



Republic of the Philippines

SANDIGANBAYAN

Quezon City

THIRD DIVISION

PEOPLE OF THE
PHILIPPINES,

Plaintiff,

-versus-

Crim. Case No.
SB-11-CRM-0466

For Violation of Sec 3 (e) RA No.
3019, as amended

F/CSUPT ROLANDO
BANDILLA, JR. and
F/CINSP JHUFEL M.
BRAÑANOLA,

Accused.

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Present:

CABOTAJE-TANG, A.M., P.J.
Chairperson
FERNANDEZ, S.J. T., J. and
FERNANDEZ, B.R., J.

Promulgated:

MAY 3, 2019

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DECISION

FERNANDEZ B., J.

Before this Court stand charged accused Fire Chief Superintendent Rolando M. Bandilla, Jr. and Fire Chief Inspector Jhufel M. Brañanola, for violation of Section 3(e) of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, described as follows - -

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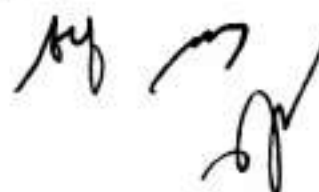
That on or about 29 July 2009 or sometime prior or subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, accused F/C SUPT. ROLANDO M. BANDILLA, JR., a high-ranking public official (Salary Grade 28) and F/CINSP JHUFEL M. BRAÑANOLA, also a public officer, being member of the Bureau of Fire Protection (BFP), acting in conspiracy with one another and taking advantage of their respective official positions, committing the offense in relation to their respective offices in that it pertains to the issuance of several investigation reports conducted by said accused in their official capacities, being the Acting Chief and Chief, Intelligence and Investigation Division, respectively, with the Bureau of Fire Protection (BFP) did there and then wilfully, unlawfully and criminally cause undue injury to one Emma C.L. Lin, by giving Malayan Insurance Company Incorporated unwarranted benefits, advantage and preference in the discharge of their official functions through manifest partiality and evident bad faith, by then and there issuing a 3rd Investigation Report through BFP Memorandum dated 27 July 2009 which totally reversed the two (2) BFP Final Investigation Reports earlier issued dated 03 April 2008 and 14 May 2009, so as to create doubts in the findings of the said Investigation Reports with the ultimate sinister purpose of blocking the legitimate insurance claims of Emma C. L. Lin against Malayan Insurance Company, Incorporated that eventually blocked the same, to the damage and prejudice of said Emma C. L. Lin.

CONTRARY TO LAW.

Upon arraignment, both accused, assisted by counsel, individually and separately pleaded not guilty to the charge (Order, February 25, 2013).

Pre-trial ensued.

The prosecution presented the following witnesses with their respective testimonies - -



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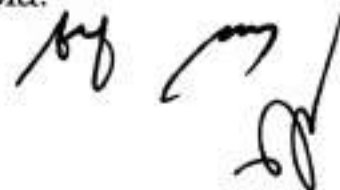
Private complainant Emma Concepcion Lin. She is the owner of the property subject of the fire incident located at No. 639 Banga St., Cabyawan, Plaridel, Bulacan. The property is a cluster of warehouses with three (3) occupants, namely: (1) Alpha Plus; (2) Darlie Trading Corporation; and, (3) Marubishi Manufacturing (Marubishi) with an extended warehouse constructed also occupied by Marubishi.

Witness Lin testified that she knew accused Brañanola as the Chief who investigated the subject fire incident that occurred on February 24, 2008 at her clustered warehouses at Plaridel, Bulacan. She noted the Final Investigation Report (Exh. "B") prepared by the Bureau of Fire Protection (BFP), indicating that the fire was caused by electrical ignition due to grounding, to wit - -

WHEREFORE, it is respectfully recommended that this case be considered closed/solved for being accidental in nature without prejudice to reinvestigation by this Office. If certainty warrants, issuance of Fire Clearance Certification to the fire victims as mandated in the Bureau of Fire Protection Standard Operating Procedure is deemed in order.

She subsequently learned that the Malayan Insurance Corporation (Malayan Insurance) forensic experts, who also investigated the fire incident after a clearance was issued by the BFP, did not agree with the findings of the latter as the former believed that the fire was caused by flammable materials. She even added that the Malayan Insurance denied her insurance claim without concrete reasons, hence, she elevated the matter with the Insurance Commission. Although meetings were called by the Insurance Commission to settle the matter, the Malayan Insurance still refused to pay her insurance claim.

Witness Lin, through her lawyer, wrote a letter dated July 21, 2009 (Exh. "P") to accused Bandilla Jr., after learning that the Malayan Insurance requested for a reinvestigation and she also instituted a separate complaint before the Regional Trial Court of Malolos, Bulacan. She further sought the assistance of the Anti-Fraud Division of the National Bureau of Investigation (NBI), who, after investigation, submitted a Progress Report (Exh. "U") stating that bribery was committed by accused Brañanola.



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She also identified certified true copies of the insurance policies secured from the Malayan Insurance as Policy Nos. F-0008-2007-00518 worth P2,000,000.00 (Exhs. "CC" – CC-6") and F-0008-2007-519 worth P56,000.00 (Exhs. "BB" – "BB-4") but admitted not signing them. She insured her property as part of a requirement to secure a loan with the RCBC in the amount of P32,000,000.00.

She further insists that the Fire Clearance Certificate dated April 8, 2008 (Exh. "F") was supposed to be final because the investigation regarding the fire incident was already concluded.

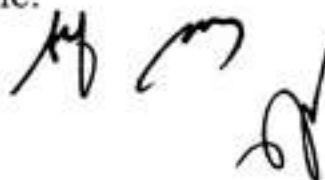
Atty. Rodolfo Vejano. He is the legal counsel of private complainant Lin. He substantially corroborated the testimony of private complainant Lin particularly as to the actions taken by her.

He admitted preparing only the letter dated August 26, 2009 (Exh. "P") addressed to accused Bandilla, Jr. and receiving the three (3) notarized Affidavits (Exhs. "K"; "L" and "M"). He, however, neither knew who actually received the letter to accused Bandilla Jr. nor whether it was actually received by him (accused Bandilla Jr.).

Romeo A. Pepito, Jr. He is the Chief, Fire Arson Intelligence and Investigation Division, BFP National Headquarters. He testified that he, together with other BFP personnel, conducted the first investigation of the subject fire incident. After their on-site investigation, his group prepared and submitted a Final Investigation Report (Exh. "B") containing their findings to BFP Dir. Enrique Linsangan, who approved the same.

With the approval of their Fire Investigation Report (Exh. "B"), declaring that the fire was "accidental" in nature, the fire incident was considered closed/solved. However, after the issuance of a Fire Clearance Certification (Exh. "F"), the fire incident was ordered re-investigated. After the re-investigation was conducted by accused Bandilla, Jr., it was determined that the cause of the fire was "undetermined".

Witness Pepito, Jr. also testified that S/Insp. Figurasin and Insp. Navea knew about the offer of the Malayan Insurance and that both executed Affidavits (Exhs. "K"; "M") relative to the same.



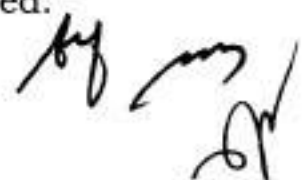
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Witness Pepito, Jr. also admitted that the results of the Final Investigation Report (Exh. "B") can still be subject of a re-investigation and, if the result would be different, this will invalidate the earlier issued Fire Clearance Certification (FCC). However, the re-investigation conducted after the issuance of the FCC did not disturb the findings of the Final Investigation Report.

After the second re-investigation was conducted, their re-investigating team concluded that the cause of the fire was "temporarily declared undetermined" (Exh. "R"). Although the third Report (Exh. "R") was signed by witness Pepito, Jr., Figurasin and both accused, witness Pepito Jr. admitted not receiving any consideration for his signing. He added that the Malayan Insurance denied the insurance claim because of violations of the other insurance policies and this denial came prior to the issuance of the second and third Reports. He also admitted that when accused Brañanola offered money, accused Bandilla, Jr. was not part of the investigation.

Anthony F. Figurasin. He is the Deputy Chief/Administration Officer, Intelligence and Investigation Division, BFP National Headquarters. He testified that he prepared and sent a letter dated March 24, 2009 (Exh. "I") to Atty. Requiño, the lawyer of the Malayan Insurance, a year after the fire incident, regarding the investigation conducted by the BFP and that he was part of the panel of investigators who reviewed the fire incident resulting in a second Re-investigation Report dated July 7, 2009 (Exh. "R"). Corroborating the testimony of witness Pepito, Jr., witness Figurasin testified that accused Bandilla, Jr. created a team to conduct a re-evaluation of the fire incident composed of its head, accused Brañanola; S/Insp. Romeo Pepito, Jr.; S/FO Dante Navea; and, witness Figurasin himself, which eventually found the cause of the fire as "undetermined" (Exh. "R-2-a"). He added that he signed their second Re-Investigation Report (Exh. "R-3-b") after their team agreed to give the parties concerned the opportunity for another investigation panel to determine the final resolution of the fire incident.

Witness Figurasin also identified his sworn Affidavit dated April 28, 2009 (Exh. "K"), stating that accused Brañanola offered him P500,000.00, later P700,000.00, to reopen the investigation on the fire incident and to create doubts on the findings of the BFP, but witness Figurasin declined.



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He also affirmed retracting his sworn Affidavit dated February 4, 2010 (Exh. "11-Brañanola"; Exh. "6-Bandilla") after a complaint was filed before the Office of the Ombudsman. He explained, when asked by the Court, that his first Affidavit (Exh. "K"), although true, was executed only as his personal record not to implicate anybody. His Affidavit retraction was prepared upon the request of accused Brañanola because they later became good friends. He, however, maintained the truthfulness of his statements in his first Affidavit (Exh. "K") but not those in his second Affidavit (Exhs. "11 and "6").

Roel Jovenir. He is an investigator of the National Bureau of Investigation (NBI). He identified the Progress Report (Exh. "U"), he prepared and signed by one Palmer Mallari, and the three (3) notarized Affidavits of Pepito, Jr., Navea and Figurasin provided by private complainant Lin. Their initial findings reveal that accused Bandilla, Jr. acceded to the request of the Malayan Insurance to re-evaluate the previous findings, knowing fully well that the basis of the re-evaluation would be the findings of foreign forensics experts. However, when private complainant Lin informed them that she already filed a complaint before the Office of the Ombudsman, they terminated their investigation. He also produced a copy of the Final Investigation Report dated July 27, 2009 with reference number NBI-CCN-C-09-739 (Exhs. "DD" to "DD-9").

Domingo B. Aglibar Jr. He was one of the first responders from the BFP, Plaridel Fire Station to the subject fire incident. Upon arrival at the fire scene, they immediately conducted fire-fighting operations until the fire was declared "fire out" by Fire Marshall Insp. Allan Barredo around 7:00 o'clock in the morning of the same day.

After conducting their investigation, they submitted their Spot Investigation Report dated February 24, 2008 (Exh. "FF"). He also confirmed that he executed his Sworn Statement (Exh. "EE") before S/Insp. Pepito Jr., of the Intelligence and Inspection Division of the BFP, National Headquarters on March 31, 2008, where he declared that, during the fire, he only heard minor explosions and that he did not smell gasoline or any accelerant.

He further testified that he gathered burned debris and electrical wires for analysis. However, they reveal no traces of electrical short circuit or flammable liquids. He also identified

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BFP Crime Report No. 2008-006-784 (Exh. "C") and confirmed their findings that there was negative of flammable substances.

Antonio de Leon. He is another first responder from the BFP, Plaridel, Bulacan Station. He essentially corroborated the testimonies of the other first responders and was tasked by the Municipal Fire Marshall, a day after the fire incident, to collect ash debris and burned electrical wire. He also collated the statements of witnesses and required them to submit documents for submission to the Provincial Fire Office. They also prepared the Progress Investigation Report dated March 13, 2018 (Exh. "II").

Jocelyn Collado. He is the Chief, Arson Laboratory, BFP National Headquarters. After narrating the procedures in the handling and examination of the specimen collected from the burned clustered warehouses of Darlie Trading and Marubishi, she approved the findings in their Forensic Chemistry Report dated March 13, 2008 (Exh. "II") but merely noted the finding regarding the electrical issues as she was not competent to determine the same. She also testified that it was possible for a sample taken from a different location in the fire scene could yield a different result.

Enrique C. Linsangan. He is the retired Chief of the Bureau of Fire Protection (BFP). He testified that, during his incumbency, the Final Investigation Report dated April 3, 2008 (Exh. "B") was submitted to him and that he approved the Fire Clearance Certificate dated February 28, 2008 (Exh. "F"), finding the absence of any flammable substances. He also issued Fire Clearance Certification dated April 8, 2008 (Exh. "F") declaring, after investigation, that the subject fire incident was closed and solved for being accidental in nature, without prejudice to the reopening of the case by the BFP, National Headquarters, if the law and circumstances warrant.

He added that he had no personal knowledge of the subject fire incident but merely relied on the results of the investigation. Witness Linsangan further testified that it was his successor, accused Bandilla Jr., who wanted to re-open the final investigation. He explained that a re-opening is valid, subject to the following conditions, namely: (1) there is very extra or exceptional circumstances; (2) there were very compelling reasons; and, (3) there were evidence to the contrary. Although witness Linsangan did not find any



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compelling reason to re-open the case, he nevertheless, maintained that the findings point to the grounding of circuit that occurs within the electrical cable at the point of origin.

Angelito Lagniton. He is the electrical examiner assigned to the Arson Laboratory Section, BFP National Headquarters. He testified that the specimen electrical wiring submitted to him for examination revealed no traces of short circuit because there were no marking of arching or beadings on the wire. He added that, based on the photographs taken at the fire incident, there was a probability of short circuit because of the beadings and the marked arching at the end portion of the wires. He, however, admitted that if the kind of wire depicted in the photograph were submitted for examination, he would have concluded that there were traces of short circuit. Further, he could not, however, rule out the possibility that the cause of the fire was not related to faulty wiring because there are usually a lot of wires in the building. His findings merely implied that, on the electrical circuit where the wire was collected, there were no traces of short circuit and that fire could not have started there.

S/FO Vicencio Macalaleng Talle. He was part of the first re-investigating team who recommended that the findings of the first investigation should not be disturbed. He maintained that he neither received any consideration nor was pressured to sign their Report dated May 14, 2009 (Exh. "J"). He also admitted that their Report shows that the cause of the fire was "accidental" and "not intentional", thus, they no longer disturbed the findings of the first investigators. Additionally, there was nothing more to investigate because no other evidence was recovered and no more testimony taken.

S/FO3 Rogelio Baran. He substantially corroborated the testimony of witness Talle and confirmed that they prepared a Memorandum dated May 14, 2009 (Exh. "J"), indicating that the findings of the first investigation and the Fire Clearance Certificate issued on April 8, 2008 (Exh. "F") should not be disturbed.

Lorna de Leon. She was the Chief Specialist of the Insurance Commission. Her testimony was dispensed with after the parties agreed to stipulate on the existence of a Letter dated June 11, 2009 (Exhs. "N" to "N-11") sent by Insurance Commissioner Eduardo Malinis to Yvonne Yuchengco,

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President, the Malayan Insurance and that she had no personal knowledge of the same.

Atty. Liza T. Tubijella. She was the OIC, Public Assistance and Mediation Division, Insurance Commission. She identified the Claimant's Request for Assistance dated March 5, 2009 (Exh. "G"), executed and signed by private complainant Lin, principally requesting that her Complaint be submitted for mediation before the Insurance Commission.

Joseph P. Osias. He was the Chief, Adjudication Division, Insurance Commission. While being the Chief, Public Assistance and Mediation Division, witness Osias mediated the parties but, despite several meetings, it failed. He also identified the letter dated July 11, 2009 (Exh. "N" to "N-11") of Insurance Commissioner Eduardo T. Malinis to Yvonne Yuchengco, President, the Malayan Insurance, recommending that it (Malayan Insurance) reconsider its denial of the claim of private complainant Lin. He added that the Malayan Insurance did not want to pay the claim of private complainant Lin because it (Malayan Insurance) maintained that the cause of the fire was arson.

Dominga B. Barasi. She was the Chief, Records Section of MOLEO Ombudsman. From their records, she produced the original Resolution in Crim. Case No. OMB-P-C-10-0010-A and a certified true copy of the Decision in the administrative case no. OMB-P-A-10-0013-A, both filed by private complainant Lin against both accused herein.

Dante Navea. He was one of the fire arson investigators of the fire incident. After their investigation, his team submitted a Memorandum dated April 3, 2008 (Exh. "B") addressed to the then BFP Dir. Enrique Linsangan, recommending that the case be considered closed and solved because the fire was "accidental" in nature. Correspondingly, a Fire Clearance Certificate dated April 8, 2008 (Exh. "F") was issued. Unable to recall whether a re-investigation was actually conducted, he, nevertheless, admits that a re-evaluation was made resulting in a Re-Evaluation Memorandum dated July 27, 2009 (Exh. "R") which he signed.

He also identified his Affidavit dated April 28, 2009 (Exh. "M"), where he alleged that a monetary offer was made by the Malayan Insurance for a reinvestigation of the case,



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substantially vacating their findings. Upon the request of his two (2) superior officers, Pepito, Jr. and Figurasin. He withdrew an allegation in his Affidavit, to wit - - *That sometime on April 2009 while we are travelling in Mindanao C INSP Brañanola also revealed to me the said offer of Five Hundred Thousand Pesos which was later raised to Seven Hundred Thousand Pesos.* Witness Navea also testified that he learned of the offer of Malayan Insurance from Sr./Insp. Figurasin and Pepito, Jr. a few months before he executed his Affidavit. He added that he merely overheard the specific offer of Malayan Insurance of P500,000.00 when three (3) fire officers of the Investigation Intelligence Division were meeting on it. He further testified that he was not able to confirm from accused Brañanola the truth of the supposed offer of P500,000.00.

Upon queries from the Court, witness Navea testified that he no longer deleted a portion of his Affidavit which he denied because S/Insp. Pepito, Jr. and Figurasin coached him.

Asst. State Prosecutor Arman de Andres. He testified that he conducted the preliminary investigation of the case filed by the Inter-Agency Task Force (Task Force) of the Department of Interior and Local Government (DILG) against respondent Emma Lin, *et al.*, docketed as XVI-INV-IIA-00016 for violation of Art. 320 of the Revised Penal Code, as amended, by P. D. No. 1613 and R. A. No. 7659. He also identified his Resolution exonerating private complainant Lin for destructive arson (Exh. "V").

Thereafter, the prosecution filed its Formal Offer of Evidence dated August 20, 2015. After the defense filed its Comment/Objections dated September 11, 2005, this Court ruled to admit prosecution's Exhibits "A" to "Z"; "BB" to "II" (Order, September 16, 2015).

Although both accused filed their respective Motions for leave to file demurrer to the evidence (October 8, 2015 and December 1, 2015, respectively), these were respectively denied by this Court (Orders, October 9, 2015 and December 16, 2015). A Motion for Partial Reconsideration dated October 14, 2015 was filed by accused Bandilla, Jr.. However, after the prosecution filed its Comment/Opposition on October 22, 2015, this Court denied the same (Minutes, November 4, 2015).



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The following defense witnesses with their respective testimonies were - -

Fire Inspector Oscar Ropero. He was a member of the Inter-Agency Anti-Arson Task Force (Task Force), tasked by then-DILG Sec. Jessie Robredo to conduct a reinvestigation on the subject fire incident. He testified that the subject fire was deliberately and intentionally set and recommended the filing of an arson case against several persons including private complainant Lin. The findings, conclusions and recommendation of the Task Force were contained in the Crime Report (Exhs. "8" to "8-EEE") signed by its members on December 23, 2010 and duly-approved by then DILG Sec. Jesse Robredo.

The Steering Committee of the Task Force was composed of the Chief, PNP; the Director, NBI; the Chief, BFP; the Secretary, DOJ; with the Secretary, DILG, as chairman. Their principal function was to investigate suspicious fire incidents, heavily-insured private-owned buildings and other fire incidents as determined by its Chairman.

The Task Force received a Mission Order dated November 3, 2010 (Exh. "5") directing them to conduct a re-investigation of the subject fire incident. They then conducted their re-investigation by gathering evidence, interviewing witnesses and securing pertinent documents from concerned government agencies. They also considered the Reports prepared by the BFP.

After the re-investigation, the Task Force found a *prima facie* evidence of arson and that private complainant Lin conspired with other individuals to commit the crime of arson. Cases for arson were subsequently filed against the co-conspirators identified in their Report. Although they sent notices to private complainant Lin for an interview, she failed to appear because she felt she was the victim and questions the impartiality of the re-investigating team, as shown in her letter dated December 3, 2010 (Exhs. "20-Bandilla"; "25-Brañanola").

When cross-examined, witness Ropero testified that he was assigned to take sworn statements and that it was SFO4 Marlo Serito who actually prepared their Report (Exhs. "8" to "8-EEE-Bandilla"; "16" to "16-EEE- Brañanola").

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On re-direct examination, witness Roperero stated that accused Bandilla, Jr. had no participation in the conduct of the re-investigation. Likewise, he added that, based on the Affidavit of Fire Loss (attached to Exhs. "8" to "8-EEE" and "16" to "16-EEE-Brañanola") submitted to them, the aggregate value of the damaged was P605 Million.

During re-cross examination, witness Roperero believed that the subject property was over-insured based on the findings in the Affidavit of Fire Loss. Further, he notes that the affected company was no longer operating at the time of the fire because all the stocks were already withdrawn prior to the incident. Witness Roperero cited the Crime Report showing that all the companies listed except Marubishi had less insurance coverage than the actual or amount of damages, to wit - - (1) State Service Agency Corporation, the amount of damages was P60 million while the amount of insurance coverage is only P56 million; (2) Alpha Plus International Enterprises, the amount of damages was P300 million while the amount of insurance coverage is also P300 million; and, (3) Garnet Trading, the amount of damages is P85 million and the amount of insurance coverage is only P50 million.

Fenimor Jaudian. He was the former Chief, Inter-Agency Anti-Arson Task Force Composite team (Task Force). He testified that he received a Memorandum dated August 23, 2010 (Exh. "4-Bandilla"; "16-Brañanola") from Sec. Robredo directing him to evaluate and review the fire incident in Plaridel, Bulacan. This stemmed from a letter dated August 20, 2010 (Exh. "19-Bandilla") sent by private complainant Lin requesting the Secretary to look into these alleged conflicting reports submitted by the BFP.

After an initial evaluation, he submitted his evaluation report to Sec. Robredo recommending the issuance of a mission order to re-investigate the subject fire incident. Hence, Mission Order No. 11-2020-01 dated November 3, 2010 (Exh. "5-Bandilla") was issued creating a team (Codename "Aquarius") to reinvestigate the subject fire incident. After conducting the re-investigation and considering the findings of the Malayan Insurance forensic experts, SFO4 Navea and SFO4 Pepito were recommended to be held administratively liable for lapses in the investigation, among others.



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Marlo Serito. He was one of those included in the Mission Order issued by the Task Force. He substantively corroborated the testimony of his Task Force Chief, Col. Jaudian. He prepared the Crime Report (Exhs. "8" to "8-EEE-Bandilla; "16" to "16-EEE-Brañanola") attached to their Complaint filed with the Department of Justice.

He described the specific procedure in the conduct of their re-investigation including interviewing concerned persons as well as securing pertinent documents from various government agencies, where he found discrepancies and irregularities. He also discovered that during the lifetime of the insurance policy, two (2) or more fires occurred in the same or other premises covered by the policy, specifically, the area where KONKA Plastic International Manufacturing Corporation, owned by private complainant Lin, was located.

It was also noted by their team that shortly before the fire, a substantial portion of the effects insured and stored in the building or property had been withdrawn from the premises with the exception of those used in the ordinary course of business. Hence, it was their conclusion that the subject fire was deliberate set and that the property burned was over-insured.

Although the DOJ dismissed (Exh. "27-Bandilla") their Complaint for insufficiency of evidence, upon a Motion for Reconsideration (Exhs. "14-Bandilla"; "18-Brañanola"), the DOJ filed charges for destructive arson against 17 respondents except private complainant Lin. This criminal charge remains pending before the court.

When cross-examined, witness Serito admitted that the foreign forensic experts had no authority from the BFP to investigate the fire scene. Nevertheless, they were still considered as witnesses because they were already on the scene after the fire incident.

On redirect examination, witness Serito clarified that they were focused on the real cause of the fire not on the bribery aspect, as there was already an evaluation review conducted by the Chief, IATF relative to the latter.

Upon a re-cross examination, witness Serito explained from the photographs presented to him on the effects of a short circuit.



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Jenneth Gregorio. She was the Branch Clerk of Court, Regional Trial Court, Malolos, Bulacan, Br. 21, She brought pertinent documents in her custody relative to Crim. Case No. 2866-M-2013 filed against seventeen (17) accused by virtue of DOJ Resolution dated May 18, 2012 (Exh. "27"), which is pending. She also brought with her the Warrants of Arrest issued.

Accused Rolando Bandilla, Jr. He testified that four (4) months after his appointment as OIC Chief of the BFP, he received a letter from the Malayan Insurance, requesting for an investigation on a fire incident involving a cluster of warehouses in Plaridel, Bulacan (Exh. "10"). In response to this letter, he issued Bureau Orders Nos. OTH-2009-81 dated April 20, 2009 (Exh. "33") and AMD- 2009-30-A dated April 21, 2009, creating a re-investigation team for the purpose. The team was composed of CINSP Jhufel Brañanola; SFO2 Felix Romero; and, SFO2 Vivencio M. Talle, Jr. The reinvestigation team recommended that the case be considered closed for being accidental in nature without prejudice to a reinvestigation by the office, if certainty warrants. Accused Bandilla Jr. emphasized that there was no conflict between the reinvestigation and the Final Investigation Report (Exh. "B") submitted on 2008 because both were issued without prejudice to the reinvestigation of the office, if certainty warrants.

He added that the findings in the Final Investigation Report merited a reinvestigation because there were lapses in the procedural aspect and other steps in the conduct of the investigation.

Although he approved the Final Investigation Report recommending that the results of the first investigation no longer be disturbed, as he relied on the presumption of regularity at that time, he received, on July 2, 2009, a letter from the Malayan Insurance requesting for a reinvestigation. He thus created a panel of investigators who concluded that the cause of the fire incident was "undetermined". The panel discovered that the Final Investigation Report which pinned the cause of the fire to electrical ignition had no material evidence until it was later discovered that there was a material evidence submitted to the BFP, which revealed no traces of electrical short circuit, contrary to the certification of Linsangan.



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He explained that "undetermined" is basically a finding not akin to "accidental" or "intentional". It only means that a more thorough and comprehensive investigation is required.

After approving the Report and informing the Office of the Chief, IID for their proper disposition, he could no longer recall what happened because he learned that private complainant Lin already filed a complaint with the DILG. Accused Bandilla Jr. denied personally knowing private complainant Lin or having any personal transactions with the Malayan Insurance. He also testified that, although some personnel from the BFP were tapped to be included in the Inter-Agency Anti-Arson Task Force of the DILG, he had no participation in their investigation of the fire incident.

On cross-examination, accused Bandilla, Jr. further testified that he was already suspended because of an administrative case filed in relation to the fire incident. He added that he only saw the Affidavits of Pepito, Navea and Figurasin after a case was filed against him in the Office of the Ombudsman.

Accused Jhufel Brañanola. He testified that the standard operating procedure (SOP) for reporting fire incidents, provided for in SOP 2008-01, would first require a Spot Investigation Report. Thereafter, a Progress Investigation Report will follow. If further investigation is necessary, a Final Investigation Report will be prepared. A fire investigator is given a period of 30 to 45 days within which to submit the Final Investigation Report for each fire incident. In the event that the investigation cannot be completed within 45 days, they will submit a Fire Incident Investigation Report especially if the fire arson investigator could not determine the cause of the fire.

Additionally, the local fire station, who first responded to the fire incident, prepares the Spot Investigation Report and the Progress Investigation Report. Considering the amount of damage, they turn over the investigation to the BFP National Headquarters, which prepares the Final Investigation Report. This Final Investigation Report indicated that the fire was caused by electrical ignition due to grounding.

Although the letter request for an investigation of the Malayan Insurance (Exh. "10") was addressed to C/Supt.

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Enrique Linsangan, accused Brañanola only saw it after co-accused Bandilla Jr., the then Chief, BFP issued an Order for them to conduct a re-investigation. Considering that they found no evidence to support another finding, they recommended to the Chief that the initial findings not be disturbed.

Accused Brañanola further testified that the Malayan Insurance requested a reconsideration and to consider the independent report which they (Malayan Insurance) submitted. In response, accused Bandilla, Jr. issued another Bureau Order dated April 20, 2009 (Exh. "33") directing them to conduct a re-evaluation of the findings.

Given the limited time for them to conduct a re-evaluation and with the appeal of the Malayan Insurance for it to be given an opportunity to prove its claim of arson, the team, as proposed by S/Insp. Pepito, agreed to consider the cause of the fire as "undetermined".

After submitting their Re-Evaluation Report dated July 27, 2009 (Exh. "34"), they were summoned by the NBI because there was an affidavit signed by a BFP personnel alleging that he was offered a substantial amount of money to create doubt on the subject fire incident. Although he requested a copy of the affidavit, he was never provided one.

When accused Brañanola confronted the three (3) officers who executed the Affidavits, they told him (accused Brañanola) that they were pressured and agreed to execute an affidavit of retraction. He added that an Inter-Agency Task Force subsequently took over the investigation. The Task Force was able to talk to the Malayan Insurance forensic experts as reflected in the Crime Report (Exh. "8-EEE").

Michael Angelo Requiyo. He is an officer of the Malayan Insurance. He testified that private complainant Lin filed her insurance claim with their Company in the amount of P56,000,000.00, which was denied because their (Malayan Insurance) forensic experts found that the cause of the fire was arson. The Malayan Insurance then informed the BFP of the denial of the claim (Exh. "10-Brañanola"). After learning that the BFP conducted a reinvestigation declaring that the initial finding was not to be disturbed, the Malayan Insurance sought a reconsideration (Exh. "8-Brañanola"). Eventually, it



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learned that the BFP changed its findings on the cause of the fire to "undetermined."

He further testified that the Malayan Insurance forensic expert spoke to the Task Force and that private complainant Lin filed a case against the Malayan Insurance. He denied any knowledge about any money offered by the Malayan Insurance because they do not tolerate these acts. Relative to the insurance claim of private complainant Lin, witness Requijo testified that they engaged the services of an independent third-party adjuster, Crawford and Company.

Witness Requijo also admitted that their forensic experts conducted their own independent investigation without any coordination with the BFP. This is allowed and provided for in the insurance policy. Although an interim report was prepared by the forensic experts, he could not recall if this was submitted to the BFP.

Accused Brañanola filed his Formal Offer of Evidence on November 20, 2017 while accused Bandilla, Jr., filed his on November 21, 2017. On December 12, 2017, the prosecution filed its Consolidated Comment/Opposition. Thereafter, on February 6, 2018 this Court admitted Exhs. "1" to "16" and "19" to "35" for accused Bandilla, Jr., as well as Exhs. "1" to "4", "6", "8" to "22".

We now rule.

Devoid of any other factual testimonies, the barest factual milieu of this case is as follows - -

At around 3:00 o'clock in the morning of February 24, 2008, a fire broke out on a cluster of warehouses owned by private complainant Emma C. Lin located at No. 369 Banga St., Cabyawan, Plaridel, Bulacan. These warehouses were insured with the Malayan Insurance Corporation.

As a standard operating procedure (SOP), the local Fire Station conducted an investigation and, in its Report issued on April 3, 2008 (Exh. "B"), it declared that the cause of the fire was "accidental". Thus, a Fire Clearance Certification was issued on April 8, 2008 by BFP Director Enrique Linsangan (Exh. "F").



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Although the Malayan Insurance already denied the insurance claim of private complainant Lin, it still requested for a reinvestigation (Exh. "10") as its independent forensic expert found that the fire was deliberately and intentionally set.

In response, the BFP conducted reinvestigated the fire incident, and, on May 14, 2009, the reinvestigation panel, through its Report (Exh. "J"), recommended to the BFP Chief, that the results of the first fire investigation should not be disturbed.

Unconvinced, the Malayan Insurance again requested the BFP for another reinvestigation. A third Report dated July 27, 2009 (Exh. "R") was thereafter released with a new finding that the cause of the fire was "undetermined" not "accidental."

Hence, this case.

Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, as amended, provides - -

Sec. 3. Corrupt practices of public officers. —
In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

x x x

(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefit, 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.

It is this provision that both accused allegedly violated by issuing a second Reinvestigation Report on July 27, 2009 (Exh. "R"), which changed the findings of an earlier Investigation Report (Exh. "B") from "accidental" to

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“undetermined”, despite the prior issuance of a Fire Clearance Certificate (Exh. “F”) a year earlier.

In order for an accused to be held liable under Sec. 3(e) of RA 3019, three (3) elements must concur, namely - - (1) that the accused must be a public officer discharging administrative, judicial or official functions (or a private individual acting in conspiracy with such public officers); (2) that he acted with manifest partiality, evident bad faith, or inexcusable negligence; and, (3) that his action caused any undue injury to any party, including the government, or giving any private party unwarranted benefits, advantage, or preference in the discharge of his functions.

The first element is no longer in issue because both accused admitted being public officers at the time the second Reinvestigation Report was prepared, as Chief, Bureau of Fire Protection (BFP) and Chief, Intelligence and Investigation Division, respectively.

On the other hand, jurisprudence as well as Sec. 3(e) itself dictates that the second element may be committed in three (3) ways, namely - - (1) manifest partiality; (2) evident bad faith; or, (3) gross inexcusable negligence (Coloma, Jr. vs. Sandiganbayan, G. R. No. 205561, [September 24, 2014], 744 Phil. 214-233)

In the foregoing cited case, the Supreme Court further elucidated that proof of any of the three (3) ways is enough to convict an accused. It also defined “partiality”, “bad faith” and “gross negligence”, to wit - -

“Partiality” is synonymous with “bias” which “excites a disposition to see and report matters as they are wished for rather than as they are.” “Bad faith” does not simply connote bad judgment or negligence; it imputes a dishonest purpose or some moral obliquity and conscious doing of a wrong; a breach of sworn duty through some motive or intent or ill will; it partakes of the nature of fraud. “Gross negligence” has been so defined as negligence characterized by the want of even slight care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally with a conscious indifference to consequences in so far as other persons may be

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affected. It is the omission of that care which even inattentive and thoughtless men never fail to take on their own property.

In other words, there is "manifest partiality" when there is a clear, notorious, or plain inclination or predilection to favor one side or person rather than another. On the other hand, "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. It contemplates a state of mind affirmatively operating with furtive design or with some motive or self-interest or ill will or for ulterior purposes (Fuentes vs. People, G. R. No. 186421, April 17, 2017).

Accused Bandilla, for himself, avers that his actions conclusively support the presumptions of regularity and good faith. He also insists that his recommendation to consider the case closed/solved was made without prejudice to any reinvestigation and that he found meritorious grounds to order a reinvestigation.

On the other hand, accused Brañanola maintains that, even before the issuance of the third Report on July 2009, Malayan Insurance already denied the claim of private complainant Lin because the cause of the fire was arson per its (Malayan Insurance) letter dated December 24, 2008 (Exhs. "9-Bandilla"; "4-Brañanola").

After a judicious review of the merits of the case, this Court finds for both accused.

Accused Bandilla was well within his duty to order a reinvestigation of the subject fire. The Fire Clearance Certification (Exhs. "F"; "1-Bandilla"; "3-Brañanola") issued by Dir. Linsangan clearly indicates the phrase "without prejudice to the reopening or reinvestigation by the Bureau of Fire Protection National Headquarters if the law and circumstances so warrants".

Although the prosecution maintains that the case may only be reopened under exceptional circumstances, this Court found sufficient inconsistencies in the Final

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Investigation Report (Exh. "R") itself which would warrant a reinvestigation. For instance, the Electrical Report No. 2008-67 dated March 24, 2008 (Exh. "2-Bandilla"; "14-Brañanola") reveals that, based on the findings on the electrical wirings, there were no traces of short circuit. This finding contradicts the Fire Clearance Certification that the cause of the fire was electrical ignition due to wiring.

Private complainant Lin may have been misled to believe that the Fire Clearance Certification (FCC) was final when in fact, nothing appears therein that says so. Even the testimonies of witnesses Pepito, Navea and Figurasin do not show that the FCC was final as they appear to expect a reinvestigation to be conducted. They also admitted that the order to reinvestigate was a lawful one meriting compliance.

Further, the Crime Report of the Inter-Agency Task Force (Task Force) (Exh. "8-Bandilla"; "16-Brañanola") bolsters the decision of accused Bandilla, Jr. to conduct a reinvestigation. The Crime Report of the Task Force revealed that even the DILG conducted a reinvestigation of the subject fire incident at the behest of private complainant Lin through her letter dated August 20, 2010 (Exh. "19") addressed to then DILG Sec. Robredo. The DILG, instead of finding for private complainant Lin, recommended administrative charges be filed against Fire Investigators Navea, Pepito and Barredo themselves as contained in the Memorandum dated December 23, 2010 (Exh. "26-A-Bandilla"; "15-Brañanola").

The Task Force found that the investigators were remiss in deliberately omitting the electrical report stating that there were no traces of short circuiting. In fact, the Report itself states that "if he was thorough in his investigation as he claimed to be, he should have included said findings".

For his part, accused Brañanola, as Chief of the IID, had no authority to reopen the investigation. The Report dated May 14, 2009 on the first reinvestigation, to which accused Brañanola was a signatory, even recommended that the findings of the Final Investigation Report should no longer be disturbed. Furthermore, aside from the mere allegations of Fire Investigators Pepito, Navea and Figurasin, neither proof was shown that money changed hands nor that the Malayan Insurance spoke with him (accused Brañanola) except for statements made on an affidavit, later retracted. It was also shown that the three (3) Fire Investigators gave conflicting



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statements as to the veracity of the Affidavits they executed, casting doubt as to their credibility.

Noteworthy is the Letter of the Malayan Insurance dated December 24, 2008 (Exh. "4-Brañanola") denying the claim of private complainant Lin. It also states therein that even though the Fire Clearance Certificate (FCC) was changed to conform to the demands of the private complainant, she would still be unable to collect on the insurance policy because of her other fraudulent claims, to wit - -

More importantly, the following, among other facts, has led the Adjuster and Forensic Expert to recommend that Malayan deny your claim: a) your business relations with the entities that operate the warehouses on the insured premises; b) your relationship with the persons operating and running those entities; and c) not long before and after the insured premises were gutted down by the fire, the entities that you and other members of your family run have made claims for indemnity under various fire insurance policies. Further, you falsely represented to the Adjuster that you were never part of the management of Marubishi Manufacturing Industrial Inc. (Marubishi), the entity that operates one of the warehouses in the insured premises, when it is apparent from Marubishi's Articles of Incorporation and General Information Sheet that you were an incorporator and its President."

In a criminal case, the prosecution should prove the guilt of the accused beyond a reasonable doubt. If not, the Court cannot allow the accused to be deprived of his liberty. His acquittal should come as a matter of course (Reyes vs. Court of Appeals, G.R. No. 180177, [April 18, 2012], 686 Phil. 137-154).

On the issue of conspiracy, we are reminded that there is conspiracy when two or more persons come to an agreement concerning the commission of a felony and decide to commit it (Art. 8, Revised Penal Code; Office of the Ombudsman vs. de Villa, G.R. No. 208341, June 17, 2015).

While direct proof is not essential to establish conspiracy, it must be established by positive and conclusive



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evidence. Conviction must thus be founded on facts, not on mere inferences and presumptions (Tan vs. People, G.R. No. 218902, October 17, 2016).

Herein, nothing exists to prove any conspiracy.

WHEREFORE, premises considered, judgment is hereby rendered **ACQUITTING** accused **ROLANDO BANDILLA JR.** and accused **JHUFEL BRAÑANOLA** of the crime charged for failure of the prosecution to prove their guilt beyond reasonable doubt.

The Hold Departure Orders issued by this Court against both accused are hereby **LIFTED** and **SET ASIDE** and their respective cash bonds **RELEASED** subject to the usual auditing and accounting procedures.

SO ORDERED.



BERNELITO R. FERNANDEZ
Associate Justice

We concur:



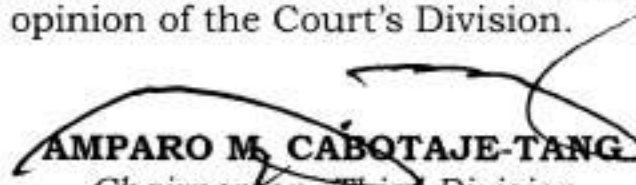
AMPARO M. CABOTAJE-TANG
Presiding Justice/Chairperson



SARAH JANE T. FERNANDEZ*
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.



AMPARO M. CABOTAJE-TANG
Chairperson, Third Division
Presiding Justice

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CERTIFICATION

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


AMPARO M. CABOTAJE-TANG
Presiding Justice



BRF/berlin

**As per Administrative Order No. 316-2017 dated September 13, 2017*