ Id. at 219-221.

²²⁵ Id. at 224-238.

²²⁶ Id. at 242-250.

²²⁷ Id. at 254-257.

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Ordinance No. SP-1517, which the Court already cited in its 27 January 2017 Resolution as among the reasons why accused arguments cannot be countenanced. QC SP-1517 mandates that the Office of the Building Official shall be headed by the incumbent City Engineer concurrently as Building Official. QC SP-1517 echoes the same mandate under Section 477(a), Article VII of the LGC of 1991.

To date, the Court has not received any Memorandum from accused Macapugay.

PARTIES' MEMORANDA

The following arguments were made by the parties in their respective Memoranda:

*Memorandum for private respondents
Spouses Genato, Germina, Fernandez,
Arengino, Arañador, and Beltran²²⁸
(Crim. Case Nos. 27755 & 27756)*

Private respondents aver that Mr. Genato was given a building permit dated 6 September 1989 to construct a 4-story building at 125 Kamias Road, Quezon City, later named Wil-Vic Building. On 28 January 1991, he was issued another building permit for the construction of an additional floor to the building. In December 1991, Mr. Genato applied for and was issued yet another building permit for the renovation and conversion of the third, fourth and fifth floors of the building into an apartel/hometel. He was later issued a certificate of final inspection, certificate of occupancy and fire safety inspection certificate after completion of the renovation/conversion.

The third, fourth and fifth floor of Mr. Genato's building was later leased to Quezon City Manor Hotel Inc., which started operations with a business permit issued by the Business Permits and Licensing Office of Quezon City ("BPLO-QC").

Spouses Genato, et al. claim that every year, the hotel applied for and was issued business permit by the BPLO-QC. The last of these was dated 29 January 2001 (Business Permit No. 97-086011), which directed the hotel to submit FSIC and CEI by 30 June 2001. Private respondents allege that prior to 30 June 2001, the hotel had complied with the directive, citing Official Receipt (OR) No. 2281568 and Certificate of Annual Electrical Inspection

²²⁸ Accused Beltran remains at large. He has neither been arraigned nor represented by counsel for the rest of the private respondents, until the latter group's change of counsel.

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(CEI No. 01-00829 with OR No. 2297796) as proof of their timely submission of the required FSIC and CEI.

On 18 August 2001, the hotel was razed by fire.

In their Memorandum, spouses Genato, et al. argue that the elements of Section 3(e) of R.A. No. 3019 were not established by the prosecution, considering that the accused public officials did not act with manifest partiality, evident bad faith, or gross and inexcusable negligence.

They also assert that in Criminal Case No. 27755, the charge that accused public officials gave unwarranted benefit, advantage and undue preference or favor to the hotel (in dispensing with the mandatory annual inspection of the structural, sanitary and electrical safety system of the hotel) was anchored on accused public officials' alleged prior knowledge of the hotel's repeated violation of the provision of the Fire Code and Building Code. However, spouses Genato, et al. counter that they were able to disprove the prosecution's claim that accused public officials were notified of the hotel's violations in a letter dated 11 February 1999 issued by S/Supt. Romero. They elaborate that the defense was allegedly able to disprove this with the Certificate of Engr. Aguarras, essentially stating that no letter dated 11 February 1999 issued by S/Supt. Romero was received by their office.

Spouses Genato, et al. also argue that in Criminal Case No. 27756, the charges against accused public officials were again anchored on their alleged knowledge of the hotel's repeated violations of the Fire Code and Building Code. However, they reiterate that accused public officials did not have any knowledge of the alleged violations.

Also, they claim that accused public officials could not have acted with evident bad faith, manifest partiality or gross inexcusable negligence because they actually conducted annual inspection of the hotel, as shown by the certificate of annual electrical inspection. Moreover, they add that accused public officials had no hand in issuing the hotel's business permit. Hence, the continued operation of the hotel cannot be blamed on accused public officials.

Spouses Genato, et al. further contend that accused public officials could not be blamed for the death of, and injury to the fire victims because the fire was not due to any deficiency in the soundness of electrical wirings or installations of the hotel.

Finally, they argue that there is no sufficient evidence to prove conspiracy between them and accused public officials. Conspiracy must be shown to exist as clearly and as convincingly as the commission of the offense itself. They claim that in the case at bar, there is no evidence that private

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respondents interceded in the conduct of the accused public officials' duties, or that the latter were instrumental in the processing and release of the hotel's business permits. Spouses Genato, et al. insist that no overt act was shown to have been committed by private respondents in furtherance of the alleged conspiracy.

*Joint Memorandum for Villaseñor and
Mesa (Crim. Case No. 27756)*

In their Memorandum, accused Villaseñor and Mesa argue that they do not have the power and authority to impose sanctions for violations committed in electrical installations. Also, they would not be aware of the violations in a building that was not assigned to them for inspection. Further, the cause of the hotel fire was not faulty electrical wiring.

Moreover, the Electrical Division was established only in 1994, or long after the final electrical permit and building permit of the hotel was issued in 1989. Hence, they conclude that accused Villaseñor was not remiss in his duty when he conducted an Annual Electrical Inspection of the Hotel in February 2001, upon instruction of the chief of his division.

Meanwhile, accused Mesa was initially appointed as Electrical Engineer III in 1994, when the Electrical Division was established. He was one of the Electrical Engineers III in the Electrical Division of the Engineering Department of Quezon City when the hotel fire occurred. He was designated acting chief of the Electrical Division only on 23 August 2001, or after the hotel fire occurred on 18 August 2001. In addition, although he affixed his initials on the Annual Notice (for Electrical Inspection) of the hotel dated 15 February 2001, he only did so on 17 April 2001, and only as a sign that he had recorded the same in the logbook (as part of his secondary function).

Accused Villaseñor also explains that he cannot be faulted for failing to discover the illegal connection found at the hotel because the legality of an establishment's electrical connection is not part of the scope of the annual electrical inspection. He claims that an annual electrical inspection is merely ocular in character, since its purpose is only to determine whether existing electrical installations and equipment are properly maintained, as indicated in the final inspection and as mandated by the Fire Code.

Also, accused Villaseñor was directed to inspect only the hotel premises, which is limited to the third, fourth, and fifth floors of Wil-Vic Building. Meanwhile, the prosecution's evidence showed that the alleged illegal connection was found at the ground floor of Wil-Vic Building, which is not part of the scope of the inspection. Furthermore, it appears that Meralco

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discovered the illegal connection and disconnected the same in September 2000, or around five months before Villaseñor made his annual electrical inspection. For this reason, the jumper had already been removed at the time of the inspection.

In addition, the hotel violated provisions of the Fire Code. Imposition of sanctions for violation of the Fire Code does not rest with the Electrical Inspector II of the Electrical Division of the Engineering Department of Quezon City, but with the BFP.

Finally, accused Villaseñor and Mesa argue that the prosecution failed to establish that they acted with bad faith or manifest partiality in the performance of their official functions in favor of the hotel. They claim that they did not even know, much less had they interacted with, the owners or officers of the hotel. Additionally, Mesa did not have any actual participation in the issuance and implementation of the Annual Inspection of the hotel in February 2001, as well as in the processing and issuance of its Certificate of Annual Inspection, except to record the same in the logbook.

Memorandum for the prosecution

The prosecution argues that the hotel was able to operate continuously even without completing the requirements, such as the Certificate of Electrical Inspection from the Electrical Division. It further argued that the Quezon City's Engineering Office and Electrical Engineering Office could not show any record that it complied with its mandate to conduct annual electrical inspection. It was only in 1998 when the hotel's violations of the Fire Code were discovered upon inspection by the BFP.

S/Supt. Carlito Romero, the former Fire Marshall of QC, identified Mission Order No. 4947-98 and After Mission Report dated 5 December 1998, enumerating the hotel's violations as reported by Fire Inspector Gerardo Santos after the latter conducted an inspection thereof in 1998. The nature of the violations did not appear to be new and accidental.

The prosecution points out that Macapugay, as City Engineer, is duty-bound to inspect and supervise the construction, repair, removal and safety of private buildings. As Building Official, he may enter any building premises at all reasonable times to inspect and determine compliance with the Building Code and the terms and conditions provided in the building permit issued.

The prosecution further stresses that Rodolfo Espina, Fire Safety inspector assigned to QC Fire Station, conducted fire safety inspection on 8 August 2000. Espina inspected the hotel together with Arnel Pinca pursuant

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to a mission order and with the consent of hotel manager Arañador. Espina's inspection unearthed various violations, which he noted in a Memorandum dated 11 February 1999.

The prosecution argues that conspiracy is, by nature, a clandestine arrangement, and need not be demonstrated by direct proof, but may be demonstrated by circumstantial evidence manifesting joint effort to achieve a common criminal end on the part of the accused.

The prosecution further posits that accused public officials may not invoke the presumption of regularity in the performance of duties because the indicia of irregularities are obvious and patent in this case.

It also claims that the good faith defense is not enough because offenses defined under Section 3 (e) of R.A. No. 3019 may be committed even if not attended by bad faith. Assuming that there was no bad faith on the part of the accused, their negligence could be considered gross and inexcusable, citing *Cruz v. Sandiganbayan*.²²⁹

As to accused William Genato's liability, the prosecution argues that the lease contract between the Genatos was a sweetheart deal between spouses, and no evidence was presented to show the hotel's payment of rent.

Finally, the prosecution cites Villaseñor's failure to bring the promised document allegedly mandating him to limit inspection to ocular level only.

ISSUES

The issues for resolution in the three cases before the Court is whether the accused public officers, in evident bad faith, with manifest partiality or gross inexcusable negligence:

1. Dispensed with the mandatory annual inspection of the hotel's structural, sanitary and electrical safety
 - a. In 1999, and did not impose any sanction or cause the closure or abatement of the hotel, despite prior knowledge that the hotel was recommended for closure by the Quezon City Fire Marshall (Criminal Case No. 27753)

²²⁹ G.R. No. 134493, 16 August 2005.

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- b. In 2000, and in conspiracy with accused private individuals, despite prior knowledge of the hotel management's repeated violations of the Fire Code and Building Code (**Criminal Case No. 27755**)
2. From January to 18 August 2001, and in conspiracy with accused private individuals, failed or omitted to close the hotel despite full knowledge that the hotel incurred repeated violations of the Building Code and Fire Code (**Criminal Case No. 27756**)

Thus, giving unwarranted benefit, advantage, undue preference or favor to the hotel, which accused allowed to operate until the fire incident happened on 18 August 2001, resulting in the death of 74 people and injuries to several others then billeted thereat.

OUR RULING

At the outset, the Court notes that the three remaining Informations all charge the various accused with violation of Section 3 (e) of R.A. No. 3019, 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:

xxxx

(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.

The three essential elements for violation of Section 3 (e) of RA 3019 are: (i) that the accused is a public officer discharging administrative, judicial or official functions; (ii) that the accused acted with manifest partiality, evident bad faith or gross inexcusable negligence; and (iii) that the accused caused undue injury to any party including the Government, or gave any private party unwarranted benefits, advantage or preference in the discharge of his functions.²³⁰

²³⁰ *Garcia v. Sandiganbayan*, G.R. No. 197204, 26 March 2014.

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PERTINENT PERMITS FOR ESTABLISHMENTS

As the charges against the accused public officers herein pertain to the exercise of their duty/power to conduct safety inspections of buildings in Quezon City, it is beneficial to have a general knowledge of the pertinent permits issued in connection with an establishment's construction and continued operation, including the requirements for the issuance of permits and the office that issues them.

A) Building Permit

Before a building is constructed, a *building permit* must be obtained from the Office of the Building Official. The latter requires the submission of the title to the lot on which the work is proposed to be done, the use or occupancy for which the work is intended, the estimated cost of the work, together with corresponding plans and specifications prepared, signed and sealed by a duly licensed electrical engineer, in case of electrical plans, and by a duly licensed mechanical engineer, in case of mechanical plans.²³¹

The Building Official and his technical staff of qualified professionals will process and evaluate the documents submitted and see to it that the applicant satisfies and conforms with approved standard requirements on zonings and land use, lines and grades, structural design, sanitary and sewerage, environmental health, electrical and mechanical safety, as well as with other rules and regulations of the Building Code.²³²

After the building permit is issued, a duly licensed architect or civil engineer shall be engaged by the building owner to undertake a full-time inspection and supervision of the construction work, keeping a logbook at the jobsite to record the progress of construction. Upon completion of the construction work, the architect/engineer shall submit to the Building Official the duly signed and sealed logbook, as well as a Certificate of Completion of the project stating that the construction of building conforms to the provisions of the Building Code, as well as with the approved plans and specifications.²³³

B) Occupancy Permit

Thereafter, the Building Official shall conduct a final inspection of the building before issuing the *occupancy permit/certificate of occupancy*.²³⁴

²³¹ Section 302, NATIONAL BUILDING CODE.

²³² Section 303, *Id.*

²³³ Section 308, *Id.*

²³⁴ Section 309, *Id.*

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This certificate is issued only once, unless suspended or revoked by the Building Official due to errors found in the plans and specifications, incorrect or inaccurate data or information supplied or non-compliance with the provisions of the Building Code or of any rule or regulation.²³⁵

C) Business Permit and Various Certificates

On the other hand, a *business permit* is issued annually and requires an inspection prior to its issuance. It is issued by the Office of the Mayor, through the city's Business Permits and Licensing Office.

Requirements for the issuance or renewal of a business permit include the *Fire Safety Inspection Certificate* (FSIC), *Certificate of Electrical Inspection* (CEI) and *Sanitary Permit* (SP).

The FSIC is issued by the Bureau of Fire Protection. No occupancy or business permit to operate shall be issued without securing an FSIC.²³⁶ Meanwhile, the CEI is issued by the Electrical Division of the city's Department of Engineering.²³⁷ On the other hand, the SP is issued by the City Health Department, upon inspection of the Sanitation Inspector pursuant to a Mission Order issued by the City Health Officer.²³⁸

I. Criminal Case No. 27753

In Criminal Case No. 27753, Macapugay and Montallana are accused of dispensing with the conduct of mandatory annual inspection of the hotel's structural, sanitary and electrical safety in 1999, despite prior knowledge that the hotel had been recommended for closure by the Quezon City Fire Marshall during the same year, thus allowing the operation of a fire hazard and dangerous building.

In order to determine whether Macapugay and Montallana must be held liable for this charge, we evaluate the facts based on the three elements of the offense under Section 3(e) of R.A. No. 3019.

The first element of the offense was satisfied because Macapugay and Montallana, are

²³⁵ Section 306, NATIONAL BUILDING CODE.

²³⁶ Section 8(a)(1), Fire Code of the Philippines, PRESIDENTIAL DECREE NO. 1185, [August 26, 1977].

²³⁷ TSN, 5 October 2005, p. 89.

²³⁸ <<http://quezoncity.gov.ph/index.php/qc-services/requirements-a-procedures/1923-steps-for-the-issuance-of-the-sanitary-permit-2016>> last accessed on 15 January 2018.

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*public officers alleged to have violated
Section 3 (e) of R.A. No. 3019.*

The first element of the offense under Sec. 3(e) of R.A. 3019 is that the accused must be a public officer discharging administrative, judicial or official function.²³⁹

A "public officer," as defined in Section 2 (b) of R.A. No. 3019, "includes elective and appointive officials and employees, permanent or temporary, whether in the classified or unclassified or exempt service receiving compensation, even nominal, from the government as defined in the preceding subparagraph." Meanwhile, "government" is defined in Section 2 (a) to include "the national government, the local governments, the government-owned and government-controlled corporations, and all other instrumentalities or agencies of the Republic of the Philippines and their branches."

Based on the stipulation of the parties during pre-trial,²⁴⁰ as well as the testimony of Quezon City Personnel Officer Marlene Aguilar,²⁴¹ who identified their appointment papers, accused Macapugay and Montallana were public officers at the time material to the Information.

The second element of the offense was also satisfied considering that Macapugay and Montallana discharged their functions with manifest partiality, evident bad faith or gross inexcusable negligence.

The second element of the offenses is that in the discharge of their functions, accused acted with manifest partiality, evident bad faith or gross inexcusable negligence.

In *Coloma, Jr. v. Sandiganbayan*,²⁴² the Supreme Court explained the meaning of "partiality," "bad faith," and "gross negligence" 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

²³⁹ *Zapanta v. People*, G.R. Nos. 192698-99, 22 April 2015.

²⁴⁰ Record, Vol. IV, p. 134.

²⁴¹ TSN, 23 October 2007.

²⁴² *Coloma, Jr. v. Sandiganbayan*, G.R. No. 205561, 24 September 2014, quoting *Fonacier v. Sandiganbayan*, G.R. No. 50691, 5 December 1994, 238 SCRA 655, 687.

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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.

In the very recent case of *Tiongco v. People*,²⁴³ the Supreme Court further amplified the three ways the second element of the crime may be committed:

The prohibited act of either causing undue injury or giving unwarranted benefits, advantage, or preference may be committed in three ways: through (1) manifest partiality, (2) evident bad faith, or (3) gross inexcusable negligence.

In *People v. Atienza*, the Court defined these elements:

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

In order to evaluate the presence or absence of manifest partiality, evident bad faith or gross inexcusable negligence of accused in the discharge of their duties, it is necessary to clarify the duties and functions of the public officers involved in these cases.

FUNCTIONS OF THE ACCUSED

Alfredo Macapugay, as Building Official, had the duty to order the inspection of buildings and determine compliance with the Building Code. As City Engineer, he was also duty-bound to inspect and supervise the construction, repair, removal and safety of private buildings.

Macapugay was designated as Officer-In-Charge of the Engineering Department from 1 August 1990 to 15 October 1990. He was named Acting

²⁴³ G.R. Nos. 218709-10, 14 November 2018.

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City Engineer from 16 October 1990 to 13 August 1991.²⁴⁴ He was officially designated as City Engineer from 14 August 1991 until Ms. Aguilar's testimony was taken in 2007.²⁴⁵ Thus, at the time material to the Information, Macapugay occupied the position of City Engineer of the local government of Quezon City.

Under Sec. 477 of the 1991 LGC,²⁴⁶ the City/Municipal Engineer acts as the local Building Official, and as such, exercises powers and performs duties and functions as may be prescribed by law and ordinance. Hence, by law, Macapugay also concurrently occupied the position of City Building Official during the pertinent period.

Section 205 of the Building Code states that the City Building Official "shall be responsible for carrying out the provisions of this Code in the field, as well as the enforcement of orders and decisions made pursuant thereto."

Section 207 of the Building Code, meanwhile, charges the Building Official with the task of issuing building permits. He may enter the building or its premises to inspect the same and determine compliance with the requirements of the Building Code and the terms and conditions provided in the building permit issued. In case a building work is found to be contrary to the Building Code provisions, the Building Official may order work stoppage or prescribe the terms under which the work will be allowed to resume. He may also order the discontinuance of the occupancy or use of such a building that violates the provisions of the Building Code.

Section 215 of the Building Code further bestows upon the Building Official the authority to order a dangerous or ruinous building or structure's "repair, vacation or demolition depending upon (its) degree of danger to life, health, or safety." Under Section 214 of the same Code, *dangerous or ruinous buildings or structures* include "those which are herein declared as such or

²⁴⁴ Exhibit "AAAAAA."

²⁴⁵ Exhibit "AAAAAA-3."

²⁴⁶ SECTION 477. Qualifications, Powers and Duties. -

(a) xxx

(b) The engineer shall take charge of the engineering office and shall:

(1) Initiate, review and recommend changes in policies and objectives, plans and programs, techniques, procedures and practices in infrastructure development and public works in general of the local government unit concerned;

(2) Advise the governor or mayor, as the case may be, on infrastructure, public works, and other engineering matters;

(3) Administer, coordinate, supervise, and control the construction, maintenance, improvement, and repair of roads, bridges, and other engineering and public works projects of the local government unit concerned;

(4) Provide engineering services to the local government unit concerned, including investigation and survey, engineering designs, feasibility studies, and project management;

(5) In the case of the provincial engineer, exercise technical supervision over all engineering offices of component cities and municipalities; and

(c) Exercise such other powers and perform such other duties and functions as may be prescribed by law or ordinance.

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are structurally unsafe or not provided with safe egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which, in relation to existing use, constitute a hazard to safety or health or public welfare because of inadequate maintenance, dilapidation, obsolescence, or abandonment; or which otherwise contribute to the pollution of the site or the community to an intolerable degree.”

Section 303 of the Building Code indicates that the Building Official shall have overall administrative control and supervision of the processing of building permits, together with his technical staff or qualified professionals and shall ensure that the applicant satisfies the approved standard requirements on zonings and land use, lines and grades, structural design, sanitary and sewerage, environmental health, electrical and mechanical safety and other rules promulgated in accordance with the Building Code.

On the other hand, Section 306 of the same Code states that the Building Official may refuse to issue, suspend or revoke building permits on the following grounds: (i) errors found in the plans and specifications; (ii) incorrect or inaccurate data or information supplied; or (iii) non-compliance with the provisions of this Code or of any rule or regulation.

We highlight Section 215 of the Building Code because it is this provision of law that gives the Building Official the authority to order the repair, vacation or demolition of a building or structure found or declared to be “dangerous or ruinous,”²⁴⁷ depending on the degree of danger it poses to life, health or safety, without prejudice to further action that may be taken under Arts. 482 and 694 to 707 of the Civil Code of the Philippines.

The following duties and responsibilities also appear in Macapugay’s Position Description Form as City Engineer:

(I)nspects and supervises the construction, repair, removal and safety of private buildings; ... with the previous approval of the City Mayor in each case, orders the removal of materials employed in the construction or repair of any building or structure made in violation of law or ordinance, and causes buildings and structures dangerous to the public to be made secure to torn down;²⁴⁸

It is evident that it is part of Macapugay’s duties as Building Official to order the inspection of buildings and determine the latter’s compliance with

²⁴⁷ “Dangerous or ruinous buildings or structures” are defined in Section 214 of the Building Code as “those which are herein declared as such or are structurally unsafe or not provided with safe egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use, constitute a hazard to safety or health or public welfare because of inadequate maintenance, dilapidation, obsolescence, or abandonment; or which otherwise contribute to the pollution of the site or the community to an intolerable degree.”

²⁴⁸ Exhibit “BBBBBB-3-A.”

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the requirements of the Building Code. This includes the duty to order the annual mandatory inspection of the hotel's structural, sanitary and electrical safety.

In addition, as City Engineer, it is also Macapugay's responsibility to inspect and supervise the construction, repair, removal and safety of private buildings. Moreover, when a building is declared ruinous or dangerous, for instance due to failure to provide safe egress or due to being a fire hazard, it is also Macapugay's obligation as Building Official to order its repair, vacation or demolition.

Romeo Montallana, as head of the Electrical Division, had the duty to undertake annual inspections of existing electrical installations.

Accused Montallana was designated Acting Chief of the Electrical Division from 17 February 2000 to 7 June 2002.²⁴⁹

As Electrical Engineer IV, Montallana's Position Description Form²⁵⁰ states that part of his duties and responsibilities are as follows:

1. Assist the Electrical Engr. V direct & coordinate with enforcement of Sec. 102, 203 & 1301, Elec. Regulation of the National Bldg. Code, Quezon City Revenue Code of 1993 and Ord. #1, SP 33, S-92 (Ord. creating the Elec. Division under the Engr'g. Dept. of Quezon City).
2. Formulate, evaluate & supervise the Electrical aspect of the construction project undertaken by the City. Recommend approval and disapproval of application for electrical permit, issuance or revocation of the certification of operation in accordance with the National Bldg. Code and Ord. II, SP 33, S-92 and 1993 Quezon City Revenue Code.
3. Regulate and inspect the electrical installations of the newly constructed structure of the City, undertake annual inspection of existing electrical installation.
4. Act on the recommendation of lower level engineer on the compliance and non-compliance of the requirement of Electrical Division.
5. Initial all correspondence, circular, memo, electrical permits, certificate of operation and other pertinent papers of the Division.
6. Perform other duties that the City Engineer and supervisor may assign from time to time. (Underscoring supplied.)

²⁴⁹ Exhibit "AAAAAA-4."

²⁵⁰ Exhibit "BBBBBB-25."

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This Position Description Form also summarizes the general functions of Montallana's position as follows: assist the Electrical Engineer V supervise a group of Electrical Engineer(s) and personnel in the enforcement (of) Quezon City Revenue Code of 1993 and Ordinance No. SP 33, S-92, Ordinance creating the Electrical Division.²⁵¹

As Acting Chief of the Electrical Division and in accordance with Section 3, Ordinance No. SP-33, S-92 or "Ordinance Creating an Electrical Division Under the Engineering Department of Quezon City and Providing for its Personnel Requirements, Duties and Functions, as well as Appropriating the Necessary Funds Therefor," Montallana is also expected to head the Division that is charged with the following duties and functions:

SECTION 3. The Electrical Division shall have the following duties and functions:

- A. Formulate, evaluate and supervise the electrical aspects of the construction projects undertaken by the City;
- B. Inspect the electrical installations of the newly constructed structures (in) the City and undertake annual inspections of existing electrical installations;
- C. Evaluate and process applications for wiring permits and electrical certificates;
- D. Perform other related functions as may be required by the practice of Electrical Engineering as per requirements of the Philippines Electrical Code, the R.A. 184 and other related laws and ordinances. (Underlining supplied.)

Based on the above, it is clear that Montallana, as head of the city's Electrical Division, is duty-bound to "undertake annual inspections of existing electrical installations."

Accused Macapugay and Montallana both committed gross inexcusable negligence in dispensing with the annual electrical inspection of the hotel in 1999 and allowing it to operate despite being recommended for closure.

In Criminal Case No. 27753, accused Macapugay and Montallana are charged with dispensing with the mandatory annual inspection of the hotel's structural, sanitary and electrical safety in 1999, notwithstanding their prior

²⁵¹ Exhibit "BBBBBB-26."

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knowledge that the hotel was recommended for closure by the Quezon City Fire Marshall in 1999.

Having established that accused Macapugay, as City Engineer/Building Official has the duty to direct the annual inspection of the hotel's safety (including the electrical aspect thereof), and that accused Montallana is expressly tasked with undertaking annual inspections of existing electrical installations, we now determine whether the inspection was dispensed with in 1999.

Notably, Montallana issued a Certification²⁵² dated 21 August 2001, stating that his office has no record of the hotel undergoing annual electrical inspection from 1995 to 2001, except in 1998 and in 2001, when the tragic fire occurred:



Republika ng Pilipinas
Lungsod ng Quezon
TANGGAPAN NG INHINYERYA
(Office of the City Engineer)
ELECTRICAL DIVISION

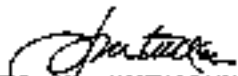
August 21, 2001

Exh. "ZZZ"
"ZZZ"
"ZZZ"
"ZZZ"
"ZZZ"

CERTIFICATION

This is to certify that the following data were found out from the available records/files of our division, in connection with the electrical installation of Menor Hotel located at No. 125 Kamias Rd., Quezon City, viz:

<u>Year</u>	<u>Remark/s</u>
2001	- with Annual Notice No. 01-00806 (February 15, 2001) and Annual CEI No. 01-00829 (April 16, 2001)
2000	- No Record
1999	- No Record
1998	- with Wiring/Electrical Permit Nos. 98-02947 and 98-02948 dated March 5, 1998 (based on Record Book)
	- With Certificate of Electrical Inspection (CEI) Nos. 72770 (April 30, 1998) and 72769 (April 28, 1998) based Record Book
1997	- No Record
1996	- No Record
1995	- No Record


ROMEO M. MONTALLANA
Acting Chief
Electrical Division

²⁵² Exhibit "ZZZ."

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Indeed, in 1999, the hotel could only be granted a provisional business permit,²⁵³ valid only until 30 June 1999 and conditioned upon compliance with certain requisites stated at the back portion of the permit, as well as the submission of its FSIC, SP and LC²⁵⁴ by 30 June 1999.²⁵⁵ Clearly, the hotel did not comply with the above requisites, so it was effectively operating without a business permit during the second half of 1999.

Worse, records show that the electrical inspection of the hotel has habitually been skipped since 1995; save for an electrical inspection in 1998 and in 2001, the year when the hotel caught fire.²⁵⁶

The QC Manor Hotel was not an obscure hole in a wall in some remote outskirts of Quezon City. It was a commercial establishment situated in a five-story building along Kamias Road, not at all far from Quezon City Hall.²⁵⁷ Against this backdrop, the years of persistent failure to conduct annual electrical inspection of the hotel becomes even more suspect and may be considered as a badge of manifest partiality towards the hotel owners. It may also be seen as a sign of evident bad faith or, at the very least, gross inexcusable negligence in the accused public officer's conduct of their duties.

The next question to be determined is whether accused Macapugay had prior knowledge that the hotel had been recommended for closure by the Quezon City Fire Marshall in 1999.

A Memorandum²⁵⁸ dated 1 February 1999 issued by the Assistant Regional Fire Marshall, June C. Ocampo and addressed to Quezon City Fire Marshall Carlito Romero enumerated establishments, including the Q.C. Manor Hotel, to be meted with administrative sanctions due to "various deficiencies and violations of the Fire Code of the Philippines." It directed Romero to "coordinate with your respective City/Municipal Mayor and take necessary action to cause and ensure compliance with the following list of establishments for closure..."²⁵⁹

Romero endorsed and attached a copy of Ocampo's 1 February 1999 Memorandum to the city's Legal Division, Business Permits and Licensing Office (BPLO) and the Office of the Building Official in the form of a Memorandum dated 11 February 1999.²⁶⁰ In his Memorandum, Romero emphasized that the attached Memorandum lists establishments, which, after

²⁵³ Exhibit "QQQQ-14."

²⁵⁴ "LP" stands for "Locational Clearance."

²⁵⁵ Exhibit "QQQQ-14-a."

²⁵⁶ Exhibit "ZZZ."

²⁵⁷ Accused Macapugay testified that on the worst traffic, it will take him about 45 minutes to travel from Quezon City Hall to QC Manor Hotel. (TSN, September 25, 2014, p. 43)

²⁵⁸ Exhibit "W."

²⁵⁹ Underscoring supplied.

²⁶⁰ Exhibit "Exhibit W-4."

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having been "inspected verified and reinspected," still "fail(ed) or refuse(d) to take any positive corrective action, or the hazardous condition is aggravated, or additional violations xxx found xxx or xxx recalcitrant in complying with repeated orders xxx to correct the deficiency or xxx the deficiency constitutes a clear and imminent danger to life and property such that evacuation of the building or establishment and stoppage of operations therein are extremely necessary."

On behalf of the BFP, he declared that any fire safety inspection certificates issued to these establishments are to be considered null and void. He recommended the establishments' closure or the cessation of their operations. He then sought the local government offices' appropriate action in this regard.

Evidence adduced during trial established that Romero's Memorandum (attaching Ocampo's Memorandum listing the establishments for closure in Quezon City) was received by the Office of the Building Official on 15 February 1999.²⁶¹ The stamp and initials showing receipt by the Office of the Building Official of the document was duly identified.²⁶² The original document was sufficiently shown to have been lost due to termite infestation.²⁶³ Still, a certified photocopy thereof was duly identified by Romero, who had executed it in the first place.²⁶⁴

Notably, accused Macapugay was on leave on 15 February 1999 pursuant to an order of preventive suspension. In his stead, accused Romualdo Santos was designated as Acting Building Official.²⁶⁵

Nonetheless, it cannot necessarily be inferred that Macapugay was never made aware of Romero's Memorandum just because Macapugay was on leave at the exact time that said Memorandum was received by the Office of the Building Official.

²⁶¹ Accused tried to disprove this with a Certification executed by Administrative Officer Raymundo Aguinas to the effect that the Engineering Department did not receive a letter from the Quezon City Fire Department on 11 February 1999. (Exhibit "4-Macapugay") However, Aguinas also explained that whenever two different persons were exercising the duties of Building Official and City Engineer, communications for the Building Official was received and logged by the Office of the Building Official. Otherwise, communications intended for the City Engineer and Building Official are received and logged by the Office of the City Engineer. (TSN, September 18, 2014). Considering that accused Santos was the Acting Building Official in February 1999, Romero's Memorandum would have been received and logged by the Office of the Building Official, and not by the Office of the City Engineer.

²⁶² TSN, 18 June 2007.

²⁶³ TSN, 21 February 2008.

²⁶⁴ TSN, 20 June 2007.

²⁶⁵ There are variations in the reported actual duration of Santos' stint as Acting Building Official. Administrative Officer Aguinas claims that the Department of Engineering records show that Santos was Acting Building Official from 10 January 1999 to 9 April 2000 (Exhibit "6-Macapugay"). On the other hand, based on the matrix provided by Personnel Officer Marlene Aguilar, Santos was designated Acting Building Official from 3 November 1998 to 2 January 1999. (Exhibit "AAAAAA-6") However, on cross-examination, Aguilar confirmed that when Macapugay was on leave from January 1999 to 3 August 1999, Santos was the Acting Building Official. (TSN, 23 October 2007, p. 37)

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After all, Macapugay's absence from his office was admittedly only temporary. It was expected that he would, and in fact he did, resume his duties several months after Romero's Memorandum was received. Ordinary diligence dictates that upon returning to his post, Macapugay should have at least scanned through the communications received by his office to keep himself updated on office matters that transpired while he was away. This holds especially true for important concerns that have not yet been acted upon or needed follow up. Considering the serious nature of Romero's Memorandum, it begs credulity that no one at the Office of the Building Official would, in good faith, omit to bring it to Macapugay's attention.

The BFP, through Romero, declared the hotel to be a hazardous establishment and recommended the hotel's closure due to safety violations. Under Section 215 of the Building Code, Macapugay, as Building Official, was therefore duty-bound to order the hotel's repair, vacation or demolition.

In addition, the BFP, through Romero, withdrew *any* FSIC it issued in favor of said hotel. Considering that the FSIC is among the requirements for the issuance of an Occupancy Permit,²⁶⁶ the withdrawal of an establishment's FSIC should have prompted Macapugay to suspend or revoke the hotel's Certificate of Occupancy. This would have been another clear ground for him to order the hotel's closure or stoppage of operation.

At the very least, such a Memorandum received from the BFP in 1999 should have prompted in Macapugay and Montallana a staunch resolve to inspect the safety of the hotel. However, as shown by the evidence, no annual electrical inspection was conducted in 1999.

Under the circumstances, Macapugay's failure to act on the BFP's Memorandum, and Montallana's failure to conduct the annual electrical inspection in 1999 are further proof of manifest partiality in favor of the hotel and gross inexcusable negligence in the discharge of their functions. It is obvious that they failed to act in a situation where there is a duty to act and this omission was willful and intentional, without regard to its consequences. Evidently, accused Macapugay and Montallana palpably failed to perform their duties as mandated by law. Such omission is tantamount to gross inexcusable negligence on their part as public officials.

The third element of the offense was also satisfied. Accused Macapugay and Montallana were grossly negligent in the discharge of their functions. As a result, they

²⁶⁶ Section 8(a)(1), Fire Code of the Philippines, PRESIDENTIAL DECREE NO. 1185, [August 26, 1977].

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gave unwarranted benefit, advantage, or undue preference to the hotel by allowing the latter to operate, despite its Building Code violations, until a fire razed it on 18 August 2001, resulting in the death of 75 people and injuries to several others then billeted thereat.

The third element of the offense is that the accused caused undue injury to any party including the Government, or gave any private party unwarranted benefits, advantage or preference in the discharge of his functions. This element was also satisfied in Criminal Case No. 27753.

To the mind of the Court, by being grossly and inexcusably negligent in the discharge of their official functions, Macapugay and Montallana gave unwarranted benefit, advantage, undue preference or favor to the QC Manor Hotel.

In spite of the BFP's recommendation to close it down, the hotel continued to operate and this translates into income pouring into its coffers. Because the hotel was allowed to remain in operation without complying with the BFP's directives²⁶⁷ to correct its various deficiencies, the hotel pocketed the money it should have otherwise been compelled to shell out to make alterations to the hotel structure and to acquire the necessary equipment that might have been able to save lives.

It is clear from the records that accused Macapugay and Montallana's improper discharge of their functions caused grave undue injury to the public – the steep human toll of the hotel fire that resulted to 74²⁶⁸ dead, 49 injured who were confined to hospitals and 23 sustaining minor injuries.²⁶⁹

In denying responsibility for the said casualties, Macapugay and Montallana argue that the deaths were caused by fire and its prevention is the responsibility of the BFP.

We find that Macapugay and Montallana cannot escape liability by the mere expedient of passing on the blame to the BFP.

As clearly discussed in the preceding section, the BFP did its share of inspecting and re-inspecting the hotel, withdrawing any FSIC previously

²⁶⁷ BFP's Notice of Violation to the hotel (Exhibit "VVV-48-B." Exhibit "G-73.") noted the following deficiencies which it directed the hotel to correct: no automatic fire suppression system; defective standpipe system; defective manual fire alarm system; obstructed route of fire exit; inadequate secondary stair/fire exit; no smoke and heat detectors; and inadequate portable fire extinguisher.

²⁶⁸ See FN 3.

²⁶⁹ Exhibit "G-104."

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issued to it, and recommending its closure to the local officials of Quezon City.

Meanwhile, as pointed out in a previous section, Montallana and Macapugay did not act on the matter, notwithstanding that Montallana's duty to inspect and Macapugay's power to stop the operation of the hotel under the circumstances.

Accused claim that the hotel fire was not caused by any defect in the electrical system of the hotel that they could have prevented or found out during the annual electrical inspection. They cite the testimony of Engr. Aoanan in arguing that the cause of fire was electrical overloading - something that their inspection could not have prevented as it was beyond their control.

We disagree.

Actually, the plain explanation for the hotel fire that Engr. Aoanan (and other prosecution witnesses) put forth is that *when the demand for electricity far exceeded the capacity for it to be supplied, heat was produced*. Heat melted the insulation and made possible the contact between the previously insulated wires and the ceiling beam. The contact created sparks, which ignited nearby flammable substances and caused the fire.

In other words, what basically caused the hotel fire is the discrepancy between the electrical supply and the electrical load, which generated heat, that, in turn, melted the wires' insulation, making possible the contact, and resulting spark between the wires and ceiling beams.

At the time it was gutted by fire, the hotel had been operating for almost a year with limited electrical supply. The shortage was a direct result of Meralco's disconnection of four of the thirteen (13) electric meters installed at Wil-Vic Building in September 2000, due to illegal connection (commonly referred to as "jumper"). Wil-Vic Building was occupied by the hotel from the third through fifth floors.

The four electrical meters that were disconnected were meters supplying electricity to the hotel.²⁷⁰ From the time of their disconnection until the occurrence of the hotel fire in August 2001, the said four electrical meters were never reconnected by Meralco.²⁷¹

To remedy the limited supply to the hotel, Mrs. Genato claimed that she employed Engr. Merida (a deceased co-accused), whose staff "realigned" or

²⁷⁰ TSN, 25 August 2015, p. 23.

²⁷¹ Id.

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"transferred the connection to other existing meters."²⁷² However, Mrs. Genato admitted that the realignment was not reported to the local officials.²⁷³ Indeed, there is no record of a wiring/electrical permit issued to the hotel from 1999 until the tragic fire of 2001.²⁷⁴

Also notable is Mrs. Genato's firm claim that the realignment she commissioned was made "a day or two after the cut off by Meralco," which was around September 2000.²⁷⁵

If such allegation was true, the realignment did not remedy the limited electric supply of the hotel. This is because a document recovered by the arson investigator from the hotel ruins during a post fire ocular investigation showed that there was persisting scarcity in the electric current supplied to the hotel almost a year after the supposed realignment.²⁷⁶ The document recovered was a memorandum dated 25 October 2000²⁷⁷ by William Genato (signing as "Owner/Manager") addressed to all front desk clerks, laying down guidelines limiting the use of air conditioning units in the hotel, considering that Meralco has not reinstalled its electricity.

Thus, as early as September 2000, there was already a discrepancy between the requirements of the QC Manor Hotel – a 24-hour standard hotel establishment and the inadequate electric supply provided by its building's remaining electric meters. This continued for over a year and was further exacerbated on the fateful night of 18 August 2001. On that ominous evening, the hotel had been running at full capacity due to the many attendees of a religious conference in Cubao, who checked in at the hotel.

In summary, what has been established by prosecution evidence is that the QC Manor Hotel has committed various structural and safety violations since 1999. These violations were duly brought to the attention of the building officials concerned. Yet, despite knowledge of the violations, accused public officials failed to exercise their regulatory powers under the National Building Code and other safety regulations that allowed said establishment to continue operating its hotel business. To the Court, it is the unjustifiable inaction on the part of accused public officials that showed their manifest partiality towards Manor Hotel. It is also concrete proof that they were grossly and inexcusably negligent in the discharge of their functions.

The hotel owners' recalcitrance in addressing the violations was left unchecked because accused public officials, through their gross inexcusable

²⁷² TSN, 24 September 2015, pp. 16-17.

²⁷³ Id. at 60.

²⁷⁴ Exhibit "ZZZ."

²⁷⁵ TSN, 24 September 2015, p. 49-50.

²⁷⁶ Exhibit "G-2."

²⁷⁷ Exhibit "G-66."

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negligence in the discharge of their public functions as regulatory officers, failed to do their job. Thus, Manor Hotel and its owners were given unwarranted benefit, advantage or under preference by herein accused private individuals; when the latter dispensed with the mandatory annual inspection of the structural, sanitary and electrical safety system of the establishment.

Clearly, accused public officials' gross inexcusable negligence enabled accused private individuals to operate Manor Hotel, despite the former's prior knowledge that the City Fire Marshall had long recommended its closure due to said business's repeated violations of the provisions of the National Building Code and Fire Code of the Philippines.

It is obvious in this case that accused public officials' failure to impose any sanction or cause the closure of Manor Hotel, despite the latter's glaring violations, greatly prejudiced the government and public interest. This prejudice is evident in the 74 lives appallingly lost (and many others injured) due to the horrific fire that occurred on 18 August 2001. Deplorably, it would take such a tragic incident to reveal this nefarious situation.

From the above, the prosecution has sufficiently discharged its burden in proving the allegations in the Information and established the elements of the crime as charged. It is thus, inevitable that accused herein are found guilty beyond reasonable doubt as charged.

II. Criminal Case No. 27755

In Criminal Case No. 27755, accused Macapugay, Montallana, and Santos (allegedly in conspiracy with accused private individuals) are charged with dispensing with the mandatory annual inspection of the hotel in 2000, despite prior knowledge of the hotel's repeated violation of the Fire Code and Building Code, thus allowing the latter to operate until the 2001 fire, which caused death to 74 of its guests and injury to several others then billeted at the hotel.

The first element of the offense was established because accused Macapugay Montallana and Santos are public officers alleged to have violated Section 3(e) of R.A. No. 3019.

Accused Macapugay and Montallana are public officers alleged to have violated Section 3(e) of R.A. No. 3019, as discussed in Criminal Case No. 27753.

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In this case, accused Santos is additionally impleaded and also shares the same job description. Accused Santos was likewise a public officer at the time material to the Information, based on the stipulation of the parties during pre-trial,²⁷⁸ as well as the testimony of Quezon City Personnel Officer Marlene Aguilar,²⁷⁹ who identified his appointment papers.

Impleaded additionally impleaded in Criminal Case No. 27755 are accused private individuals Rebecca Genato, Porfirio Germina, Marion Fernandez, Dionisio Arengino (as well as Antonio Beltran, who remains at large), Candelaria Arañador and William Genato.

Rebecca Genato, Porfirio Germina, Marion Fernandez, Dionisio Arengino and Antonio Beltran are the incorporators of QC Manor Hotel, as listed in the latter's registration documents with the Securities and Exchange Commission,²⁸⁰ and as stipulated by the parties during pre-trial.²⁸¹ On the other hand, as admitted by her counsel during pre-trial, accused Candelaria Arañador was QC Manor Hotel's Manager from 1996 until 2000.²⁸²

Meanwhile, based on the documents and the testimony of Rebecca Genato,²⁸³ William Genato is her husband and together they own Wil-Vic Building, which houses QC Manor Hotel on its third to fifth floors. Mr. Genato also appears in the Lease Contract²⁸⁴ to be the lessor of QC Manor Hotel.

However, as shown by the evidence on record, Mr. Genato has also held himself out as the owner/manager of the hotel. Witness Cabillan testified that during the fire investigation, Mr. Genato (whom witness Cabillan identified in open court) acknowledged the hotel guard's identification of him as owner of the hotel.²⁸⁵ It was also Mr. Genato who transacted with witness Dantes from Meralco regarding the jumper wires, which were found in the meters supplying electricity to the hotel.²⁸⁶ In fact, it was Mr. Genato who had settled (but later issued a stop payment order on) the payment to Meralco resulting from the hotel's jumper use.²⁸⁷

Further, a Memo addressed to the front desk clerks on the use of the hotel's air conditioning units was signed by "William O. Genato" as "Owner/Manager." Meanwhile, William Genato has not issued a statement or

²⁷⁸ Record, Vol. IV, p. 134.

²⁷⁹ TSN, 23 October 2007.

²⁸⁰ Exhibit "G-16 to 27."

²⁸¹ Record, Vol. IV, p. 135.

²⁸² Id.

²⁸³ TSN, 20 August 2015, p.23

²⁸⁴ Exhibit "I-Genato"

²⁸⁵ TSN, 26 July 2005, pp. 25-27.

²⁸⁶ TSN, 16 January 2007, pp. 14-15.

²⁸⁷ Exhibit "G-62-1"

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adduced evidence belying these allegations that he had been holding himself out as the owner/manager of the hotel.

Thus, accused William Genato's own actuations show a blurring of the delineation between ownership of the building and of the business establishment that is QC Manor Hotel. At any rate, the duties and liabilities of the building owner and lessee who occupies or uses it are intertwined because under the Building Code, the standards employed and specifications required of a building is intimately connected to and substantially determined by the purpose for which it is employed.²⁸⁸

Nonetheless, Wil-Vic Building's Certificate of Occupancy²⁸⁹ clearly assigns to accused William Genato, as building owner, the duty to "properly maintain th(e) building to enhance its architectural well-being, structural stability and fire-protective properties," to wit:

NEW FORM No. 77-0014

DEPARTMENT OF PUBLIC WORKS & HIGHWAYS
OFFICE OF THE BUILDING OFFICIAL
Quezon City
DISTRICT/LOCALITY
AREA CODE 02

*Ex. 8-Genato's
as owner*

Certificate of Occupancy

Planning Dept. 91-640 12-13-91
Fire Dept. 91-013981
Health Dept. 20750-02 12-17-91
Water, Air, & Soil Agency 12-18-91
Sanitation Dept. 12-19-91

This certifies that the building/structure which has been designed and constructed by Firm (S) Genato Bros. under Bldg. Permit No. 02-1-91-913981 dated 1-13-91 issued under the name of WILLIAM G. GENATO has been inspected and found to be in conformity with the approved plans and specifications on file in this office and the provisions of the National Building Code (P.D. 1096) and its implementing rules and regulations and therefore the building/structure may now be occupied or used.

The owner shall properly maintain this building to enhance its architectural well-being, structural stability and fire-protective properties and shall not be occupied for any purpose other than its intended use except as shown.

By: EMILIO G. RIVERA, JR. Building Official

NOTE: A copy of this certificate shall be kept within the premises of the building and shall not be removed without the approval of the Building Official. The official number of the building is 02-1-91-913981.

ON FILE 2049583 12-17-91 (P 3,000.00)

RELEASED
BY: ES
DATE: 12-14-91

²⁸⁸ This is especially evident in Chapters VII (Classification and General Requirement of All Buildings by Use of Occupancy), Chapter VIII (Light and Ventilation), and Chapter XII (General Design and Construction Requirements) of the Building Code.

²⁸⁹ Exhibit "8-Genato, et al."

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Accused Genato spouses, Germina, Fernandez, Arengino and Arañador are admittedly private individuals, and not public officers. Nonetheless, it is well-established in jurisprudence that "private persons, when acting in conspiracy with public officers, may be indicted and, if found guilty, held liable for the pertinent offenses under Section 3 of R.A. 3019, in consonance with the avowed policy of the anti-graft law to repress certain acts of public officers and private persons alike constituting graft or corrupt practices act or which may lead thereto. This is the controlling doctrine as enunciated by this Court in previous cases"²⁹⁰

The second element of the offense was satisfied considering that Macapugay, Montallana and Santos discharged their functions with gross inexcusable negligence.

Similar to the discussion in the preceding section regarding Macapugay and Montallana, it is essential to discuss the duties and functions of accused Santos prior to evaluating whether he acted with manifest partiality, evident bad faith or gross inexcusable negligence in the discharge of his duties.

Accused Santos, as Engineer V, had the authority to process or issue building/occupancy permits and other ancillary permits issued by the QC Department of Engineering.

Accused Romualdo Santos was designated as Acting Assistant Chief of the Processing Unit of the Building Permits Division from 30 April 1991 to 13 July 1993. He was named Acting Chief of the Enforcement Division from 2 July 1993 to 26 January 1997. He was in charge of verification of Applications for Processing of Building Permits from 14 July 1993 to 26 January 1997. Santos was designated Officer-In-Charge of the Office of the Building Official from 27 January 1997 to 18 May 1997. Moreover, Santos was named Acting Building Official from 3 November 1998 to 2 January 1999.²⁹¹

As Engineer V, he was given authority to process and/or issue building/occupancy permits and other ancillary permits issued by the Engineering Department from 10 April 2000 to 30 June 2001.²⁹²

²⁹⁰ *People v. Go*, G.R. No. 168539, 25 March 2014.

²⁹¹ Exhibit "AAAAAA-6."

²⁹² Exhibit "AAAAAA-7."

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Santos' Position Description Form shows that as Engineer V, the following were his duties and responsibilities:

1. Reviews, evaluates, recommends and/or approved bldg. plans and specification as to line and grade, zoning, architectural, structural, electrical, sanitary and mechanical aspects
2. Formulates policies and guidelines toward the implementation of Memorandum Circulars from MPWH, MMC (ACID & CCP) and the local government not to mention other agencies which communicates with the Office from time to time on certain aspects of bldg. const., private or public and forming task force and inspectorate groups with specific task/duties to perform.
3. Assigns work and receives routinary reports of Division Chief relevant to const. within QC concerning private and public bldgs. including concomitant architectural and engr. structures
4. Initiates and/or conducts investigation/hearings and arbitrates on problem between parties/concerned citizens brought to the office that is within the purview of the National Bldg. Code and other referral codes including the comprehensive Zoning Code of Metro Manila and conducting ocular/field inspection in connection therewith.
5. Reviews (,) evaluates and acts on recommendations of Division on infraction (?) of the National Bldg. Code and other referral codes by application of the pertinent provisions on Administrative sanctions on parties concerned.
6. Reviews, evaluates, acts on recommendation of Division Chiefs on infractions of the Civil Service Rules and Regulation as well as the Administrative Code of office personnel by appropriate referral to proper authorities with appropriate jurisdiction.
7. Attends conferences, meetings, seminars/court hearings.
8. Performs other duties and prerogatives as might be assigned by the City Engineer/Bldg. official and submits reports in connection therewith.
9. Prepares annual report of past performance of the past calendar year and another report (Projection of income & expenditures for the incoming calendar year to be incorporate(d) in the budget preparation) to the City Engineer/Bldg.(.) Official²⁹³

Office Order No. 5, Series of 2000 dated 16 May 2000²⁹⁴ issued by accused Macapugay as City Engineer and Building Official, adds that as Engineer V, Santos is tasked to recommend to the former the approval of all building occupancy and other ancillary permits. Macapugay also delegated

²⁹³ Exhibit "BBBBBB-63."

²⁹⁴ Exhibit "YYY."

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the approval of mechanical, electrical, sanitary and signboard permits to Santos via the said Office Order.²⁹⁵

Macapugay, Montallana and Santos dispensed with the mandatory annual inspection of the hotel in 2000 despite prior knowledge of the hotel's repeated violation of the Fire Code and Building Code.

As discussed in Criminal Case No. 27753, accused Magapugay and Montallana acted with manifest partiality, evident bad faith or gross inexcusable negligence in dispensing with the mandatory annual inspection of the hotel in 1999, despite prior knowledge of the hotel's repeated violation of the Fire Code and Building Code. This actuation/omission continued on in the year 2000, as shown by Montallana's Certification²⁹⁶ dated 21 August 2001, stating that his office has no record of the hotel undergoing annual electrical inspection for several years, including the year 2000.

As to accused Santos, it is notable that, as Chief of the Building Permits and Inspection Division, he was the approving officer for mechanical, electrical, plumbing and sanitary permit in 2000. However, he failed to conduct a verification inspection of the hotel's safety in the year 2000.

Santos also failed to conduct his inspection despite prior knowledge of the hotel's repeated violation of the Fire Code and Building Code in the year 2000. Accused Santos was aware of the hotel's prior violations because he was designated as Acting Building Official (in lieu of Macapugay, who was on leave on 15 February 1999 pursuant to an order of preventive suspension) at the time that Romero's Memorandum (enclosing Ocampo's Memorandum which lists QC Manor Hotel as among the establishments for closure in Quezon City) was received by the Office of the Building Official on 15 February 1999.²⁹⁷

²⁹⁵ The pertinent portion of the Office Order provides:

By virtue of authority vested in me as City Engineer and Building Official of Quezon City pursuant to RA 7160 otherwise known as the Local Government Code of 1991 and to the best interest of the public, the Office of the Building Official is hereby re-organized as follows:

Engr. Romualdo C. Santos, Engineer V, shall perform his function as provided under Office Order No. 37-A, Series of 2000 dated May 8, 2000, received by this Office on May 15, 2000. As such he shall recommend approval of all building occupancy and other ancillary permits to the undersigned.

The approval of the Mechanical, Electrical, Sanitary and Signboard Permits shall be delegated to Engr. Romualdo Santos. xxx

²⁹⁶ Exhibit "222."

²⁹⁷ Accused tried to disprove this with a Certification executed by Administrative Officer Raymundo Aguara to the effect that the Engineering Department did not receive a letter from the Quezon City Fire Department on 11 February 1999. (Exhibit "4-Macapugay") However, Aguara also explained that whenever two different persons were exercising the duties of Building Official and City Engineer, communications for the Building Official was received and logged by the Office of the Building Official. Otherwise, communications

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The third element of the offense was satisfied. In discharging their functions, Macapugay, Montallana and Santos gave unwarranted benefit, advantage, undue preference or favor to the hotel by allowing it to operate in the year 2000 despite prior knowledge of the hotel management's repeated violations of the Fire Code and Building Code.

The third element of the offense was also satisfied considering that the prosecution was able to show, and the defense was unable to sufficiently refute, the allegation that Macapugay, Montallana and Santos gave unwarranted benefit, advantage, undue preference or favor to the hotel in the discharge of their functions.

As in Criminal Case No. 27753, Macapugay, Montallana and Santos's improper discharge of their respective functions gave unwarranted benefit, advantage, undue preference or favor to QC Manor Hotel in general. In particular, the said unwarranted benefit, advantage, undue preference or favor was reaped by accused private individuals Rebecca Genato, Germina, Fernandez, Arengino, Beltran as the hotel's incorporators; Arañador, as its manager; and William Genato, as its building owner (together with Rebecca Genato).

Accused public officers enabled the hotel's incorporators, manager and building owner to continue their business operations and derive income therefrom. They also allowed the hotel incorporators, the manager and the building owner to keep the money they should have otherwise been compelled to spend to make alterations to the hotel structure and to acquire the equipment required by BFP that might have been able to save the 74²⁹⁸ lives lost when the fire broke out at the hotel in August 2001.

Conspiracy was established between the accused public officials and accused private parties.

It bears stressing that to establish conspiracy, direct proof of an agreement concerning the commission of a felony and the decision to commit it is not necessary. It may be inferred from the acts of the accused before,

intended for the City Engineer and Building Official are received and logged by the Office of the City Engineer. (TSN, September 18, 2014). Considering that accused Santos was the Acting Building Official in February 1999, Romero's Memorandum would have been received and logged by the Office of the Building Official, and not by the Office of the City Engineer.

²⁹⁸ See FN 3.

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during or after the commission of the crime which, when taken together, would be enough to reveal a community of criminal design, as the proof of conspiracy is frequently made by evidence of a chain of circumstances. Once established, all the conspirators are criminally liable as co-principals regardless of the degree of participation of each of them, for in contemplation of the law the act of one is the act of all.²⁹⁹

In this case, it is clear that the unjustified failure of the accused public officers and the obstinate refusal of accused private individuals to accomplish their respective duties made it possible for the QC Manor Hotel to continue to operate, notwithstanding its glaring violations of the National Building Code and Fire Code, eventually leading to the tragic fire that ended the lives of 74 persons and caused injury to several others.

Under Section 23 of the Corporation Code, the corporate powers of a corporation shall be exercised, all business conducted and all its property controlled and held by the board of directors. Meanwhile, Section 31 thereof provides that directors "who are guilty of gross negligence or bad faith in directing the affairs of the corporation ... shall be liable jointly and severally for all damages resulting therefrom suffered by ...other persons."

In the instant case, the SEC registration papers of the QC Manor Hotel showed that accused Rebecca Genato, Germina, Fernandez, Arengino and Beltran, were its incorporators and board of directors.³⁰⁰

In her testimony, accused Rebecca Genato admitted that she was in charge of the maintenance of the hotel and that Arañador was her assistant who managed the same when Rebecca was not around. Meanwhile, during board meetings, the board of directors of the hotel took up its maintenance and operation issues and problems such as stock, cleanliness, orderliness, maintenance, and especially safety.³⁰¹

Accused Arañador, as hotel manager, was also present during the 2000 fire safety inspection and had personally been apprised of the hotel's various violations and informed of the period for complying therewith, as shown by the following Notice from the BFP (Exhibit "U"):

²⁹⁹ *Go v. Sandiganbayan*, 549 Phil. 782-816 (2007).

³⁰⁰ Exhibits "G-16 to G-27."

³⁰¹ TSN, 20 August 2015, pp. 37-39.

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Republic of the Philippines
DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT
BUREAU OF FIRE PROTECTION
FIRE DISTRICT II-NCR
QUEZON CITY FIRE STATION
Diliman, Quezon City

Control No. 200033

Date

Evh 'U'
de 11/14Manor Hotel
Kamuning Rd., Q.C.Attention : Ms. Candidata Alasindur
Hotel Manager

SIR:

This has reference to the fire safety inspection conducted within your premises wherein inspectors' report revealed the existence of the following deficiencies in violation of the Fire Code of the Philippines (PD 1185).

DEFECT/DEFICIENCIES NOTED	PERIOD ALLOWED TO CORRECT DEFECTS
1. No automatic fire suppression system (Sec. 40.105, PD 1185)	60 Days
2. Defective standpipe system (Sec. 6.140, PD 1185)	60 Days
3. Defective manual fire alarm system (Sec. 6.103, PD 1185)	60 Days
4. Obstructed route of fire exit (Sec. 4.102 A, PD 1185)	24 Hrs.
5. Inadequate secondary stair/fire exit (Sec. 3.201 C, PD 1185)	60 Days
6. No smoke and heat detectors (Sec. 3.1003 C(4), PD 1185)	60 Days
7. Inadequate portable fire extinguisher (Sec. 6.101 A.)	60 Days

Submit the following:

1. Occupancy Permit;
2. Certificate of Electrical Inspection, 20000;
3. Fire Brigade Organizational Chart
4. Business Permit

In view thereof, you are advised to take necessary corrective action, otherwise, this Office will be constrained to institute appropriate action to cause compliance with requirements.

Your cooperation hereto will be highly appreciated.

Certified true copy:

[Signature]
SP4 Genato S dela Rened, BFP
Records Custodian PSM
Quezon City Fire Station

Very truly yours,

[Signature]
RICARDO D. LEMENCE
C INSP BFP
City Fire Marshal
Station 1, Fire District II, NCR

Copy Furnished:

OIC, BFP/DILG

As to accused William Genato, the difficulty is that he was charged as an operator/owner of the Manor Hotel, when the official documents show he is not. However, it is notable that the Genato spouses, in practice, have blurred

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the distinction between the ownership of the hotel and of the building. At any rate, William Genato was clearly and admittedly, the owner the building. As such, he had failed to maintain the safety of the building itself, including its fire safety features and the electrical current running through it, all in violation of the Fire Code and the Building Code.

In ruling that the prosecution had adduced sufficient evidence to prove the guilt of the accused private individuals, the Court in its 5 November 2013 Resolution denying their demurrer to evidence ruled in part:

First. Although accused Genato owns the Wil-Vic Building and that the Q.C. Manor Hotel leases the 3rd to the 5th floors of the said building for its business endeavours, this fact does not necessarily insulate them from criminal liability for the present charge.

As shown above, the accused directors of the corporation grossly failed to perform their duties and responsibilities to the corporation and the public in general in taking care of the operation of their business. On the other hand, accused Genato, as owner of the building, allowed his building to be occupied although the electrical supply of the same was already disconnected. In fact, accused Genato is not merely an owner of the Wil-Vic Building but also the "manager" of the hotel as shown in Memorandum dated October 25, 2000 addressed to all the front desk clerk(s) of the hotel.

XXXX

Third. Assuming *arguendo* that the Court can take cognizance of the documentary evidence submitted by accused Genato, et al. in their demurrer to evidence, the same will still not support their conclusion that they cannot be made criminally liable in this case. Accused private individuals assert that the officers and directors of the Q.C. Manor Hotel do not have any concern in "securing building permits, electrical inspections, certificate of occupation, etc." However, the Contract of Lease dated May 31, 1991 which said accused attached as Annex I to their demurrer to evidence contain this provision:

12. Rules, Regulations, etc:

The LESSEE shall comply with any or all reasonable rules and safety regulations which may be promulgated from time to time by the LESSOR or the administrator of the building and with all the rules, regulations, ordinances and laws established by the health and other duly constituted authorities of the municipal, city or national government arising from tor regarding the use occupancy and sanitation of the leased premises.

Evidently, based on the very document submitted by the accused private individuals, it is the LESSEE, i.e., the Q.C. Manor Hotel, which SHALL comply with the rules, regulations, ordinances and laws arising from or regarding the use, occupancy and sanitation of the leased premises. As proven by the evidence submitted by the prosecution, the Q.C. Manor Hotel failed to comply with the laws, rules and regulations providing for the mandatory

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annual sanitary and electrical safety inspections. Therefore, this liability falls on the officers and directors of the Q.C. Manor Hotel.³⁰²

The Court's initial findings were never successfully rebutted or disproved by the accused during trial. It is clear that all of herein accused private individuals continued the hotel's operation with impunity and obstinately refused to heed the BFP's directive for the hotel to address its fire safety violations.

Evidence on record established that in December 1998, a Fire Safety Inspection conducted by Gerardo Santos of the BFP on the QC Manor Hotel indicated that in violation of various Fire Code violations specified, the hotel had no smoke detectors, sprinkler system, smoke alarm detector and fire wall. The hotel had not created a fire brigade and had not held a fire drill/seminar. It had neither a fire alarm system nor a fire safety device to automatically sound an alarm to the nearest fire station.

The hotel also had insufficient emergency lights, fire exits and portable fire extinguishers. The establishment's existing fire exits were found to be obstructed. It had neither fire resistive self-closing door at the fire exit, nor safety device attached/connected to gas tanks. It also failed to comply with the rule that every vertical way of exit and other vertical opening between floors should be enclosed or protected to afford reasonable safety to occupants while using exits and to prevent the spread of fire smoke or fumes through vertical opening from floor to floor before the occupants have entered the exits.

Pursuant to these findings, S/Supt. Romero issued his February 1999 Memorandum, recommending the hotel's closure due to various Fire Code and Building Code violations.

Despite the BFP's 1999 notice for the hotel to remedy its deficiencies and violations, the hotel, through its incorporators/board of directors, obstinately failed to comply therewith even way past the mandated period to comply with the cited violations.

Indeed, in witness Espina's Fire Safety Inspection of the hotel in August 2000 (almost a year before the hotel fire), he reported the following Fire Code violations:

1. Defective standpipe system
2. Defective manual fire alarm system
3. Main stair is not enclosed w/ self (-) closing fire door
4. Doors at fire exit should swing towards route of exit

³⁰² Record, Vol. X, pp. 80-81.

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5. Emergency generator is not equipped w/ automatic transfer switch (ATS)
6. No automatic fire suppression system
7. Obstructed route of fire exit (exhaust duct at exit)
8. Inadequate secondary stair/fire exit
9. No smoke and heat detectors
10. Inadequate portable first aid fire protection equipment
11. Existing portable fire extinguishers is (sic) not (compliant with) ISO/global standards

What makes the defiance by the hotel's incorporators/directors (acting or omitting to act on behalf of the hotel) all the more blatant is their knowledge that their refusal to fulfill the BFP's requirements will mean that the hotel will not be issued an FSIC. Considering that the FSIC is among the clearances required in renewing a business permit, it also means that the hotel incorporators/directors were willing to, and did, operate the hotel without a business license in 2000.

In fact, in her 1 December 2000 letter to BFP in response to the latter's "Notice to Correct Violation," accused Rebecca Genato claimed that the hotel could not comply with the installation of automatic sprinklers and automatic alarm signaling because it would cost too much. Although she also alleged therein that the hotel had already complied with the rest of the BFP's directives, this alleged compliance is belied by the findings and photographs made by prosecution witness Espina and his team right after the fire incident.

As to accused public officers Macapugay, Montallana and Santos, the evidence shows that they failed to cause the conduct the annual electrical inspection on the hotel and allowed the latter to operate in the year 2000, notwithstanding the 1999 BFP Memorandum of S/Supt. Romero recommending its closure due to various Fire Code and Building Code violations.

Accordingly, this Court pointed out in its 5 November 2013 Resolution that:

Indeed, the accused public officials could not have simply brushed aside their mandated duty to conduct the annual inspections in the Manor Hotel in 2000 if they were not motivated by a plain and notorious predilection and deliberate intent to favor the said establishment. On the other hand, the accused private individuals could not simply have had the audacity to violate the pertinent laws for the operation of their business establishment without the support of the accused public officials.³⁰³

³⁰³ Record, Vol. X, p. 157.

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In *Jaca v. People*,³⁰⁴ the Supreme Court explained in detail what gross inexcusable negligence means:

Gross inexcusable negligence is 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; in cases involving public officials, it takes place only when breach of duty is flagrant and devious.

Considering the countless scenarios that may fall under the provisions of Section 3 of RA No. 3019, particularly paragraph (e), and the avowed purpose of the law to repress certain acts of public officers constituting graft or corrupt practices or leading thereto, the law considers the gravity of the bad faith (or partiality) or negligent act or omission as a mode to commit the violation of Section 3 (e) of RA No. 3019. In requiring the negligence to be both gross and inexcusable, the law demands the neglect or disregard of duty to be willful and intentional in order for a violation to exist, although it may fall short of the required degree of bad faith, which must be evident, or of partiality, which must be manifest.

An accepted badge of conspiracy in jurisprudence is this: when the accused by their acts aimed at the same object, one performing one part of and another performing another so as to complete it with a view to the attainment of the same object, and their acts although apparently independent were in fact concerted and cooperative, indicating closeness of personal association, concerted action and concurrence of sentiments.³⁰⁵

In the instant case, this Court finds that the prosecution has proven that conspiracy existed between the accused public officials and accused private persons.

In *Jaca*, citing the case of *Siztoza v. Desierto*,³⁰⁶ the Supreme Court explained that a conspiracy of silence and inaction may arise from gross inexcusable negligence in the commission of a violation of Section 3 (e) of RA 3019, thus:

In *Siztoza*, the Court already intimated on the possibility of committing a violation of Section 3 (e) of RA No. 3019 through gross and inexcusable negligence, and of incurring collective criminal responsibility through a conspiracy.

...As we have consistently held, evidence of guilt must be premised upon a more knowing, personal and deliberate participation of each individual who is charged with others as part of a conspiracy.

³⁰⁴ 702 Phil. 210-262 (2013).

³⁰⁵ *Ambul, Jr. v. Sandiganbayan*, 669 Phil. 32-59 (2011) citing *People v. Serrano*, 634 Phil. 406-426 (2010).

³⁰⁶ 437 Phil. 117, 122, 132 (2002).

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Furthermore, even if the conspiracy were one of silence and inaction arising from gross inexcusable negligence, it is nonetheless essential to prove that the breach of duty borders on malice and is characterized by flagrant, palpable and willful indifference to consequences insofar as other persons may be affected.

As earlier discussed, considering that the gravity of negligence required by law for a violation of Section 3 (e) of RA No. 3019 to exist falls short of the degree of bad faith or partiality to violate the same provision, **a conspiracy of silence and inaction arising from gross inexcusable negligence would almost always be inferred only from the surrounding circumstances and the parties' acts or omissions that, taken together, indicate a common understanding and concurrence of sentiments respecting the commission of the offense. The duties and responsibilities that the occupancy of a public office carry and the degree of relationship of interdependence of the different offices involved here, determine the existence of conspiracy where gross inexcusable negligence was the mode of commission of the offense.**

For emphasis, the petitioners are all heads of their respective offices that perform interdependent functions in the processing of cash advances. The petitioners' attitude of buck-passing in the face of the irregularities in the voucher (and the absence of supporting documents), as established by the prosecution, and their indifference to their individual and collective duties to ensure that laws and regulations are observed in the disbursement of the funds of the local government of Cebu can only lead to a finding of conspiracy of silence and inaction, contemplated in *Sistoza*. The Sandiganbayan correctly observed that —

Finally, it bears stressing that the separate acts or omissions of all the accused in the present case contributed in the end result of defrauding the government. Without anyone of these acts or omissions, the end result would not have been achieved. Suffice it to say that since each of the accused contributed to attain the end goal, it can be concluded that their acts, taken collectively, satisfactorily prove the existence of conspiracy among them.

(Emphasis supplied.)

In the instant case, this conspiracy of silence and inaction can be gleaned from the abject obduracy on the part of accused private individuals to rectify the violations of their hotel establishment that allowed the continued operation of Manor Hotel as a fire hazard and dangerous building. Despite being ripe for closure for being a fire hazard, and notwithstanding its lack of various regulatory permits (prominent of which was the lack of a Fire Safety Inspection Permit), it continued to operate and accept guests to stay therein.

As to accused public officials, their participation in this conspiracy is evident from their failure to properly discharge their duties under existing laws and city ordinances related to safety, thereby allowing accused private

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individuals to continue engaging in their business. This is the case, despite the glaring violations in safety laws of accused private individuals.

The fire tragedy that occurred on 18 August 2001, where many horrendously lost their lives or were injured would not have happened or could have been prevented had the accused public officials' unjustified omission to do their duty and accused private individuals' obstinate refusal to comply with the rules been duly addressed.

Indubitably, the omissions on the part of all accused in this case caused undue injury to the public and to the government, the gravity of which is too glaring and too obvious to deny.

Thus, from the above this Court finds that the prosecution was able to discharge its burden in proving the guilt of both accused public officials and private parties beyond reasonable doubt.

III. Criminal Case No. 27756

In Criminal Case No. 27756, Macapugay, Montallana, Santos, Villaseñor and Mesa (allegedly in conspiracy with accused private individuals) are charged with failing or omitting to close the hotel despite full knowledge that the hotel incurred repeated violations of the Building Code and Fire Code from January to 18 August 2001, causing death to 74 persons and injury to several others then billeted thereat.

The first element of the offense was satisfied because accused Macapugay, Montallana, Santos, Villaseñor and Mesa are public officers alleged to have violated Section 3(e) of R.A. No. 3019. Meanwhile, accused Genato spouses, Germina, Fernandez, Arengino and Arañador are private individuals charged with conspiring with public officers in violating R.A. 3019.

As has been passed upon in Criminal Case Nos. 27753 and 27755, accused Macapugay, Montallana and Santos are public officers alleged to have violated Section 3 (e) of R.A. No. 3019.

Based on the same stipulation of the parties during pre-trial, and the testimony of the Quezon City Personnel Officer Marlene Aguilar, who

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identified his appointment papers, Villaseñor and Mesa were likewise public officers at the time material to the Information.

On the other hand, accused Genato spouses, Germina, Fernandez, Arengino and Arañador are private individuals charged with conspiring with public officers in violating R.A. 3019. It is well established that "private persons, when acting in conspiracy with public officers, may be indicted and, if found guilty, held liable for the pertinent offenses under Section 3 of RA 3019."³⁰⁷

The second element of the offense was satisfied considering that Macapugay, Montallana, Santos, Villaseñor and Mesa discharged their functions with manifest partiality, evident bad faith or gross inexcusable negligence.

In the discourse on Criminal Case Nos. 27753 and 27755, it was established that accused Macapugay, Montallana, and Santos discharged their duties with manifest partiality, evident bad faith or gross inexcusable negligence when they dispensed with the mandatory annual inspection of the safety systems of the hotel, despite prior knowledge that it had been recommended for closure for repeated Building Code and Fire Code violations in the year 1999 and 2000.

In Criminal Case No. 27756, we find that these same actuations of Macapugay, Montallana and Santos (i.e.; failing or omitting to close the hotel despite full knowledge that the hotel incurred repeated violations of the Building Code and Fire Code) continued in 2001, particularly from January to 18 August 2001.

Accused Villaseñor haphazard inspection of the hotel in 2001 shows manifest partiality, evident bad faith or gross inexcusable negligence.

Gerardo Villaseñor held the position of Electrical Inspector II at the Office of the Electrical Division, Office of the City Engineer, from 8 December 1994 until the time Ms. Aguilar gave her testimony.³⁰⁸

As Electrical Inspector II, Villaseñor's Position Description Form states his duties as follows:

³⁰⁷ *Go v. Sandiganbayan*, 549 Phil. 782-816 (2007).

³⁰⁸ Exhibit "AAAAAA-8."

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1. Process & evaluate application for Electrical Permit in consonance with plans, specifications, zoning ordinance of Sec. 102, 203 & 1301, Electrical Regulation of the National Building Code, QC Revenue Code of 1993 & ord. SP 33, S-92 (Ord. creating the Electrical Division under the Engineering Department, QC).
2. Inspect & regulate the electrical installation of the newly constructed structures, undertake annual inspection of existing electrical installations.
3. Recommend approval & disapproval of electrical installation of newly constructed structures & separation of meters
4. Issue illegal installation notices to owners of structures in violation of PD 1096, QC Revenue Code & Ord. SP 33, S-92.
5. Perform other duties that the supervisors may assign from time to time.³⁰⁹

A brief description of the function of his position is to "process, evaluate application for Electrical Permit. Undertake annual inspection of existing electrical installations, recommend approval and disapproval of Electrical installations."³¹⁰

Villaseñor testified that he was instructed to undertake the annual electrical inspection of the hotel in 2001, as embodied in the Annual Notice No. 01-00806 dated 15 February 2001³¹¹ signed by their Acting Chief. He reported no defect in the electrical system of the hotel.

He claims that he was instructed only to inspect the establishment, which is located from the third to the 5th floor of Wil-Vic Building. Since the meter room was located at the ground floor, he claims that he no longer inspected the same.

However, prosecution witness Remedio (who was part of the group that conducted the investigation on the premises after the fire) noted that the electrical wiring in front of the building, which housed the hotel (i.e.; Wil-Vic Building) had been cut off, and another wiring tapped electricity from the back, leading to Wil-Vic Building II.³¹² This much was evident from sheer observation, as shown by the pictures taken by Remedios' group. The same thing would also have been evident months before the fire when Villaseñor made his inspection. Had Villaseñor noted this, he would have been alerted to the hotel's electricity problem, which dramatically increased the likelihood of electrical overloading.

³⁰⁹ Exhibit "BBBBBB-101."

³¹⁰ Exhibit "BBBBBB-102."

³¹¹ Exhibit "1-Villaseñor."

³¹² TSN, 15 February 2006, pp. 7-12

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Villaseñor's cavalier attitude towards his inspection duty is further demonstrated by his admission during his testimony that he made only an ocular inspection of the hotel's electrical system and did not bring the hotel's electric plans or any testing equipment when he conducted his inspection. This is a disservice both to the local government who employs him and the establishment that paid to have its premises inspected.

We also note that, as testified by accused Macapugay, their office rule is that when an inspector finds violations other than that indicated in the Building Code, he is supposed to call the attention of the concerned division chief. Similarly, violations of the Fire Code, although under the jurisdiction of the BFP, are also supposed to be noted in the inspectors' report. Such reports are then referred to the BFP.

It is therefore perplexing how an inspector such as Villaseñor would have missed reporting the grills obstructing the windows of the Manor Hotel's rooms, even with a cursory ocular inspection. These grills are a violation of the Fire Code and had kept many of the fire victims from escaping the burning hotel. Of course, the window grills and other Fire Code violations have much earlier been noted by the BFP itself in 1999.

In sum, we find that, in the performance of his functions, Villaseñor acted with manifest partiality and was grossly and inexcusably negligent in Criminal Case No. 27756 for failure to properly inspect electrical installation and load of hotel when he conducted the said annual electrical inspection.

Accused Mesa's failure to properly direct and coordinate with accused Mesa in the proper conduct of the 2001 electrical inspection of the hotel shows manifest partiality, evident bad faith or gross inexcusable negligence.

Rodel Mesa was Engineer III of the Department of Engineering beginning 1 November 1994. He was designated Interim Head of the Electrical Division from 8 January 2003 until Ms. Aguilar gave her testimony.³¹³

According to his Position Description Form, his duties as Electrical Engineer III are as follows:

1. Assist the Electrical Engineer II direct and coo(r)dinate with enforcement of Sec. 102, 302, and 1301, Elec. Regulation of the National Bldg. Code, Quezon City Revenue Code of 1995 and Ord. #1, SP 33, S-92 (Ord.

³¹³ Exhibit "AAAAAA-9,"

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creating the Electrical Division under the Engineering Department of Quezon City

2. Formulate, evaluate and supervise the Electrical aspect of the construction project undertaken by the City. Recommend approval and disapproval of application for electrical permit, issuance or revocation of the certification of operation in accordance with the National Bldg. Code and Ord. II, SP 33, S-92 and 1993 Quezon City Revenue Code.
3. Regulate and inspect the electrical installation of the newly constructed structure of the City, undertake annual inspection of existing electrical installation.
4. Act on the recommendation of lower level engineer on the compliance and non-compliance of the requirement of Electrical Division.
5. Initial all correspondence, circular, memorandum, electrical permits, certificate of operation and other pertinent papers of the Division.
6. Perform other duties that the City Engineer and supervisor may assign from time to time.³¹⁴ (Underscoring supplied)

In his testimony, Mesa admitted that since January 2001, he had been verbally directed by co-accused Montallana to also monitor the status of the annual notice forms issued to inspectors by recording them in the logbook. He claimed that although his initials appeared in the subject February 2001 Notice of Electrical Inspection, he evidently signed only on 17 April 2001, to indicate that the hotel had already paid the corresponding fee to secure its Certificate of Annual Electrical Inspection.

From Mesa's testimony and actuations, he appears to view the annual mandatory electrical inspection as little more than a revenue-making activity on the part of the local government. Only from such a perspective is it plausible for this Court to accept his claim that his initials on the Notice of Electrical Inspection holds no meaning, apart from indicating that he has completed a mere clerical duty to mark that an establishment has already paid the fee for the issuance of a Certificate of Annual Electrical Inspection.

His Position Description Form belies Mesa's understanding. Mesa is supposed to undertake or supervise ("direct and coordinate") the annual inspection of existing electrical installations, as well as act on the recommendation of lower level engineer on the compliance and non-compliance of the requirement of Electrical Division. Thus, even if he did not conduct the actual February 2001 electrical inspection of the hotel, he is obligated to direct and coordinate with Villaseñor in the proper conduct of the said inspection.

³¹⁴ Exhibit "BBBBBB-110."

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To be able to effectively fulfill this function, he must exercise evaluation and discretion, keeping in mind that the annual electrical inspection is not a perfunctory exercise, but a regulatory activity geared towards the enforcement of the Building Code.

This cannot be accomplished by unquestioningly initialing/approving every report filed by Villaseñor (or any other inspector for that matter). Mesa should have explained the import of the inspection to Villaseñor, and verified, if not the latter's output, then his method for obtaining them. Surely, a cursory ocular inspection of the establishment without bringing any testing equipment or the establishment's corresponding electrical plans is not the inspection contemplated by law.

There is no merit to Mesa and Villaseñor's claim that they should be absolved from liability because it was Merida, and not them, who certified to the safety of the hotel's electrical system.

Even if the cause of the fire was overloading and allegedly not any defect in the electrical system, this does not exculpate Villaseñor and Mesa from liability in not conducting a proper electrical inspection.

It must be recalled that accused Mesa and Villaseñor's failure to faithfully accomplish their duties enabled the hotel to get away with operating with limited electricity. We note that four of the building's meters, particularly those servicing the hotel, were previously disconnected by Meralco due to jumper use and never reconnected until that fateful day when the hotel was razed by fire.

Had Villaseñor and Mesa properly completed their electrical inspection, and not merely relied on the supposed certification issued by accused Merida on the safety of the electrical installation, then they would have found out about the disconnection and therefore, insufficiency of the electricity for the hotel's regular operations. From this standpoint, the conclusion that the cause of the fire is overloading does not preclude Villaseñor and Mesa's liability.

Moreover, there is no merit to Villaseñor and Mesa's claim that the certification made by Merida was allowed under the law (erroneously cited by accused as R.A. No. 7820, when the New Electrical Engineering Law is actually R.A. No. 7920). Section 33 and related provisions thereof provide:

SEC. 33. Personnel Required. - Except as otherwise provided in this Act, every electric plant, industrial plant or factory, commercial

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establishment, institutional building, watercraft, electric locomotive or in any other installation where persons and properties are exposed to electrical hazards shall not have less than the following complement of professional electrical engineer, registered electrical engineer, and registered electrical engineer, and registered master electricians:

(a) Electric plants with total installed generating capacity of any size and employing voltages of any standard rating – one (1) professional electrical engineer or one (1) registered electrical engineer. However, for capacities up to five hundred-kilovolt amperes (500 Kva) and employing voltages of up to six hundred volts (600 V) – one (1) registered master electrician;

(b) Industrial plants or factories, commercial establishments, or institutional buildings having a connected Kva load of any size and employing voltages of any standard rating – one (1) professional electrical engineer or one (1) registered electrical engineer. However, for connected loads up to five hundred kilovolt-amperes (500 Kva) and employing voltages up to six hundred volts (600 V) – one (1) registered master electrician;

(c) Watercrafts or electric locomotives with installed generating capacity up to the maximum size and voltage available for these units – one (1) professional electrical engineer or one (1) registered electrical engineer. However, for generating capacities up to five hundred kilovolt-amperes/kilowatt (500 Kva/Kw) and employing voltages up to six hundred volts (600 V) – one (1) registered master electrician.

Provided, however, That in all the aforementioned cases, additional qualified personnel shall be employed to ensure safe operation and safeguard public welfare, life and property: Provided, further, That when the operation requires more than one shift of personnel every twenty-four (24) hours, the minimum complement of qualified personnel shall be employed in each shift.

This section, however, shall not apply to any installation which has a connected load of fifty kilovolt-amperes (50 Kva) or less and employs voltages of not more than two hundred fifty volts (250 v) and for installations which are designed to be automatic and do not require resident personnel for their safe operation: Provided, however, That their maintenance and repair shall be under the charge of a duly registered personnel: Provided, further, That a yearly inspection will be conducted and certified to be in a safe operating condition by a professional electrical engineer, a registered electrical engineer, or a registered master electrician.

It is evident in the above cited provisions that Section 33 of R.A. No. 7920 pertains to the requirement for certain commercial establishments (among others) to employ a prescribed number of professional / licensed electrical engineers / master electricians. This is the context of the exemption regarding establishments with a connected load of fifty kilovolt amperes (50Kva) or less and employs voltages of not more than two hundred fifty volts (250v).

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Such establishments need not employ a resident professional/licensed electrical engineer / master electrician. In lieu of full-time employment of said personnel, the establishment is required only to have a professional/licensed electrical engineer/master electrician conduct a yearly inspection of the establishment and thereafter issue a certification that it is "in a safe and operating condition."

There is nothing in the New Electrical Engineering Law that allows the certification of safety by a private electrician or engineer (whether professional or licensed) to be a substitute for the mandatory annual electrical inspection by the local government.

Indeed, as previously discussed at length by the Court in its Resolution dated 5 November 2013, accused Villaseñor and Mesa had the duty to personally inspect the premises before certifying that they have conducted the required electrical inspection. They cannot simply rely on the private electrician's certification, else there would have been no need for the Office of the Electrical Division. Their claim that it was Merida who certified as to the safe condition of the hotel's electrical installation is an admission that they did not perform their duty. Thus, we held that:

Even a perfunctory reading of the said Annual Notice readily belies accused Mesa and Villaseñor's assertion that they merely certified to the payment of the annual fees in the said document. As cited above, the Annual Notice unequivocally states "that an electrical inspection has been conducted within the premises by duly authorized representative of the office of the Electrical Engineer ..." Plainly, the Annual Notice states that an electrical inspection was conducted in the premises of the Manor Hotel by the representative of the Office of the Electrical Engineer. The said document does not only certify as to the payment of the annual fee. The payment of the annual fee is only the result of the electrical inspection conducted by the Office of the Electrical Division; hence, it is stated in the said Annual Notice that "This notice must be presented to the Office of the Electrical Engineer, Quezon City, for payment of electrical fees as provided thereof."

Further, accused Mesa and Villaseñor cannot escape liability by claiming that accused Merida was the one who certified as to the safe condition of the electrical installation of the Manor Hotel. To be sure, as the personnel of the Electrical Division who were tasked to conduct an inspection of the Manor Hotel, it was their duty to see to it that they personally inspected the premises before certifying that they have conducted an electrical inspection therein. Otherwise, if said public officials will just rely on the certification of the private electrician, there would be no more need for the Office of the Electrical Division because it would be the responsibility of the private individuals to conduct such inspection. To be sure, by claiming that it was accused Merida who gave the certification as to the safe condition of the electrical installation in the Manor Hotel, accused Mesa and Villaseñor admit that they did not perform their legally mandated duty.

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Also, in accused Macapugay's Office order No. 5, Series of 2000, dated May 16, 2000, the approval of the Mechanical, electrical, Sanitary and Signboard permits was delegated to accused Santos. However, the Annual notice was not approved by said accused Santos. This, together with the other irregularities mentioned above, seriously casts doubt as to the legitimacy of the electrical inspection that was allegedly conducted by personnel of the Electrical Division of the Department of Engineering/Building official of Quezon City."³¹⁵ (Footnotes omitted)

Accordingly, we find no merit in Villaseñor and Mesa's defense.

The third element of the offense is satisfied in Criminal Case No. 27756. In discharging their functions, accused public officers, and the accused private individuals, through gross inexcusable negligence, caused undue injury that resulted to the death of 74 persons and injuries to several others billeted at the hotel when the fire occurred on 18 August 2001.

Jurisprudence explains that gross inexcusable negligence refers to negligence characterized by the want of even the slightest care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally, with conscious indifference to consequences insofar as other persons may be affected.³¹⁶

As discussed at length in the preceding section, the Court finds accused Macapugay, Montallana, Santos, as well as accused Genato Spouses, Germina, Fernandez, Arengino, Beltran and Arañador to have caused undue injury, particularly the death of 74 persons, hospital confinement to 49 other persons and minor injuries to 23 others³¹⁷ staying at the hotel when fire engulfed it on 18 August 2001. We also find accused public officers to have given unwarranted benefit, advantage or preference to the hotel and its incorporators when they allowed the hotel's continued operation notwithstanding the latter's Building Code and Fire Code violations.

The accused hotel incorporators/directors' and building owner's non-compliance with structural and electrical requirements of buildings under the Building Code and the Fire Code, which was abetted by the accused public

³¹⁵ Record, Vol. IX, p. 168

³¹⁶ *Albert v. Sandiganbayan*, 599 Phil. 439-454 (2009), *Bacasmas v. Sandiganbayan*, 713 Phil. 639-666 (2013), *Garcia v. Sandiganbayan*, 730 Phil. 521-542 (2014).

³¹⁷ Exhibit "G-104."

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officers, caused the hotel guests not to respond immediately or get trapped inside the hotel, leading to their unfortunate deaths during the conflagration.

To begin with, the building owner, hotel incorporators/directors were aware of the very limited electrical supply caused by Meralco's cutting off its meters due to the hotel's use of jumpers on 26 September 2000. As testified by prosecution witness Dantes, and admitted by accused Rebecca Genato, these meters were never reconnected. Even after the hotel tapped electric current from Wil-Vic Building II, William Genato had issued a memo on 25 October 2000 directing the hotel front desk about the limitations of electricity use throughout the hotel. Rebecca Genato testified that nothing changed in the electrical arrangement since then.

It was therefore highly irresponsible of the hotel management to accommodate so many guests on the fateful night of the hotel fire in August 2001. The number of guests (the hotel desk officer stated there were around 172 that night) inevitably translates into electricity use which far surpasses what meager electricity the patched-up system could provide. As discussed by prosecution witness Engr. Aoanan, this overloading caused the tragic fire.

Even after the spark and smoke had begun, the fire tragedy could still have been prevented had the hotel complied with the requirement for a smoke detection and water sprinkler system. That would have doused a nascent fire and kept the hotel guests safe or a clear chance to survive the tragedy.

We also note that the fire started in the wee hours of the morning, when most hotel guests are asleep. A fire alarm system would have been tremendously helpful in waking them or otherwise calling their attention to the dangerous situation. As the hotel did not have this basic feature, a number of fire victims were found still lying on their beds in the grim aftermath.

The hotel did not have a fire brigade/fire drills, such that none of the employees were aware of what to do in case of fire. They themselves would have been hard pressed trying to save themselves, let alone assist their hotel guests who are even more unfamiliar with the hotel layout.

The various features of the hotel building also trapped the guests in the burning establishment. The iron grills installed in the windows kept the victims from immediately escaping and took a considerable amount of time to pry open during the fire rescue efforts.

Because the hotel had excessive dead ends, some escaping hotel guests would have traversed more than 18 meters of the corridor only to find a dead end. The number of fire exits were inadequate, not properly labeled, bolted shut or obstructed. For guests who were able to find the fire exit, the hotel's

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exit doors do not swing to the direction of exit, which would be problematic for panicking hordes to open. In some portions, the exit stairs are too narrow, or have irregular steps which are liable to make users fall down. Also, some fire exit stairs do not terminate in an open space and some flights of stairs do not have a landing.

From the above discussion, it is obvious that that there were numerous violations of the National Building Code and the Fire Code committed by the QC Manor Hotel, and yet, it continued operation to the detriment of the public. This only highlights what is now an established fact – the palpable dereliction of duty on the part of the accused public officials to perform their regulatory functions.

There was conspiracy among the accused public officers and accused private individuals to commit the crime charged.

As discussed in Criminal Case No. 27755, this Court has ruled that conspiracy between accused public officers Macapugay, Montallana and Santos, and accused private individuals Genato spouses, Germina, Fernandez, Arengino and Arañador, as its manager, existed and was sufficiently proven by the prosecution. The same conspiracy is found in Criminal Case No. 27756, as the respective omission/inaction ascribed to each of them in 2000 apparently continued on in 2001, particularly until that fateful night of 18 August 2001.

Meanwhile, accused Mesa and Villaseñor's indispensable participation in this conspiracy is also clear. Their patent failure to properly conduct the electrical inspection of the hotel in 2001, despite their positive duty to do so, contributed to the continued precarious operation of the hotel, which led to the tragic fire and resulted to the untimely deaths and injuries to the unsuspecting guests of the hotel.

The numerous deaths and injuries suffered by the hotel guests are undeniably the undue injury caused to the parties and the government contemplated in the prosecution and finding of guilty under Section 3 (e) of RA 3019. Again, the fact of death and injuries in this case is too glaring and obvious to deny and is in fact beyond dispute.

In sum, this Court finds that in Criminal Case Nos. 27753, 27755 and 27756, the prosecution has successfully and sufficiently discharged its burden of proving the guilt of all accused beyond reasonable doubt.

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PENALTIES

Finding the accused guilty beyond reasonable doubt of violating Section 3(e) of R.A. No. 3019, we now look into the penalty therefor.

Sections 9 and 13 of R.A. No. 3019, as amended by *Batas Pambansa Blg. 195*, provide:

Section 9. Penalties for violations.

(a) Any public officer or private person committing any of the unlawful acts or omissions enumerated in Sections 3, 4, 5 and 6 of this Act shall be punished with imprisonment for not less than six years and one month nor more than fifteen years, perpetual disqualification from public office, and confiscation or forfeiture in favor of the Government of any prohibited interest and unexplained wealth manifestly out of proportion to his salary and other lawful income.

Any complaining party at whose complaint the criminal prosecution was initiated shall, in case of conviction of the accused, be entitled to recover in the criminal action with priority over the forfeiture in favor of the Government, the amount of money or the thing he may have given to the accused, or the fair value of such thing.

(b) Any public officer violating any of the provisions of Section 7 of this Act shall be punished by a fine of not less than one thousand pesos nor more than five thousand pesos, or by imprisonment not exceeding one year six months, or by both such fine and imprisonment, at the discretion of the Court.

The violation of said section proven in a proper administrative proceeding shall be sufficient cause for removal or dismissal of a public officer, even if no criminal prosecution is instituted against him. (Amended by BP Blg. 195, 16 March 1982)

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Section 13. Suspension and loss of benefits. Any incumbent public officer against whom any criminal prosecution under a valid information under this Act or under Title 7, Book II of the Revised Penal Code or for any offense involving fraud upon government or public funds or property whether as a simple or as complex offense and in [whatever] stage of execution and mode of participation, is pending in court, shall be suspended from office. Should he be convicted by final judgment, he shall lose all retirement or gratuity benefits under any law, but if he is acquitted, he shall be entitled to reinstatement and to the salaries and benefits which he failed to receive during suspension, unless in the meantime administrative proceedings have been filed against him.

In the event that such convicted officer, who may have already been separated from the service, has already received such benefits he shall be

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liable to restitute the same to the Government. (Amended by BP Blg. 195,
16 March 1982)

Meanwhile, under Section 1 of the Indeterminate Sentence Law or Act No. 4103, as amended by Act No. 4225, if the offense is punished by a special law, the court shall sentence the accused to an indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same.

Section 9 (a) of R.A. No. 3019 punishes a public officer who violates Section 3 of R.A. No. 3019 with imprisonment for not less than six (6) years and one (1) month to not more than fifteen (15) years and perpetual disqualification from public office. In addition, Section 13 of R.A. No. 3019 further provides that if convicted by final judgment, the guilty public officer shall lose all retirement or gratuity benefits under any law.

Considering the finding of conspiracy among all of the accused in these cases, we apply a uniform penalty for each of them. This is because all conspirators are liable as co-principals, following the principle that in conspiracy, the act of one is the act of all. Thus:

Once an express or implied conspiracy is proved, all of the conspirators are liable as co-principals regardless of the extent and character of their respective active participation in the commission of the crime or crimes perpetrated in furtherance of the conspiracy because in contemplation of law the act of one is the act of all. The foregoing rule is anchored on the sound principle that "when two or more persons unite to accomplish a criminal object, whether through the physical volition of one, or all, proceeding severally or collectively, each individual whose evil will actively contributes to the wrong-doing is in law responsible for the whole, the same as though performed by himself alone." Although it is axiomatic that no one is liable for acts other than his own, "when two or more persons agree or conspire to commit a crime, each is responsible for all the acts of the others, done in furtherance of the agreement or conspiracy." The imposition of collective liability upon the conspirators is clearly explained in one case where this Court held that x x x it is impossible to graduate the separate liability of each (conspirator) without taking into consideration the close and inseparable relation of each of them with the criminal act, for the commission of which they all acted by common agreement x x x. The crime must therefore in view of the solidarity of the act and intent which existed between the x x x accused, be regarded as the act of the band or party created by them, and they are all equally responsible x x x

The Court, finding all accused guilty beyond reasonable doubt and pursuant to all of the above, sentences them as follows:

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- a. In Criminal Case No. 27753 – sentencing accused Macapugay and Montallana with imprisonment for a minimum period of six (6) years and one (1) month and a maximum period of ten (10) years.
- b. In Criminal Case No. 27755 – sentencing accused Macapugay, Montallana, Santos, Genato spouses, Germina, Fernandez, Arengino, and Arañador with imprisonment for a minimum period of six (6) years and one (1) month and a maximum period of ten (10) years.
- c. In Criminal Case No. 27756 – sentencing accused Macapugay, Montallana, Santos, Mesa, Villaseñor, Genato spouses, Germina, Fernandez, Arengino and Arañador with imprisonment for a minimum period of six (6) years and one (1) month and a maximum period of ten (10) years.

In addition, accused public officers Macapugay, Montallana, Santos, Mesa, Villaseñor are meted out the accessory penalties of perpetual disqualification from public office and loss of retirement or gratuity benefits under any law.

However, having been recently informed³¹⁸ that accused Porfirio L. Germina passed away on 31 August 2018, the Court rules that pursuant to Article 89 (1) of the RPC, his criminal liabilities have been extinguished.

FINAL NOTE

The Manor Hotel fire is yet another sobering reminder to public officials on the costly consequence of not faithfully abiding by their sworn duties and responsibilities. It was a terrible disaster that could and should have been avoided had local public officers been serious and diligent in implementing existing safety and regulatory laws such as the National Building Code.

Fire tragedies have repeatedly punctuated the history of highly urbanized cities. In response, laws and rules aimed at safeguarding the lives and property of its inhabitants have been enacted and revised outlining processes, delineating duties and responsibilities, and imposing penalties, in the hope of preventing another fiery catastrophe. Still, these laws and rules can only accomplish as much good as the manner by which they are implemented.

³¹⁸ Per photocopy of Death Certificate of Porfirio L. Germina attached to a letter by Norea G. Germina addressed to the Court dated 19 February 2019 but received by it on 18 March 2019.

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Admittedly, implementing regulatory laws in a sprawling city may present logistical difficulties. Nevertheless, the concerned government officials must not be allowed to use this difficulty as an excuse in effectively complying with their duties and functions. They must devise ways to give full effect to these laws, as they swore to faithfully discharge their duties and functions to the best of their abilities when they took their oaths of office.

Full implementation of safety regulations is necessary because in most instances, it only takes one violation left unchecked to trigger a disaster. Selective application of safety regulations amounts to none at all.

WHEREFORE, in view of the foregoing, the Court disposes of the three cases as follows:

- 1) In Criminal Case No. 27753 – the Court finds accused **Alfredo N. Macapugay** and **Romeo M. Montallana** **GUILTY** beyond reasonable doubt of the crime of violation of Section 3(e), R.A. No. 3019 and sentences *each* of them to suffer an indeterminate penalty of imprisonment of six (6) years and one (1) month as minimum to ten (10) years as maximum.
- 2) In Criminal Case No. 27755 – the Court finds accused **Alfredo N. Macapugay**, **Romeo M. Montallana**, **Romualdo C. Santos**, **William O. Genato**, **Rebecca G. Genato**, **Marion Fernandez**, **Dionisio C. Arengino** and **Candelaria M. Arañador** **GUILTY** beyond reasonable doubt of the crime of violation of Section 3(e) R.A. No. 3019 and sentences *each* of them to suffer an indeterminate penalty of imprisonment of six (6) years and one (1) month as minimum to ten (10) years as maximum.
- 3) In Criminal Case No. 27756 – the Court finds accused **Alfredo N. Macapugay**, **Romeo M. Montallana**, **Romualdo C. Santos**, **Gerardo R. Villaseñor**, **Rodel A. Mesa**, **William O. Genato**, **Rebecca G. Genato**, **Marion Fernandez**, **Dionisio C. Arengino** and **Candelaria M. Arañador** **GUILTY** beyond reasonable doubt of the crime of violation of Section 3(e) R.A. No. 3019 and sentences *each* of them to suffer an indeterminate penalty of imprisonment of six (6) years and one (1) month as minimum to ten (10) years as maximum.

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In addition, accused public officers Macapugay, Montallana, Santos, Mesa, Villaseñor are meted out the accessory penalties of perpetual disqualification from public office and loss of retirement or gratuity benefits under any law.

Meanwhile, pending the apprehension of accused Antonio Beltran, who remains at large, let the records of his cases be sent to the archives. Further, let an alias warrant of arrest be issued against him.

SO ORDERED.


ZALDY V. TRESPES
Associate Justice

WE CONCUR:


MA. THERESA DOLORES C. GOMEZ-ESTOESTA
Associate Justice, Chairperson


GEORGINA D. HIDALGO
Associate Justice

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.


MA. THERESA DOLORES C. GOMEZ-ESTOESTA
Chairperson, Seventh Division

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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

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