



REPUBLIC OF THE PHILIPPINES

**Sandiganbayan**

Quezon City

SIXTH DIVISION

**PEOPLE OF THE PHILIPPINES,** **SB-14-CRM-0420 to 0422**  
Plaintiff, For: Violation of Sec. 3(e)  
of R.A. No. 3019

**SB-14-CRM-0423**  
For: Violation of Sec. 3(h)  
of R.A. No. 3019

**SB-14-CRM-0424**  
For: Violation of Sec. 89 (2)  
of R.A. No. 7160

*Present*

- versus -

**FERNANDEZ, SJ, J.,**  
Chairperson  
**MIRANDA, J. and**  
**VIVERO, J.**

**AVELINO C. CERIOLA**  
Accused.

*Promulgated:*

April 26, 2019 *[Signature]*

X-----X

**DECISION**

**FERNANDEZ, SJ, J.**

Accused Avelino C. Ceriola, then the Municipal Mayor of Malinao, is charged with three (3) counts of violation of Sec. 3(e) of Republic Act No. 3019 (R.A. No. 3019) for allegedly issuing Mayor's Permits in favor of a corporation in which he holds an interest. He is further charged with violation of Sec. 3(h) of the same law, and violation of Sec. 89(a)(2) of Republic Act No. 7160 (R.A. No. 7160) for allegedly holding financial interest in a corporation engaged in the operation of a cockpit.

The accusatory portions of the Informations read:

**SB-14-CRM-0420**  
(Violation of Sec. 3[e] of R.A. No. 3019)

*[Signatures]*

DECISION

People vs. Ceriola  
SB-14-CRM-0420 to 0424

Page 2 of 51

x-----x

That on or about 03 February 2012, in Malinao, Albay, and within the jurisdiction of this Honorable Court, the above-named accused, AVELINO C. CERIOLA, a public officer, being then the Municipal Mayor of Malinao, taking advantage of his official position and committing the crime in relation to his office, did then and there willfully, criminally, and with evident bad faith and manifest partiality, give unwarranted benefits, advantage or preference to Ceriola Property Holdings Corporation, a corporation in which he himself holds an interest, by unlawfully issuing an Annual Cockpit Permit (Mayor's Permit) in favor of the said corporation, contrary to the provisions of Section 447 (3) (v) of Republic Act No. 7160 which vests on the Sangguniang Bayan the exclusive power to authorize and license the establishment, operation and maintenance of cockpits and to regulate cockfighting within the Municipality, thereby allowing the said corporation to benefit from and exercise a privilege that it otherwise could not in the absence of an authority from the Sangguniang Bayan.

CONTRARY TO LAW.

**SB-14-CRM-0421**  
(Violation of Sec. 3[e] of R.A. No. 3019)

That on or about 21 February 2012, in Malinao, Albay, and within the jurisdiction of this Honorable Court, the above-named accused, AVELINO C. CERIOLA, a public officer, being then the Municipal Mayor of Malinao, taking advantage of his official position and committing the crime in relation to his office, did then and there willfully, criminally, and with evident bad faith and manifest partiality, give unwarranted benefits, advantage or preference to New Malinao Cockpit Arena, Inc., a corporation in which he himself holds an interest, by unlawfully issuing a Mayor's Permit in favor of the said corporation for the operation of a "3 cock derby," contrary to the provisions of Section 447 (3) (v) of Republic Act No. 7160, which vests on the Sangguniang Bayan the exclusive power to authorize and license the establishment, operation and maintenance of cockpits and to regulate cockfighting within the Municipality, thereby allowing the said corporation to benefit from and exercise a privilege that it otherwise could not in the absence of an authority from the Sangguniang Bayan.

CONTRARY TO LAW.

**SB-14-CRM-0422**  
(Violation of Sec. 3[e] of R.A. No. 3019)

That on or about 14 April 2012, in Malinao, Albay, and within the jurisdiction of this Honorable Court, the above-named accused,

**DECISION**

*People vs. Ceriola*

*SB-14-CRM-0420 to 0424*

*Page 3 of 51*

x-----x

AVELINO C. CERIOLA, a public officer, being then the Municipal Mayor of Malinao, taking advantage of his official position and committing the crime in relation to his office, did then and there willfully, criminally, and with evident bad faith and manifest partiality, give unwarranted benefits, advantage or preference to New Malinao Cockpit Arena, Inc., a corporation in which he himself holds an interest, by unlawfully issuing a Mayor's Permit in favor of the said corporation for the operation of a "4 cock derby," contrary to the provisions of Section 447 (3) (v) of Republic Act No. 7160, which vests on the Sangguniang Bayan the exclusive power to authorize and license the establishment, operation and maintenance of cockpits and to regulate cockfighting within the Municipality, thereby allowing the said corporation to benefit from and exercise a privilege that it otherwise could not in the absence of an authority from the Sangguniang Bayan.

CONTRARY TO LAW.

**SB-14-CRM-0423**

(Violation of Sec. 3[h] of R.A. No. 3019)

That on or about 21 February 2012, in Malinao, Albay, and within the jurisdiction of this Honorable Court, the above-named accused, AVELINO C. CERIOLA, a public officer, being then the Municipal Mayor of Malinao, taking advantage of his official position and committing the crime in relation to his office, did then and there willfully, criminally and feloniously have a direct or indirect financial or pecuniary interest in Ceriola Property Holdings Corporation (doing business in the style of Malinao Cockpit Arena), by serving as its President and Chairman of the Board of Directors, as well as its majority stockholder owning at least 55% of its subscribed shares, such Corporation being an entity engaged in the operation of a cockpit arena and the holding of cockfights and/or derbies, thereby violating Section 89 (2) of Republic Act No. 7160 which prohibits local government officials from having such interests in a cockpit or other games licensed by a local government unit.

CONTRARY TO LAW.

**SB-14-CRM-0424**

(Violation of Sec. 89 [2] of R.A. No. 7160)

That on or about 21 February 2012, in Malinao, Albay, and within the jurisdiction of this Honorable Court, the above-named accused, AVELINO C. CERIOLA, a public officer, being then the Municipal Mayor of Malinao, taking advantage of his official position and committing the crime in relation to his office, did then and there willfully, criminally and feloniously have a direct or indirect financial or pecuniary interest in Ceriola Property Holdings Corporation (doing

## DECISION

*People vs. Ceriola*

SB-14-CRM-0420 to 0424

Page 4 of 51

X-----X

business in the style of Malinao Cockpit Arena), by serving as its President and Chairman of the Board of Directors, as well as its majority stockholder owning at least 55% of its subscribed shares, such Corporation being an entity engaged in the operation of a cockpit arena and the holding of cockfights and/or derbies, thereby violating the provision of the law which prohibits local government officials from having such interests in a cockpit or other games licensed by a local government unit.

CONTRARY TO LAW.

When arraigned, the accused entered his separate pleas of "Not Guilty" to all charges.<sup>1</sup>

During the Pre-trial,<sup>2</sup> the parties stipulated as follows:<sup>3</sup>

### I. STATEMENT OF STIPULATIONS OF FACTS:

In the Joint Stipulation of Facts dated October 7, 2016, between the prosecution and accused Avelino C. Ceriola, the following facts were stipulated:

- a) Avelino C. Ceriola is the same Avelino C. Ceriola who is named as accused in the Informations in Criminal Case Numbers SB-14-CRM-0420 to 0424;
- b) Avelino C. Ceriola is a public officer being then the Mayor of the Municipality of Malinao, Albay from 2010 to 2013 and within the time material to these cases;
- c) The building or establishment depicted in those pictures marked as Exhibits "D," "D-1," and "D-2," which were also marked as Exhibits "5-a," "5-b," and "5-c" is the New Malinao Cockpit Arena;
- d) Avelino C. Ceriola ceased to be the Mayor of Malinao, Albay on 30 June 2013;
- e) The Malinao Cockpit Arena was constructed on December, 2011; [sic] and
- f) Despite the passage of Resolution Number 46, series of 2011, the Sangguniang Bayan of Malinao, Albay did not give any permit to operate the Malinao Cockpit Arena after it was constructed.

<sup>1</sup> Record, Vol. 1, p. 172

<sup>2</sup> Pre-trial Order dated February 15, 2017; Record, Vol. 1, pp. 388-400

<sup>3</sup> Pre-trial Order dated February 15, 2017, pp. 1-2; Record, Vol. 1, pp. 388-389

## DECISION

People vs. Ceriola  
SB-14-CRM-0420 to 0424

Page 5 of 51

x-----x

The following are the issues to be resolved, as proposed by the parties:<sup>4</sup>

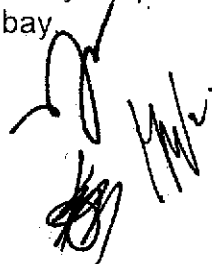
### II. ISSUES TO BE RESOLVED

#### For the prosecution:

1. Whether or not accused Avelino C. Ceriola gave unwarranted benefits, advantage or preference to Ceriola Property Holdings, Inc., in violation of Section 3(e) Republic Act No. 3019, when he issued an Annual Cockpit Permit in its favor;
2. Whether or not accused Avelino C. Ceriola gave unwarranted benefits, advantage or preference to New Malinao Cockpit Arena, Inc., in violation of Section 3(e) of Republic Act No. 3019, when he issued in its favor a Mayor's Permit for the operation of a "3-cock derby";
3. Whether or not accused Avelino C. Ceriola gave unwarranted benefits, advantage or preference to New Malinao Cockpit Arena, Inc. in violation of Section 3(e) of Republic Act No. 3019, when he issued in its favor a Mayor's Permit for the operation of a "4-cock derby"; and
4. Whether or not accused Avelino C. Ceriola had a direct or indirect financial or pecuniary interest in Ceriola Property Holdings, Inc. by serving as its President and Chairman of the Board of Directors and by being a majority stockholder by owning fifty-five (55%) of its subscribed shares.

#### For accused Avelino Ceriola:

1. Whether or not Avelino Ceriola should be held liable for violating the provisions of the Anti-Graft and Corrupt Practices Act or R.A. No. 3019; and
2. Whether or not Avelino Ceriola should be held liable as a holder of shares of stocks in their family corporation long before he became mayor of Malinao, Albay.



<sup>4</sup> Pre-trial Order dated February 15, 2017, pp. 2-3; Record, Vol. 1, pp. 389-390

DECISION

People vs. Ceriola  
SB-14-CRM-0420 to 0424

Page 6 of 51

x -----x

EVIDENCE FOR THE PROSECUTION

The prosecution presented as witnesses **Grace N. Marbella**,<sup>5</sup> **Ervin O. Fajut**,<sup>6</sup> **Augusto M. Austero IV**,<sup>7</sup> **Evelyn D. Peña**,<sup>8</sup> **Djoanna V. Luyun**,<sup>9</sup> and **Eunice G. Dalisay-Salazar**.<sup>10</sup>

In her *Judicial Affidavit* dated February 21, 2017, **Grace N. Marbella**, Municipal Engineer<sup>11</sup> of Malinao, Albay, identified certain documents,<sup>12</sup> and declared:

1. She has been the Municipal Engineer of Malinao, Albay since September 1, 2000.<sup>13</sup>
2. She issued the Notice of Illegal Construction dated September 2, 2011 (Exhibit C) to Avelino Ceriola because he constructed a building without notifying the Engineering Office, and without complying with the requirements for the issuance of a building permit.<sup>14</sup>
3. The illegally constructed building was a cockpit named New Malinao Cockpit Arena.<sup>15</sup>
4. She personally went to the construction site and handed said Notice of Illegal Construction dated September 2, 2011 to a certain Architect Vince Velarde, the representative of Mayor Ceriola.<sup>16</sup>
5. Velarde accepted the Notice but refused to acknowledge its receipt, so she asked him to accompany her to Mayor Ceriola.<sup>17</sup>

<sup>5</sup> TSNs, March 1, 2017, March 27, 2017 and April 17, 2017; *Judicial Affidavit of Engr. Grace N. Marbella* dated February 21, 2017 (Record, Vol. 1, pp. 405-421)

<sup>6</sup> TSNs, April 27, 2017 and May 15, 2017; *Judicial Affidavit* dated February 15, 2017 (Record, Vol. 1, pp. 451-516)

<sup>7</sup> TSNs, May 30, 2017 and June 21, 2017; *Judicial Affidavit of Augusto M. Austero IV* dated May 23, 2017 (Record Vol. 2, pp. 50-64)

<sup>8</sup> TSN, June 21, 2017, September 4, 2017 and November 7, 2017; *Judicial Affidavit of Evelyn D. Peña* dated June 9, 2017 (Record, Vol. 2, pp. 75-116)

<sup>9</sup> TSN, October 4, 2017; *Judicial Affidavit of Djoanna V. Luyun* dated August 31, 2017 (Record, Vol. 2, pp. 195-224)

<sup>10</sup> TSN, November 22, 2017; *Judicial Affidavit of Atty. Eunice G. Dalisay-Salazar* dated October 26, 2017 (Record, Vol. 2, pp. 252-329)

<sup>11</sup> R.A. No. 7160. Sec. 477. *Qualifications, Powers and Duties.* – (a) x x x. The appointment of an engineer shall be mandatory for the provincial, city and municipal governments. The city and municipal engineer shall also act as the local building official.

<sup>12</sup> Exhibits C, F to I

<sup>13</sup> *Judicial Affidavit of Engr. Grace N. Marbella* dated February 21, 2017, p. 2 (Record, Vol. 1, p. 406)

<sup>14</sup> *Judicial Affidavit of Engr. Grace N. Marbella* dated February 21, 2017, p. 3 (Record, Vol. 1, p. 407)

<sup>15</sup> *Ibid.*

<sup>16</sup> *Judicial Affidavit of Engr. Grace N. Marbella* dated February 21, 2017, p. 4 (Record, Vol. 1, p. 408)

<sup>17</sup> *Judicial Affidavit of Engr. Grace N. Marbella* dated February 21, 2017, p. 5 (Record, Vol. 1, p. 409)

## DECISION

*People vs. Ceriola*  
SB-14-CRM-0420 to 0424

Page 7 of 51

X-----X

6. After serving the Notice upon Mayor Ceriola, Velarde signed the Notice as Mayor Ceriola's representative.<sup>18</sup>
7. After the Notice was served upon him, Mayor Ceriola instructed Velarde to apply for a building permit.<sup>19</sup>
8. Velarde later submitted certain documents (Exhibits F to I) in connection with the application for a building permit.<sup>20</sup>
9. She did not yet approve the application for a building permit because the fire safety clearance, one of the requirements for a building permit, was not among the documents submitted by Velarde.<sup>21</sup>
10. The application was eventually granted after payment of administrative fines, surcharges and penalties.<sup>22</sup>
11. She released certified true copies of the documents submitted by Velarde to then Councilor Ervin Fajut, who officially requested for copies of the same.<sup>23</sup>

### She further testified:

1. She came to know the accused in 2006, when he was elected as Mayor for the first time.<sup>24</sup>
2. Her relationship with the accused was purely professional.<sup>25</sup>
3. She issued a building permit in favor of the accused.<sup>26</sup>
4. She knew that Velarde was in charge of the construction of the cockpit because the accused introduced Velarde as such to her.<sup>27</sup>
5. She knew that the Sangguniang Bayan granted a permit for the construction of the Malinao Cockpit.<sup>28</sup>

---

<sup>18</sup> *Ibid.*

<sup>19</sup> *Ibid.*

<sup>20</sup> *Judicial Affidavit of Engr. Grace N. Marbella* dated February 21, 2017, pp. 6-7 (Record, Vol. 1, pp. 410-411)

<sup>21</sup> *Judicial Affidavit of Engr. Grace N. Marbella* dated February 21, 2017, p. 8 (Record, Vol. 1, p. 412)

<sup>22</sup> *Ibid.*

<sup>23</sup> *Ibid.*

<sup>24</sup> TSN, March 1, 2017, p. 46

<sup>25</sup> *Ibid.*

<sup>26</sup> TSN, March 1, 2017, p. 47

<sup>27</sup> TSN, March 1, 2017, p. 48

<sup>28</sup> *Ibid.*

## DECISION

*People vs. Ceriola*

SB-14-CRM-0420 to 0424

Page 8 of 51

X-----X

6. The accused applied for a building permit through his representative. The accused never personally went to her office.<sup>29</sup>
7. The accused signed the application form not as Mayor, but as the owner of the property and as an applicant.<sup>30</sup>
8. Among the requirements for the issuance of a building permit is proof of ownership. The documents submitted in connection with the application were the Transfer Certificate of Title, Tax Declaration and Deed of Sale.<sup>31</sup>
9. Although the Tax Declaration was in the name of a certain Canilo Jose, the Deed of Sale proved that the property was owned by the accused.<sup>32</sup> She did not bring a copy of said Deed of Sale because it was submitted to the HLURB for locational clearance.<sup>33</sup>
10. Velarde did not present any proof that he was authorized to apply for a building permit for and in behalf of Mayor Ceriola.<sup>34</sup>
11. She knows that there was a cockpit arena in Paraputo. She did not issue a notice of illegal construction against the owner, considering that it was constructed sometime in the 1980s or the 1990s.<sup>35</sup>
12. A member of her staff received the application form and made the corresponding annotation in the logbook.<sup>36</sup> She reviewed the application after it was received by her staff.<sup>37</sup>
13. She was not aware of the purpose for which Councilor Fajut requested copies of the documents involved in the application for a building permit. She only knew that it was in connection with the applicant's "request for operation."<sup>38</sup>
14. Councilor Fajut personally handed to her the letter dated May 4, 2012 (Exhibit BB) requesting for copies of documents.<sup>39</sup> In response, she sent the letter dated May 16, 2012 (Exhibit CC).<sup>40</sup>

<sup>29</sup> TSN, March 27, 2017, pp. 10-11

<sup>30</sup> TSN, April 17, 2017, p. 9

<sup>31</sup> TSN, March 27, 2017, p. 24

<sup>32</sup> TSN, March 27, 2017, p. 31

<sup>33</sup> TSN, March 27, 2017, pp. 26-27

<sup>34</sup> TSN, March 27, 2017, p. 28

<sup>35</sup> TSN, March 27, 2017, pp. 14-15

<sup>36</sup> TSN, March 27, 2017, pp. 19-20

<sup>37</sup> TSN, March 27, 2017, p. 25

<sup>38</sup> TSN, March 27, 2017, pp. 20-21

<sup>39</sup> TSN, April 17, 2017, p. 9

<sup>40</sup> TSN, April 17, 2017, pp. 9-10



## DECISION

*People vs. Ceriola*  
SB-14-CRM-0420 to 0424

Page 9 of 51

X-----X

In his *Judicial Affidavit* dated February 15, 2017, **Ervin O. Fajut** identified certain documents<sup>41</sup> and declared:

1. In 2012, he was a Councilor of the Municipality of Malinao, Province of Albay.<sup>42</sup>
2. On May 18, 2012, he filed a Complaint (Exhibit A) against Avelino Ceriola with the Office of the Ombudsman.<sup>43</sup>
3. In the Affidavit (Exhibit B) attached to the Complaint, he stated that sometime in December 2011, he observed that Ceriola Property Holdings Inc. (Ceriola Corporation) constructed a cockpit.<sup>44</sup>
4. He filed the Complaint against the accused after finding out that the accused was the majority shareholder of Ceriola Corporation, and therefore, the owner of said cockpit.<sup>45</sup>
5. He found out that the accused was the majority shareholder of said corporation after he examined the corporation's General Information Sheet (Exhibit K) and the Amended Articles of Incorporation (Exhibit T).<sup>46</sup>
6. Sometime in 2012, in preparation for the filing of his Complaint, he took some photos of the cockpit using a DSLR camera (Exhibits D, D-1 and D-2).<sup>47</sup>
7. He requested from the Municipal Engineer certain documents (Exhibits C, E to I) in connection with the application for a building permit submitted by Avelino C. Ceriola.<sup>48</sup>
8. The accused' applications for various permits were not approved because the Municipal Engineer issued the Notice of Illegal Construction.<sup>49</sup>
9. Councilor Noel B. Tuazon proposed a Resolution, authorizing Ceriola Property Holdings, Inc. to construct a new building for the Malinao Cockpit Arena.<sup>50</sup> He opposed such proposed Resolution because under P.D. No. 449, for municipalities with

---

<sup>41</sup> Exhibits A to W

<sup>42</sup> *Judicial Affidavit* dated February 15, 2017, p. 2 (Record, Vol. 1, p. 452)

<sup>43</sup> *Ibid.*

<sup>44</sup> *Judicial Affidavit* dated February 15, 2017, p. 3 (Record, Vol. 1, p. 453)

<sup>45</sup> *Ibid.*

<sup>46</sup> *Judicial Affidavit* dated February 15, 2017, p. 4 (Record, Vol. 1, p. 454)

<sup>47</sup> *Judicial Affidavit* dated February 15, 2017, p. 5 (Record, Vol. 1, p. 455)

<sup>48</sup> *Judicial Affidavit* dated February 15, 2017, p. 6 (Record, Vol. 1, p. 456)

<sup>49</sup> *Judicial Affidavit* dated February 15, 2017, p. 7 (Record, Vol. 1, p. 457)

<sup>50</sup> *Ibid.*

## DECISION

*People vs. Ceriola*  
SB-14-CRM-0420 to 0424

Page 10 of 51

x-----x

a population of less than 100,000, only one cockpit is authorized. A cockpit was already operating within the municipality.<sup>51</sup>

10. Despite his objection, the Sangguniang Bayan, through Resolution No. 46, Series of 2011 (Exhibit J), authorized Ceriola Property Holdings, Inc. to construct a building for the Malinao Cockpit Arena. Said Resolution was approved by the accused.<sup>52</sup>
11. Said Resolution authorized only the construction of a cockpit. No resolution permitting the operation of a cockpit was issued in favor of the Ceriola Corporation (Exhibit O). Nonetheless, cockfights were held in the New Malinao Cockpit Arena.<sup>53</sup>
12. As a result, the Committee on Laws and Ethics of the Sangguniang Bayan wrote a letter to the accused and Ceriola Property Holdings (Exhibits M and N). In both letters, there is no signature above the name "Ailene C. Dela Cruz" because she is the daughter of the accused.<sup>54</sup>
13. The accused responded in the letter dated May 14, 2012 (Exhibit S).<sup>55</sup>
14. New Malinao Cockpit Arena, Inc. was not a corporation registered with the Securities and Exchange Commission (Exhibit P).<sup>56</sup>
15. Ceriola Corporation applied for the Mayor's Permits (Exhibits U, V and W) and paid for the fees (Exhibits Q and R) in connection with the operation of the New Malinao Cockpit Arena.<sup>57</sup>

He further testified:

1. He was elected as Councilor in 2016. However, he was removed from his position after he was found guilty of Grave Misconduct and Dishonesty in the Decision in OMB-L-A-15-0306 (Exhibit 42).<sup>58</sup>
2. His wife, the sister of a certain Mayor Morales, replaced him as Councilor. Mayor Morales was a political rival of the accused.<sup>59</sup>

<sup>51</sup> Judicial Affidavit dated February 15, 2017, p. 8 (Record, Vol. 1, p. 458)

<sup>52</sup> Ibid.

<sup>53</sup> Judicial Affidavit dated February 15, 2017, pp. 11-12 (Record, Vol. 1, pp. 461-462)

<sup>54</sup> Judicial Affidavit dated February 15, 2017, p. 11 (Record, Vol. 1, p. 461)

<sup>55</sup> Ibid.

<sup>56</sup> Judicial Affidavit dated February 15, 2017, p. 12-13 (Record, Vol. 1, p. 462-463)

<sup>57</sup> Judicial Affidavit dated February 15, 2017, p. 13 (Record, Vol. 1, p. 463)

<sup>58</sup> TSN, April 27, 2017, p. 22

<sup>59</sup> TSN, April 27, 2017, pp. 26-27

## DECISION

*People vs. Ceriola*  
SB-14-CRM-0420 to 0424

Page 11 of 51

X-----X

3. He has no personal knowledge of the circumstances surrounding the issuance of the Notice of Illegal Construction against the accused.<sup>60</sup>
4. At the time of the construction of the Malinao Cockpit Arena, the Paraputo cockpit was in operation. He did not investigate whether it had secured the necessary permits.<sup>61</sup>
5. He investigated the Malinao Cockpit Arena because at the time, the accused was the Mayor and his (the accused) family owned said cockpit arena.<sup>62</sup>
6. He concluded that the Malinao Cockpit Arena was already in operation because sometime between late 2011 and early 2012, he observed that people, bringing cocks, went in and out of the arena.<sup>63</sup>
7. The accused was the incumbent Mayor when he took some pictures of the Malinao Cockpit Arena in preparation for the filing of the complaint. At the time, his sister-in-law, Alicia Morales, was the Vice Mayor. She became the Mayor after the accused lost in the 2013 elections.<sup>64</sup>
8. In the letter dated May 14, 2012, the accused informed the Committee on Laws and Ethics that he and his family had divested themselves of their shares in Ceriola Property Holdings, Inc.<sup>65</sup>
9. He learned of the letter only after he filed the Complaint with the Office of the Ombudsman.<sup>66</sup>
10. The Malinao Cockpit Arena was constructed sometime in the second quarter of 2011. He might have been confused about the dates when he stated in his Complaint that the construction of the Malinao Cockpit Arena started sometime in the latter part of 2012.<sup>67</sup>
11. When he filed the Complaint in May 2012, the Malinao Cockpit Arena appeared to be finished or nearly finished.<sup>68</sup>

<sup>60</sup> TSN, April 27, 2017, p. 32

<sup>61</sup> TSN, April 27, 2017, pp. 40-41

<sup>62</sup> TSN, April 27, 2017, p. 43

<sup>63</sup> TSN, April 27, 2017, pp. 50-52

<sup>64</sup> TSN, May 15, 2017, pp. 6-7

<sup>65</sup> TSN, May 15, 2017, pp. 20-21

<sup>66</sup> TSN, May 15, 2017, pp. 24-25

<sup>67</sup> TSN, May 15, 2017, pp. 30-31

<sup>68</sup> TSN, May 15, 2017, pp. 31-32

DECISION

People vs. Ceriola  
SB-14-CRM-0420 to 0424

Page 12 of 51

X-----X

12. During the deliberations in the Sangguniang Bayan, he asked his colleagues why the corporation was asking for a permit to construct. The Sanggunian may issue a resolution authorizing an entity to operate, but the Municipal Engineering Office was in charge of issuing permits to construct.<sup>69</sup>

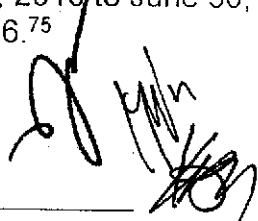
In his *Judicial Affidavit* dated May 23, 2017, **Augusto M. Austero IV**, Acting Secretary of the Sangguniang Bayan of Malinao, Albay, identified certain documents in his custody.<sup>70</sup>

In her *Judicial Affidavit* dated June 9, 2017, **Evelyn D. Peña**, In-Charge-of-Office (ICO), Municipal Treasurer of Malinao, Albay, identified certain documents,<sup>71</sup> and declared:

1. There is a typographical error in O.R. No. 1249882 dated February 3, 2012 (Exhibit R-10). It appears therein that there are two filing fees—the first in the amount of ₱200.00, and the second in the amount of ₱5,000.00. The first amount is the real filing fee, while the second amount pertains to the Annual Cockpit Permit Fee.<sup>72</sup>
2. Art. H, Sec. 3H.02 of the Revenue Code of 2004 of Malinao provides that the application filing fee in the amount of ₱200.00, and the annual cockpit permit fee in the amount of ₱5,000.00, shall be collected from cockpit operators, owners or licensees. It is clear that the amounts of ₱200.00 and ₱5,000.00 in O.R. No. 1249882 pertain to the filing fee and the annual cockpit permit fee, respectively.<sup>73</sup>

In her *Judicial Affidavit* dated August 31, 2017, **Djoanna V. Luyun**, Councilor of the Municipality of Malinao, identified certain documents,<sup>74</sup> and declared:

1. She has been a Councilor for three (3) terms. Her first term was from July 1, 2007 to June 30, 2010; her second term was from July 1, 2010 to June 30, 2013; and her third term was from July 1, 2016.<sup>75</sup>



<sup>69</sup> TSN, May 15, 2017, p. 42

<sup>70</sup> Exhibits M to O, S, J

<sup>71</sup> Exhibits R to R-10, Z, HH to KK

<sup>72</sup> *Judicial Affidavit of Evelyn D. Peña* dated June 9, 2017, p. 16 (Record, Vol. 2, p. 90)

<sup>73</sup> *Judicial Affidavit of Evelyn D. Peña* dated June 9, 2017, p. 17 (Record, Vol. 2, p. 91)

<sup>74</sup> Exhibits D, D-1, D-2, J, J-1, K, M, N

<sup>75</sup> *Judicial Affidavit of Djoanna V. Luyun* dated August 31, 2017, pp. 2-3 (Record, Vol. 2, pp. 196-197)

## DECISION

*People vs. Ceriola*  
*SB-14-CRM-0420 to 0424*

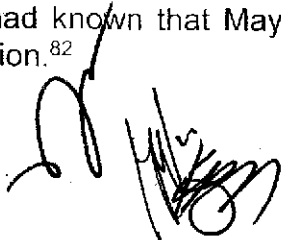
Page 13 of 51

X-----X

2. Councilor Noel B. Tuazon sponsored the proposed resolution authorizing Ceriola Property Holdings Co. Inc. to construct a building for the Malinao Cockpit Arena.<sup>76</sup>
3. During the deliberations for said proposed resolution, Councilor Tuazon requested that the “committee as a whole”—meaning, all councilors, including those who are not members of the Committee on Infrastructure—be present, to address in advance the issues that would be raised in the formal deliberation during the regular session.<sup>77</sup>
4. The Resolution (Exhibit J) was eventually approved. Thereafter, the building for the New Malinao Cockpit Arena was constructed.<sup>78</sup>
5. After the construction of the cockpit, Ceriola Property Holdings Co. Inc. requested the Sanggunian to issue in its favor a resolution authorizing it to operate.<sup>79</sup>
6. In one of the regular sessions held sometime in the last quarter of 2012 or the first quarter of 2013, the majority of the Sangguniang Bayan decided to send letters to Mayor Avelino Ceriola (Exhibit N) and to Ceriola Property Holdings Co. Inc. (Exhibit M).<sup>80</sup>
7. The Sanggunian did not grant the request of Ceriola Property Holdings Co. Inc. because the councilors realized that there would be conflict of interest on the part of Mayor Avelino Ceriola. Under the Local Government Code, a local official cannot directly or indirectly have business interest in any cockpit or other games licensed by the local government.<sup>81</sup>

She further testified:

1. At the time Councilor Noel Tuazon sponsored Ceriola Property Holdings’ application for the construction of the Malinao Cockpit Arena, she had known that Mayor Ceriola was part owner of said corporation.<sup>82</sup>



<sup>76</sup> *Judicial Affidavit of Djoanna V. Luyun* dated August 31, 2017, p. 7 (Record, Vol. 2, p. 201)

<sup>77</sup> *Ibid.*

<sup>78</sup> *Judicial Affidavit of Djoanna V. Luyun* dated August 31, 2017, p. 8 (Record, Vol. 2, p. 202)

<sup>79</sup> *Judicial Affidavit of Djoanna V. Luyun* dated August 31, 2017, p. 11 (Record, Vol. 2, p. 205)

<sup>80</sup> *Ibid.*

<sup>81</sup> *Ibid.*

<sup>82</sup> TSN, October 4, 2017, p. 28

DECISION

People vs. Ceriola  
SB-14-CRM-0420 to 0424

Page 14 of 51

x-----x

2. When the matter was submitted to the committee as a whole, the issue of the propriety of then Mayor having an interest in the application for the Malinao Cockpit Arena was not raised.<sup>83</sup>
3. Mayor Ceriola was informed that his interest in the Malinao Cockpit Arena was in violation of the Local Government Code only at the time of the request for a permit to operate.<sup>84</sup>
4. The Malinao Cockpit Arena created revenue for the municipality.<sup>85</sup>
5. She co-sponsored Resolution No. 46 because it pertained only to the construction of the building for the Malinao Cockpit Arena, and because it would generate income for the municipality.<sup>86</sup>
6. Prior to Resolution No. 46, the Sanggunian issued two (2) resolutions authorizing the accused to seek permission or advice from Governor Salceda with regard to the establishment of a cockpit in Malinao, Albay. There was no response from the Governor.<sup>87</sup>

In her *Judicial Affidavit* dated October 26, 2017, **Eunice G. Dalisay-Salazar**, Securities Counsel III, Company Registration and Monitoring Department (CRMD) of the Securities and Exchange Commission (SEC), identified certain documents.<sup>88</sup>

The following documentary exhibits offered by the prosecution were admitted in evidence.<sup>89</sup>

Exhibit	Document
A	Complaint dated May 18, 2012 of Ervin O. Fajut
B	Affidavit dated May 18, 2012 of Ervin O. Fajut
C	Notice of Illegal Construction No. 001-2011 dated September 2, 2011
D, D-1 and D-2	Photographs of the New Malinao Cockpit Arena building
E	Page of the logbook bearing the list of documents submitted in support of the application of building permit for Malinao Cockpit Arena
F	Building Permit Form for Application No. 0933-9-12-2011
G	Electrical Permit Application No. 0933

<sup>83</sup> TSN, October 4, 2017, p. 29

<sup>84</sup> TSN, October 4, 2017, pp. 31-32

<sup>85</sup> TSN, October 4, 2017, p. 33

<sup>86</sup> TSN, October 4, 2017, p. 40

<sup>87</sup> TSN, October 4, 2017, pp. 41-44

<sup>88</sup> Exhibits K, T, X

<sup>89</sup> Resolution dated January 22, 2018; Record, Vol. 2, pp. 493-494

DECISION

People vs. Ceriola

SB-14-CRM-0420 to 0424

Page 15 of 51

X-----X

H	Sanitary/Plumbing Permit Application No. 0933
I	Site Development Plan
J	Sangguniang Bayan Resolution No. 46, s. 2011
K	General Information Sheet for the Year 2011 of Ceriola Property Holdings Co., Inc.
K-9	Official Receipt No. 5675002 dated April 10, 2012
L	Locational Clearance issued on February 9, 2012
M	Letter dated March 13, 2012 of the Office of the Sangguniang Bayan addressed to Ceriola Property Holdings Co., Inc.
N	Letter dated March 15, 2012 of the Office of the Sangguniang Bayan addressed to Avelino C. Ceriola
O	Certification dated April 12, 2012 issued by Ma. Teresita O. Alcala, Acting Secretary to the Sangguniang Bayan
P	Certification of Non-Registration of Company dated April 25, 2012 issued by the Company Registration and Monitoring Department of the Securities and Exchange Commission
Q	Undated Certification issued by the Office of the Municipal Treasurer
R	Letter dated May 16, 2012 of the Office of the Municipal Treasurer addressed to Ervin O. Fajut
R-2	Official Receipt No. 1249865 dated February 2, 2012
R-3	Official Receipt No. 1250416 dated February 21, 2012
R-4	Official Receipt No. 1252001 dated April 3, 2012
R-5	Official Receipt No. 1252514 dated April 19, 2012
R-6	Official Receipt No. 1252769 dated April 24, 2012
R-7	Official Receipt No. 1252513 dated April 19, 2012
R-8	Official Receipt No. 1250445 dated February 28, 2012
R-9	Official Receipt No. 1249900 dated February 7, 2012
R-10	Official Receipt No. 1249882 dated February 3, 2012
S	Letter dated May 14, 2012 of Avelino C. Ceriola addressed to Hon. Noel B. Tuazon
T to T-18	Certificate of Filing of Amended Articles of Incorporation dated May 7, 2012 of Ceriola Property Holdings Co., Inc. doing business and style of Malinao Cockpit Arena
U	Mayor's Permit No. 2012-097 dated February 3, 2012
V	Mayor's Permit No. 2012-116 dated February 21, 2012
W	Mayor's Permit No. 2012-212 dated April 14, 2012
X	General Information Sheet for the Year 2012 of Ceriola Property Holdings Co. Inc., doing business and style of Malinao Cockpit Arena
Z	Revenue Code of Malinao, Albay enacted on March 26, 2004
BB	Letter dated May 4, 2012 of Ervin O. Fajut addressed to Engr. Grace Marbella
CC	Letter dated May 16, 2012 of Grace N. Marbella addressed to Ervin O. Fajut
DD	Deed of Absolute Sale dated September 28, 2011 between Jose C. Canillo and Avelino C. Ceriola for Lot No. 2024-L
DD-2	Deed of Absolute Sale dated September 28, 2011 between Jose Canillo and Avelino C. Ceriola for Lot No. 2024-E

DECISION

People vs. Ceriola  
SB-14-CRM-0420 to 0424

Page 16 of 51

X-----X

DD-3	Deed of Absolute Sale dated September 28, 2011 between Jose Canillo and Avelino C. Ceriola for Lot No. 2023-A
GG	Special Order dated May 17, 2017
HH	Letter dated January 31, 2017 of Evelyn D. Peña, ICO-Municipal Treasurer
II	Indorsement dated January 27, 2017
JJ	Bureau of Local Government Finance Regional Special Personnel Order No. 40-2016 dated June 22, 2016
KK	Bureau of Local Government Finance Regional Special Personnel Order No. 93-2016 dated December 20, 2016
LL	Service Record of Peña Evelyn De Guzman
MM	Supplement to the Special Order dated May 17, 2017
NN	Authorization dated May 8, 2017 issued by Director Ferdinand B. Sales
NN-1	Authorization dated November 20, 2017 issued by Director Ferdinand B. Sales

EVIDENCE FOR THE DEFENSE

The defense presented as its witnesses **Jaime R. Belason**,<sup>90</sup> **Ofelia C. Bigata**,<sup>91</sup> **Abner C. Cargullo**<sup>92</sup> and accused **Avelino C. Ceriola**.<sup>93</sup>

In his *Judicial Affidavit* dated February 2018, **Jaime R. Belason** declared:

1. He was the Barangay Captain of Brgy. Estancia, Malinao, Albay from 2010 to 2013.<sup>94</sup>
2. He was born and raised in Malinao. He went to Manila to finish an auto mechanic vocational course, but after graduating in 1979, he returned to Malinao.<sup>95</sup>
3. Before the New Malinao Cockpit Arena was built, the only source of income of the people in the municipality was farming. The construction of the New Malinao Cockpit Arena gave rise to the vibrant economic activity in the area.<sup>96</sup>

<sup>90</sup> TSN, February 19, 2018; *Judicial Affidavit* dated February 2018 (Record, Vol. 2, pp. 499-508)

<sup>91</sup> TSNs, April 16, 2018 and April 19, 2018; *Judicial Affidavit* dated February 22, 2018 (Record, Vol. 3, pp. 9-42); *Supplemental Judicial Affidavit* dated March 9, 2018 (Record, Vol. 3, pp. 47-66)

<sup>92</sup> TSNs, April 23, 2018, April 26, 2018 and July 19, 2018; *Judicial Affidavit* dated April 21, 2018 (Record, Vol. 3, pp. 106-135)

<sup>93</sup> TSNs, August 30, 2018 and August 31, 2018; *Judicial Affidavit* dated August 24, 2018 (Record, Vol. 3, pp. 177-208)

<sup>94</sup> *Judicial Affidavit* dated February 2018, p. 3 (Record, Vol. 2, p. 501)

<sup>95</sup> *Ibid.*

<sup>96</sup> *Ibid.*



## DECISION

*People vs. Ceriola*  
*SB-14-CRM-0420 to 0424*

Page 17 of 51

x-----x

4. Whenever there are cockfights, a lot of people—both from Malinao, and those from other municipalities—visit the place. There are also a lot of stalls and vendors inside and outside the cockpit.<sup>97</sup>
5. Aside from the New Malinao Cockpit Arena, there were small cockpit arenas operating in Malinao. These were (1) "Paraputo" cockpit in Brgy. Estancia, (2) "LVC" in Brgy. Balading, and (3) the cockpit in the market beside the municipal hall.<sup>98</sup>
6. The "Paraputo" cockpit stopped operating sometime around 2011.<sup>99</sup> He does not know when it conducted cockfights because the operators never secured permits from the barangay.<sup>100</sup>
7. He does not remember when "LVC" was built, but he knows that it had been there even before the term of then Mayor Ceriola, and that it stopped operating after it was destroyed by typhoon "Juaning" in 2011. Like "Paraputo," it was a small cockpit which operated irregularly.<sup>101</sup>
8. He does not remember the name of the cockpit beside the municipal hall because there were no signages when it was still operating. It existed even before Mayor Ceriola's term in 2007, but it has not been in operation for a long time. It was another small cockpit that operated irregularly.<sup>102</sup>

He further testified:

1. After finishing high school, he took a vocational course at the De Guzman Institute in Quiapo, Manila.<sup>103</sup>
2. The New Malinao Cockpit Arena is owned by a corporation in the name of former Mayor Avelino Ceriola.<sup>104</sup>
3. He has not seen any document that would prove former Mayor Ceriola's ownership of the New Malinao Cockpit Arena.<sup>105</sup>
4. The New Malinao Cockpit Arena is located in Brgy. Balading.<sup>106</sup>

<sup>97</sup> *Judicial Affidavit* dated February 2018, p. 4 (Record, Vol. 2, p. 502)

<sup>98</sup> *Ibid.*

<sup>99</sup> *Ibid.*

<sup>100</sup> *Judicial Affidavit* dated February 2018, p. 5 (Record, Vol. 2, p. 503)

<sup>101</sup> *Ibid.*

<sup>102</sup> *Judicial Affidavit* dated February 2018, p. 6 (Record, Vol. 2, p. 504)

<sup>103</sup> TSN, February 19, 2018, p. 11

<sup>104</sup> TSN, February 19, 2018, pp. 13-14

<sup>105</sup> TSN, February 19, 2018, p. 14

<sup>106</sup> *Ibid.*

DECISION

*People vs. Ceriola*  
SB-14-CRM-0420 to 0424

Page 18 of 51

x-----x

In her *Judicial Affidavit* dated February 22, 2018, and *Supplemental Judicial Affidavit* dated March 9, 2018, **Ofelia C. Bigata**, Barangay Chairperson of Brgy. Balading, identified certain documents<sup>107</sup> and declared:

1. She has been the Barangay Chairperson of Brgy. Balading since 2007.<sup>108</sup>
2. During her term as Liga ng mga Barangay (LB) President and Ex-Officio Member of the Sangguniang Bayan in 2011, she learned that the municipal councilors proposed to build a new cockpit arena that complied with all the legal requirements in Malinao.<sup>109</sup>
3. The Sanggunian wanted a cockpit arena that operated legally, as opposed to the existing "fly-by-night" cockpits at the time.<sup>110</sup>
4. As far as she knew, there were three cockpits at the time (Exhibits 47 and 48). These were (1) "Paraputo" in Brgy. Estancia, (2) "LVC" in Brgy. Balading, and (3) the one in the market, beside the municipal hall. All three were small cockpits which held cockfights at different times.<sup>111</sup>
5. When she was at the council, they discussed the matter of the failure of said three cockpits to pay taxes and to secure permits from the municipality.<sup>112</sup>
6. She was given a copy of Sangguniang Bayan Resolution No. 31, Series of 2007 (Exhibit 2), which shows that as early as 2007, the councilors had been pushing for the establishment of a new cockpit in Malinao.<sup>113</sup>
7. In 2011, after a series of committee hearings and public consultations, the Sangguniang Bayan issued Resolution No. 36, Series of 2011 (Exhibit 1), authorizing then Mayor Ceriola to request from then Governor Joey Salceda permission to implement the plan of the municipality.<sup>114</sup>
8. Back in 2011, Malinao only relied on the Internal Revenue Allotment (IRA) it received from the National Government. The

<sup>107</sup> Exhibits 1, 2, 3, 38, 47, 48, 67 and series

<sup>108</sup> *Judicial Affidavit* dated February 22, 2018, p. 3 (Record, Vol. 3, p. 11)

<sup>109</sup> *Ibid.*

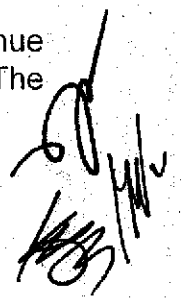
<sup>110</sup> *Ibid.*

<sup>111</sup> *Judicial Affidavit* dated February 22, 2018, p. 4 (Record, Vol. 3, p. 12)

<sup>112</sup> *Ibid.*

<sup>113</sup> *Judicial Affidavit* dated February 22, 2018, p. 5 (Record, Vol. 3, p. 13)

<sup>114</sup> *Ibid.*



## DECISION

*People vs. Ceriola*  
SB-14-CRM-0420 to 0424

Page 19 of 51

x-----x

only business establishment at the time was a pulp/fiber company.<sup>115</sup>

9. Cockfighting stirred up economic activity because whenever cockfights were held in the municipality, people gathered in the municipal center, and farmers were able to sell their produce to them.<sup>116</sup>
10. Councilor Djoanna V. Luyun co-sponsored said Resolution (Exhibit 1). All Sanggunian members agreed that it was for the greater good.<sup>117</sup>
11. Alicia B. Morales was the Vice Mayor and the Presiding Officer of the Sanggunian at the time. She was a staunch political rival of former Mayor Ceriola. She did not oppose the new cockpit arena, and in fact, agreed that building said cockpit arena would be for the best interest of Malinao.<sup>118</sup>
12. After the Sanggunian passed Resolution No. 36, Series of 2011, Mayor Ceriola told the council that he phoned Governor Salceda, who said that he was not opposing the construction of the cockpit since it was within the municipality's power to do so.<sup>119</sup>
13. After typhoon "Juaning" destroyed the small cockpits, which were mostly made of wood, on July 26, 2011, there was an overwhelming sentiment from the Sanggunian members that it was the right time to build the new cockpit arena. The Sanggunian then passed Resolution No. 46, Series of 2011 (Exhibit 3), authorizing Ceriola Property Holdings to construct a new cockpit arena in Malinao.<sup>120</sup>
14. Councilor Noel B. Tuazon, head of the Committee on Laws and Ethics, and of the Finance Committee, explained to the members of the Sanggunian that they pushed for Ceriola Property Holdings, Inc. to build the new cockpit arena because as early as 2007, they had the idea that former Mayor Ceriola, through his corporations, could build the structure for the cockpit arena.<sup>121</sup>
15. At the time, former Mayor Ceriola, through his family, built the only gas station in the municipality. They thought that he was

<sup>115</sup> Judicial Affidavit dated February 22, 2018, p. 6 (Record, Vol. 3, p. 14)

<sup>116</sup> Judicial Affidavit dated February 22, 2018, pp. 6-7 (Record, Vol. 3, p. 14-15)

<sup>117</sup> Judicial Affidavit dated February 22, 2018, p. 7 (Record, Vol. 3, p. 15)

<sup>118</sup> Judicial Affidavit dated February 22, 2018, pp. 7-8 (Record, Vol. 3, pp. 15-16)

<sup>119</sup> Judicial Affidavit dated February 22, 2018, p. 8 (Record, Vol. 3, p. 16)

<sup>120</sup> Judicial Affidavit dated February 22, 2018, pp. 8-9 (Record, Vol. 3, pp. 16-17)

<sup>121</sup> Judicial Affidavit dated February 22, 2018, p. 10 (Record, Vol. 3, p. 18)

## DECISION

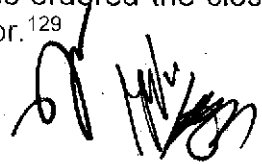
*People vs. Ceriola*  
*SB-14-CRM-0420 to 0424*

Page 20 of 51

X-----X

capable of building the proposed cockpit arena, which required considerable investment.<sup>122</sup>

16. The Municipality of Malinao had no Legal Officer. They relied on the committee heads to study any matter presented before the Sanggunian.<sup>123</sup>
17. Sometime in February 2012, in one of their sessions, Councilor Noel B. Tuazon brought up the issue of conflict of interest on the part of former Mayor Ceriola. Some members of the Sanggunian asked why the matter was not raised before they authorized the construction of the cockpit. In response, Councilor Tuazon only said that it is the law, so it must be followed.<sup>124</sup>
18. At the time, it became known that Vice Mayor Alicia Morales would be running for the post of Mayor in the 2013 elections. Many of the members of the Sanggunian shifted allegiances and became allied with former Vice Mayor Morales. Former Mayor Ceriola's political opponents started discrediting him.<sup>125</sup>
19. Sometime in May 2012, the Sanggunian received a copy of a letter (Exhibit 38) from former Mayor Ceriola, informing the Sanggunian that he and his family divested themselves of their interest in Ceriola Property Holdings, Inc. by selling their shares to a group engaged in the business of cockfighting operations and derby.<sup>126</sup>
20. The new owners of Ceriola Property Holdings, Inc. tried to apply for a permit to operate from the Sangguniang Bayan. However, every time the matter was brought up during their sessions, Councilors Tuazon and Fajut would shut down the discussion and insist that it was prohibited by law.<sup>127</sup>
21. After her term as LB President ended in 2013, she no longer received updates on the issue. All she knows is that the cockpit was not granted a permit to operate.<sup>128</sup>
22. Former Vice Mayor Morales ordered the closure of the cockpit after she became the Mayor.<sup>129</sup>



<sup>122</sup> Judicial Affidavit dated February 22, 2018, p. 13 (Record, Vol. 3, p. 21)

<sup>123</sup> Judicial Affidavit dated February 22, 2018, p. 12 (Record, Vol. 3, p. 20)

<sup>124</sup> Judicial Affidavit dated February 22, 2018, pp. 13-14 (Record, Vol. 3, pp. 21-22)

<sup>125</sup> Judicial Affidavit dated February 22, 2018, p. 14 (Record, Vol. 3, p. 22)

<sup>126</sup> *Ibid.*

<sup>127</sup> Judicial Affidavit dated February 22, 2018, p. 15 (Record, Vol. 3, p. 23)

<sup>128</sup> Judicial Affidavit dated February 22, 2018, p. 16 (Record, Vol. 3, p. 24)

<sup>129</sup> *Ibid.*

## DECISION

*People vs. Ceriola*  
SB-14-CRM-0420 to 0424

Page 21 of 51

X -----X

23. The cockpit was eventually reopened. She does not know the circumstances surrounding such reopening. All she heard was that there was a case, and that the cockpit was allowed to operate.<sup>130</sup>
24. Different barangays conduct cockfights in the New Malinao Cockpit Arena (Exhibit 37).<sup>131</sup>
25. She issued the Barangay Business Clearance dated January 18, 2018 in favor of the Malinao Cockpit Arena.<sup>132</sup>
26. The New Malinao Cockpit Arena has brought economic activity to the area.<sup>133</sup>
27. On February 18, 2018, the barangay conducted a sanitary inspection in the cockpit to check if cleanliness was observed, considering that vendors sold different kinds of commercial, agricultural and food products in the cockpit whenever cockfights were held.<sup>134</sup>
28. She was accompanied by a certain Kagawad Salvador Canusa, who was in charge of the Barangay Sanitation Committee of Barangay Balading. She asked him to take pictures of the on-going activities (Exhibits 67 and series).<sup>135</sup>
29. During the inspection, she found that the cockpit was like a wet market whenever cockfights were held because fish products were being sold.<sup>136</sup>

She further testified:

1. The Sangguniang Bayan of Malinao issued a permit to operate in favor of the Malinao Cockpit Arena sometime in 2012.<sup>137</sup>
2. During her term as Ex-Officio Member of the Sangguniang Bayan, only Ceriola Property Holdings, Inc. applied for a permit to operate a cockpit.<sup>138</sup>

<sup>130</sup> Judicial Affidavit dated February 22, 2018, pp. 16-17 (Record, Vol. 3, pp. 24-25)

<sup>131</sup> Judicial Affidavit dated February 22, 2018, p. 17 (Record, Vol. 3, p. 25)

<sup>132</sup> Supplemental Judicial Affidavit dated March 9, 2018, p. 3 (Record, Vol. 3, p. 49)

<sup>133</sup> Supplemental Judicial Affidavit dated March 9, 2018, p. 4 (Record, Vol. 3, p. 50)

<sup>134</sup> Supplemental Judicial Affidavit dated March 9, 2018, pp. 4-5 (Record, Vol. 3, pp. 50-51)

<sup>135</sup> Supplemental Judicial Affidavit dated March 9, 2018, pp. 4-5 (Record, Vol. 3, pp. 50-51)

<sup>136</sup> Supplemental Judicial Affidavit dated March 9, 2018, p. 5 (Record, Vol. 3, p. 51)

<sup>137</sup> TSN, April 16, 2018, pp. 17-18

<sup>138</sup> TSN, April 16, 2018, pp. 20-22

## DECISION

*People vs. Ceriola*  
SB-14-CRM-0420 to 0424

Page 22 of 51

X-----X

3. Mayor Ceriola and his family sold their interest and assets in Ceriola Property Holdings after he (accused Ceriola) became aware that as Mayor, he could not have such interest.<sup>139</sup>
4. Mayor Ceriola and his family divested themselves of their interest in said corporation after the construction of the cockpit arena.<sup>140</sup>
5. Sometime in 2012, her barangay wrote to Wainwright Berden, informing him that they would be holding a cockfight called "Ulutan to the Max" (Exhibit 37) for the purpose of generating income for the barangay.<sup>141</sup>
6. Wainwright Berden's name was mentioned in the resolution because according to a representative of Ceriola Property Holdings, Inc., the owner was Wainwright Berden.<sup>142</sup>
7. A representative of Ceriola Property Holdings, Inc. presented a Deed of Assignment showing that on February 18, 2012, the Ceriola family transferred their shares in Ceriola Property Holdings. She does not remember when the Deed of Assignment was presented.<sup>143</sup>
8. She signed the letter dated March 15, 2012 (Exhibit N) because Councilor Tuazon explained that Mayor Ceriola was prohibited by law from operating.<sup>144</sup>

In his *Judicial Affidavit* dated April 21, 2018, **Abner C. Cargullo**, Municipal Councilor of Malinao, identified certain documents<sup>145</sup> and declared:

1. He was a Councilor of the Municipality of Malinao from 2004 to 2007. He then became the Vice Mayor of Malinao, and held the position from 2007 to 2010. He, again, became a Municipal Councilor in 2013, and has held the position until the present.<sup>146</sup>
2. He was involved in the Sangguniang Bayan's previous efforts in connection with the construction of a cockpit arena in Malinao.<sup>147</sup>

<sup>139</sup> TSN, April 16, 2018, pp. 24-25

<sup>140</sup> TSN, April 16, 2018, p. 26

<sup>141</sup> TSN, April 19, 2018, p. 5

<sup>142</sup> TSN, April 19, 2018, pp. 16-17

<sup>143</sup> TSN, April 19, 2018, pp. 18-19

<sup>144</sup> TSN, April 19, 2018, pp. 13-14

<sup>145</sup> Exhibits 38, 40 and 41

<sup>146</sup> *Judicial Affidavit* dated April 21, 2018, p. 4 (Record, Vol. 3, p. 109)

<sup>147</sup> *Judicial Affidavit* dated April 21, 2018, p. 3 (Record, Vol. 3, p. 108)

## DECISION

*People vs. Ceriola*  
SB-14-CRM-0420 to 0424

Page 23 of 51

X ----- X

3. In 2004, there were discussions in the Sangguniang Bayan on how to deal with the fly-by-night cockpits—meaning, those without permits or licenses—operating in the municipality.<sup>148</sup>
4. Three “fly-by-night” cockpits operated in Malinao. These were (1) “Paraputo” in Brgy. Estancia, (2) “LVC” in Brgy. Balading, and (3) the small one that operated in the market, beside the municipal hall.<sup>149</sup>
5. In July 2007, when he was the Vice Mayor, the members of the Sangguniang Bayan discussed the possibility of a new cockpit arena in Malinao. It was agreed upon that the proposed cockpit should secure the necessary permits and pay taxes.<sup>150</sup>
6. Such discussions were initiated by Councilors Jose C. Chavez and Noel B. Tuazon.<sup>151</sup>
7. He supported the proposal because the operation of a cockpit would provide additional income to the municipality. Furthermore, the arena would not pose danger to its patrons, considering that it would be a legitimate operation.<sup>152</sup>
8. The Finance Committee, on several instances, met with former Mayor Ceriola and discussed with him the proposed project. Mayor Ceriola, however, always dismissed the idea. As a result, they focused on first getting the Governor's approval.<sup>153</sup>
9. The members of the Sanggunian did not know how to go about the legalities in building a cockpit arena so they thought that it was best to seek approval from the Governor. They believed that former Mayor Ceriola was in the best position to seek such approval from the Governor because he, as Mayor, was head of the municipality, and also because he and his family would be able to fund the construction of the cockpit arena.<sup>154</sup>
10. The members of the Sanggunian intended to seek financial help from former Mayor Ceriola's family because they were the only ones capable of financing such project.<sup>155</sup>

<sup>148</sup> *Judicial Affidavit of Veredigno P. Atienza* dated February 14, 2018, p. 3 (Record, Vol. 3, p. 442)

<sup>149</sup> *Judicial Affidavit* dated April 21, 2018, p. 5 (Record, Vol. 3, p. 110)

<sup>150</sup> *Judicial Affidavit* dated April 21, 2018, p. 7 (Record, Vol. 3, p. 112)

<sup>151</sup> *Ibid.*

<sup>152</sup> *Ibid.*

<sup>153</sup> *Judicial Affidavit* dated April 21, 2018, p. 10 (Record, Vol. 3, p. 115)

<sup>154</sup> *Judicial Affidavit* dated April 21, 2018, p. 9 (Record, Vol. 3, p. 114)

<sup>155</sup> *Judicial Affidavit* dated April 21, 2018, p. 9-10 (Record, Vol. 3, pp. 114-115)

## DECISION

*People vs. Ceriola*

SB-14-CRM-0420 to 0424

Page 24 of 51

X -----X

11. The members of the Sanggunian intended to issue a Resolution authorizing the company of the Ceriola family to construct the cockpit if the Governor approves the Sanggunian's proposal.<sup>156</sup>
12. Former Mayor Ceriola later reported that he phoned Governor Salceda, and the latter merely said that the municipality was free to implement projects that would generate additional income.<sup>157</sup>
13. Notwithstanding the Governor's positive response, the construction of the cockpit arena did not proceed because the municipality did not have the necessary funds.<sup>158</sup>
14. The Sanggunian did not issue the proposed Resolution authorizing former Mayor Ceriola's company to construct the cockpit because former Mayor Ceriola was not interested in constructing a cockpit arena. Being a bowling enthusiast, former Mayor Ceriola was more interested in constructing a bowling center.<sup>159</sup>
15. The proposal was offered to other entrepreneurs, but nobody was interested.<sup>160</sup>
16. At the time, there was only one business enterprise in Malinao—Alindeco, a fiber/pulp company. Businesses set up their shops only in towns near Malinao.<sup>161</sup>
17. The proposed cockpit arena then took a back seat. It was only in 2011, after the expiration of his term as Vice Mayor, when he learned that the Sangguniang Bayan authorized the company of former Mayor Ceriola to construct the New Malinao Cockpit Arena.<sup>162</sup>
18. Around that time, he heard that the Sanggunian could not grant a permit to operate the cockpit because there was an issue of conflict of interest. Even after former Mayor Ceriola's family sold the corporation to another entity sometime in 2012,<sup>163</sup> the new owner still could not secure a permit from the Sangguniang Bayan.<sup>164</sup>
19. In 2013, when he, again, became a member of the Sangguniang Bayan, there was an initiative from the minority to grant a permit

<sup>156</sup> *Judicial Affidavit* dated April 21, 2018, p. 10 (Record, Vol. 3, p. 115)

<sup>157</sup> *Ibid.*

<sup>158</sup> *Judicial Affidavit* dated April 21, 2018, p. 11 (Record, Vol. 3, p. 116)

<sup>159</sup> *Ibid.*

<sup>160</sup> *Ibid.*

<sup>161</sup> *Judicial Affidavit* dated April 21, 2018, p. 12 (Record, Vol. 3, p. 117)

<sup>162</sup> *Ibid.*

<sup>163</sup> *Judicial Affidavit* dated April 21, 2018, p. 13 (Record, Vol. 3, p. 118)

<sup>164</sup> *Supra.* Note 161



## DECISION

*People vs. Ceriola*  
SB-14-CRM-0420 to 0424

Page 25 of 51

X-----X

to operate in favor of the operator of the New Malinao Cockpit Arena so that the municipality could fully benefit from its operation.<sup>165</sup>

20. The New Malinao Cockpit Arena was not granted a permit to operate because of politics.<sup>166</sup>
21. The municipality benefited from the operation of the cockpit because it paid taxes. Said taxes were coursed through the province because the municipality refused to accept them directly.<sup>167</sup>
22. People benefited from the operation of the cockpit because its operation stimulated business in the municipality. Vendors and visitors from different towns came during cockfights. Furthermore, the cockpit has become known as one of the best cockpits in Albay.<sup>168</sup>
23. To address the issues hounding the New Malinao Cockpit Arena, some members of the minority of the Sangguniang Bayan drafted a cockfighting ordinance that would regulate the operations of the cockpit.<sup>169</sup>

He further testified:

1. The letter of a certain Zaldy Florano of Ceriola Holdings shows that the family of former Mayor Ceriola sold their interest in the cockpit.<sup>170</sup>
2. He does not have a copy of any permit to operate issued to the New Malinao Cockpit Arena.<sup>171</sup>
3. He does not have proof that the Municipality of Malinao refused to accept the taxes paid by the New Malinao Cockpit Arena.<sup>172</sup>
4. One of the staff of the Malinao Cockpit Arena told him that every time the cockpit arena personnel submitted an application for a permit, the Cashier and the Treasury Office refused to accept the same.<sup>173</sup>



<sup>165</sup> Judicial Affidavit dated April 21, 2018, pp. 12-13 (Record, Vol. 3, pp. 117-118)

<sup>166</sup> Judicial Affidavit dated April 21, 2018, p. 15 (Record, Vol. 3, p. 120)

<sup>167</sup> *Ibid.*

<sup>168</sup> Judicial Affidavit dated April 21, 2018, p. 16 (Record, Vol. 3, p. 121)

<sup>169</sup> *Ibid.*

<sup>170</sup> TSN, April 26, 2018, p. 18

<sup>171</sup> TSN, July 19, 2018, pp. 16-19

<sup>172</sup> TSN, July 19, 2018, p. 24

<sup>173</sup> TSN, July 19, 2018, pp. 41-42

## DECISION

*People vs. Ceriola*  
SB-14-CRM-0420 to 0424

Page 26 of 51

x-----x

5. He is aware that the Province could collect taxes from amusement establishments on top of the tax being collected by the Municipality.<sup>174</sup>
6. They invited business owners to operate a cockpit in Malinao, but they declined the offer. Some were not financially capable of constructing a cockpit.<sup>175</sup>
7. The idea that only the family of Mayor Ceriola was capable of constructing a cockpit in Malinao came from Councilors Chavez and Tuazon.<sup>176</sup>

In his *Judicial Affidavit* dated August 24, 2018, accused **Avelino C. Ceriola** identified certain documents<sup>177</sup> and declared:

1. He was the Mayor of the Municipality of Malinao, Albay from 2007 to 2013.<sup>178</sup>
2. He worked at the pier at the Port of Manila as a Checker for an oil tanker until 1993. Having learned how vessel operators earn a living, he decided to form Ceriola Marine Enterprises, a single proprietorship business engaged in buying and selling petroleum products. Later, it was converted to Ceriola Marine, Incorporated, which was engaged in the business of transporting petroleum products.<sup>179</sup>
3. Ceriola Property Holdings was incorporated around 1995. It was formed as a holding company. He intended to expand the family business into other endeavors such as real estate and lending (Exhibit 36).<sup>180</sup>
4. Ceriola Property Holdings was not profitable. It later became an informal parent company of Ceriola Marine Incorporated.<sup>181</sup>
5. After he was elected as Mayor in 2007, he recused himself from actively participating in the management of their family's businesses. His children were the ones who managed said businesses.<sup>182</sup>



<sup>174</sup> TSN, July 19, 2018, p. 25

<sup>175</sup> TSN, July 19, 2018, pp. 33-34

<sup>176</sup> TSN, July 19, 2018, p. 36

<sup>177</sup> Exhibits 1-3, 19, 21-28, 36, 37, 47, 48, 85-89

<sup>178</sup> *Judicial Affidavit* dated August 24, 2018, p. 4 (Record, Vol. 3, p. 181)

<sup>179</sup> *Ibid.*

<sup>180</sup> *Judicial Affidavit* dated August 24, 2018, p. 6 (Record, Vol. 3, p. 182)

<sup>181</sup> *Judicial Affidavit* dated August 24, 2018, p. 7 (Record, Vol. 3, p. 183)

<sup>182</sup> *Judicial Affidavit* dated August 24, 2018, p. 8 (Record, Vol. 3, p. 184)

## DECISION

*People vs. Ceriola*

*SB-14-CRM-0420 to 0424*

*Page 27 of 51*

X -----X

6. He had no interest in cockfighting. He prefers bowling.<sup>183</sup>
7. For years, the Municipal Council, through Councilor Noel Tuazon, urged him to build a cockpit in the Municipality. However, after the cockpit was actually built, they refused to issue a permit to operate for the cockpit.<sup>184</sup>
8. The Municipal Councilors told him that a new cockpit would provide additional income for the municipality and for the people. At first, he declined for the following reasons:<sup>185</sup>
  - a. He had no interest in cockfighting;
  - b. There were three (3) cockpit arenas in Malinao at the time, namely, "Paraputo," "LVC," and the one near the market, beside the municipal hall;
  - c. He had no money for the construction of the arena. He would have to get the money from his company; and
  - d. He was not aware of the legal ramifications of such undertaking.
9. After he declined the offer, the Councilors still kept on urging him to talk to the Board of Directors of his family's corporation regarding the funding of such project. The Councilors, led by Councilor Tuazon, were persistent, and passed Resolution No. 31, Series of 2007, (Exhibit 2) authorizing him to seek permission from then Governor Joey Salceda for the establishment of a cockpit in Malinao.<sup>186</sup>
10. During his second term as Mayor, Councilor Tuazon continued to urge him to construct a new cockpit arena.<sup>187</sup> The Sanggunian passed Resolution No. 36, Series of 2011 (Exhibit 1), which was substantially the same as Resolution No. 31, Series of 2007.<sup>188</sup>
11. He complied and called Governor Salceda. After he informed the Municipal Council of Governor Salceda's response, he took no further action because he was still not convinced of the need to build another cockpit arena.<sup>189</sup>

<sup>183</sup> *Ibid.*

<sup>184</sup> *Judicial Affidavit* dated August 24, 2018, p. 9 (Record, Vol. 3, p. 185)

<sup>185</sup> *Ibid.*

<sup>186</sup> *Judicial Affidavit* dated August 24, 2018, p. 10 (Record, Vol. 3, p. 186)

<sup>187</sup> *Judicial Affidavit* dated August 24, 2018, p. 11 (Record, Vol. 3, p. 187)

<sup>188</sup> *Ibid.*

<sup>189</sup> *Judicial Affidavit* dated August 24, 2018, p. 12 (Record, Vol. 3, p. 188)

DECISION

People vs. Ceriola  
SB-14-CRM-0420 to 0424

Page 28 of 51

x-----x

12. The municipality was ravaged by typhoon "Juaning" on July 26, 2011. Among those establishments destroyed were the three cockpits (Exhibits 47 and 48).<sup>190</sup>
13. Councilor Tuazon's group, again, requested him to build a new cockpit arena. He finally acceded to the request because he wanted to help the municipality to recover from the damage caused by the typhoon. They had an understanding that the Sanggunian would pass a resolution authorizing his company to perform the task.<sup>191</sup>
14. The Sanggunian then passed Resolution No. 46, Series of 2011 (Exhibit 3), authorizing Ceriola Property Holdings to construct a new cockpit arena in Malinao.<sup>192</sup>
15. The Sanggunian specifically authorized Ceriola Property Holdings to construct the new cockpit arena because they believed that only his family was capable of undertaking the construction of the cockpit, and because no other business owners accepted the offer.<sup>193</sup>
16. Sometime in 2007, he provided the members of the Sanggunian copies of the SEC papers of Ceriola Property Holdings.<sup>194</sup>
17. He did not participate in the deliberations for Resolution No. 46, Series of 2011.<sup>195</sup>
18. After said resolution was passed, he felt that it was his duty to help the municipality in generating income. He had to convince his family to help. At the time, he believed that everything was in order, considering that the main sponsor of said Resolution was the Chairperson of the Committee on Laws and Ethics, and of the Committee on Finance.<sup>196</sup>
19. He did not notice that Councilor Tuazon did not sign Resolution No. 46, Series of 2011 until after the case was filed against him.<sup>197</sup>
20. After Resolution No. 46, Series of 2011 was passed, he met his family, and the Boards of both Ceriola Marine Incorporated and

<sup>190</sup> Judicial Affidavit dated August 24, 2018, pp. 12-13 (Record, Vol. 3, pp. 188-189)

<sup>191</sup> Judicial Affidavit dated August 24, 2018, p. 13 (Record, Vol. 3, p. 189)

<sup>192</sup> Judicial Affidavit dated August 24, 2018, p. 14 (Record, Vol. 3, p. 190)

<sup>193</sup> Ibid.

<sup>194</sup> Judicial Affidavit dated August 24, 2018, p. 15 (Record, Vol. 3, p. 191)

<sup>195</sup> Judicial Affidavit dated August 24, 2018, p. 15-16 (Record, Vol. 3, p. 191-192)

<sup>196</sup> Judicial Affidavit dated August 24, 2018, p. 16 (Record, Vol. 3, p. 192)

<sup>197</sup> Ibid.

DECISION

*People vs. Ceriola*

*SB-14-CRM-0420 to 0424*

Page 29 of 51

X-----X

Ceriola Property Holdings, to convince them to help with the construction of the new cockpit in Malinao.<sup>198</sup>

21. Ceriola Property Holdings did not have sufficient funds so it had to obtain said funds from Ceriola Marine Incorporated.<sup>199</sup>
22. His name was used in the various permits for the construction of the building because his son asked him to apply for said permits, considering his close proximity to the municipal hall, and also because the applications were submitted merely to comply with Resolution No. 46, Series of 2011.<sup>200</sup>
23. He did not foresee that said permits would cause problems for him and his family. He did not think that the same would be used against him to make it appear that he was a corrupt person.<sup>201</sup>
24. After the construction of the building, he learned that the Sanggunian refused to issue a permit to operate because of an alleged conflict of interest.<sup>202</sup>
25. When he was informed of the conflict of interest issue, he asked the members of the Sangguniang Bayan why the issue was never brought up before the construction of the building. They just replied that it is the law, without explaining further.<sup>203</sup>
26. To avoid jeopardizing himself and his family, they agreed that the best course of action was to divest themselves of their business interest in Ceriola Property Holdings, and instead, focus on running Ceriola Marine Incorporated.<sup>204</sup>
27. They started to look for potential buyers in January 2012. They were finally able to divest themselves of their shares in Ceriola Property Holdings on February 18, 2012 (Exhibits 21 to 28).<sup>205</sup>
28. After they divested themselves of their interest in Ceriola Property Holdings, he received a letter (Exhibit 19) from the Sangguniang Bayan stating that the New Malinao Cockpit Arena cannot operate because it still needs a permit to operate from the Sanggunian.<sup>206</sup>



<sup>198</sup> *Judicial Affidavit* dated August 24, 2018, p. 17 (Record, Vol. 3, p. 193)

<sup>199</sup> *Ibid.*

<sup>200</sup> *Judicial Affidavit* dated August 24, 2018, p. 18 (Record, Vol. 3, p. 194)

<sup>201</sup> *Ibid.*

<sup>202</sup> *Judicial Affidavit* dated August 24, 2018, pp. 18-19 (Record, Vol. 3, pp. 194-195)

<sup>203</sup> *Judicial Affidavit* dated August 24, 2018, p. 19 (Record, Vol. 3, p. 195)

<sup>204</sup> *Judicial Affidavit* dated August 24, 2018, p. 20 (Record, Vol. 3, p. 196)

<sup>205</sup> *Ibid.*

<sup>206</sup> *Judicial Affidavit* dated August 24, 2018, p. 21 (Record, Vol. 3, p. 197)

## DECISION

*People vs. Ceriola*  
SB-14-CRM-0420 to 0424

Page 30 of 51

X-----X

29. He forwarded said letter to the new Board of the corporation. Mr. Wainwright C. Berden, the new President of the corporation, informed him that they were in the process of amending the corporation's documents in the SEC.<sup>207</sup>
30. On March 20, 2012, he received a similar letter (Exhibit 85) from the Sangguniang Bayan. He forwarded the second letter to the new owners of Ceriola Property Holdings, and explained to them that the letter was signed by the very same persons who urged him to construct the cockpit arena.<sup>208</sup>
31. Councilor Noel B. Tuazon trapped him into agreeing to construct the New Malinao Cockpit Arena. Tuazon, the primary sponsor of Resolution No. 46, Series of 2011, could have determined if there was a potential conflict of interest, having been provided the necessary documents. He assumed that they (members of the Sangguniang Bayan) acted in good faith, but it appeared that they were actually acting to put him in a situation where he would be barred from running for public office.<sup>209</sup>
32. Ervin O. Fajut, the private complainant, as well as Djoanna V. Luyun, among others, were part of the group that continuously urged him to construct the cockpit in Malinao.<sup>210</sup>
33. He did not immediately inform the Sangguniang Bayan of his divestment from the corporation because (a) no longer being part of the corporation, he did not think that there would be consequences; (b) he thought that the new owners would address the issues; and (c) feeling betrayed, he did not want to talk to the members of the Sangguniang Bayan.<sup>211</sup>
34. He informed the Sangguniang Bayan of his and his family's divestment after he received a copy of the Amended Articles of Incorporation. Thereafter, all communications were addressed to the new Board members.<sup>212</sup>
35. He subsequently learned that Councilor Fajut filed a complaint against him with the Office of the Deputy Ombudsman for Luzon.<sup>213</sup>
36. On February 3, 2012, he and his family were still looking for potential buyers of their interest in the corporation. At the time, he still had an interest in the corporation. Nevertheless, he

<sup>207</sup> *Judicial Affidavit* dated August 24, 2018, p. 22 (Record, Vol. 3, p. 198)

<sup>208</sup> *Judicial Affidavit* dated August 24, 2018, pp. 22-23 (Record, Vol. 3, pp. 198-199)

<sup>209</sup> *Judicial Affidavit* dated August 24, 2018, p. 24 (Record, Vol. 3, p. 200)

<sup>210</sup> *Judicial Affidavit* dated August 24, 2018, pp. 24-25 (Record, Vol. 3, pp. 200-201)

<sup>211</sup> *Judicial Affidavit* dated August 24, 2018, p. 25 (Record, Vol. 3, p. 201)

<sup>212</sup> *Judicial Affidavit* dated August 24, 2018, p. 26 (Record, Vol. 3, p. 202)

<sup>213</sup> *Ibid.*

## DECISION

*People vs. Ceriola*  
SB-14-CRM-0420 to 0424

Page 31 of 51

x-----x

should not be held liable because he did not cause damage to the government.<sup>214</sup>

37. When he was still the Municipal Mayor, the corporation religiously paid the appropriate taxes and fees to the municipality (Exhibit 86).<sup>215</sup>

He further testified:

1. The stock certificates pertaining to his shareholdings in Ceriola Property Holdings were kept by his son.<sup>216</sup>
2. He asked his son to take care of everything in connection with the sale of their shares in Ceriola Property Holdings. His son asked him to sign some documents, and later, informed him that the shares were already sold.<sup>217</sup>
3. His son did not explain the specific details. He was just told that the shares were already sold.<sup>218</sup>
4. He did not personally hand the stock certificates to Wainwright Berden. His son, who kept said certificates, was the one who delivered the same to Berden.<sup>219</sup>
5. He does not remember if he signed the stock certificates.<sup>220</sup>
6. He does not know if he paid taxes for the sale of his shares. His son handled everything in connection with the sale of his shares.<sup>221</sup>
7. He does not know where his son put the proceeds of the sale of shares. He trusted his son. He believed that his son would not do anything detrimental to him.<sup>222</sup>
8. He does not know the amount of the proceeds of the sale. After the sale, he did not check the documents or receipts.<sup>223</sup>

<sup>214</sup> Judicial Affidavit dated August 24, 2018, p. 29 (Record, Vol. 3, p. 205)

<sup>215</sup> Judicial Affidavit dated August 24, 2018, p. 30 (Record, Vol. 3, p. 206)

<sup>216</sup> TSN, August 31, 2018, pp. 20-22

<sup>217</sup> TSN, August 31, 2018, pp. 26-27

<sup>218</sup> TSN, August 31, 2018, p. 27

<sup>219</sup> TSN, August 31, 2018, p. 29

<sup>220</sup> TSN, August 31, 2018, p. 30

<sup>221</sup> TSN, August 31, 2018, p. 35

<sup>222</sup> TSN, August 31, 2018, p. 36

<sup>223</sup> *Ibid.*

DECISION

People vs. Ceriola

SB-14-CRM-0420 to 0424

Page 32 of 51

x-----x

9. His son was the Executive Vice President of both corporations.<sup>224</sup>
10. His only participation with respect to the sale of 68,750 shares of stock was his act of signing the Deed of Assignment and the Deed of Absolute Sale. He does not remember if he issued a Special Power of Attorney authorizing his son to sell said shares.<sup>225</sup>
11. He lacked knowledge, especially as to legal matters, because he was not able to finish his studies.<sup>226</sup>

The following documentary exhibits offered by the accused were admitted in evidence:<sup>227</sup>

Exhibit	Document
1	Resolution No. 36, s. 2011 of the Sangguniang Bayan, Municipality of Malinao
2	Resolution No. 31, s. 2007 of the Sangguniang Bayan, Municipality of Malinao
3	Resolution No. 46, s. 2011 of the Sangguniang Bayan, Municipality of Malinao
4	Neighbor's Consent
5	Locational Clearance issued on February 9, 2012
6	Order of Payment No. 766564
7	Certificate of Non-Coverage No. CNC-R05-1206-0035 dated June 8, 2012
8	Letter dated June 14, 2012 of Noel B. Tuazon, addressed to Mr. Wainwright C. Berden
9	Letter dated June 26, 2012 addressed to Mr. Wainwright C. Berden
10	Affidavit of Wainwright C. Berden dated July 30, 2012
10-A	Summary of Construction Works
11 to 11-A	Building Permit Form Application No. 0710-05-06-2009
11-B	Electrical Permit
11-C	Sanitary/Plumbing Permit
11-D	Cost Estimate for Malinao Cockpit Arena/Two-Storey Residence
11-E	General Specification for Malinao Cockpit Arena
11-F	Real Property Tax Declaration No. 2002-005-0959 for Lot No. 2023-A
11-F-1	Deed of Absolute Sale of Lot No. 2023-A entered into by Jose Canillo and Avelino C. Ceriola on September 28, 2011
11-G	Deed of Absolute Sale of Lot No. 2024-E entered into by Jose Canillo and Avelino C. Ceriola on September 28, 2011

<sup>224</sup> TSN, August 31, 2018, p. 37

<sup>225</sup> TSN, August 31, 2018, p. 38

<sup>226</sup> TSN, August 31, 2018, p. 39

<sup>227</sup> Resolution dated October 31, 2018; Record, Vol. 4, pp. 78-79



DECISION

People vs. Ceriola

SB-14-CRM-0420 to 0424

Page 33 of 51

x-----x

11-H	Real Property Tax Declaration No. 2002-005-0957 for Lot No. 2024-L
11-H-1	Deed of Absolute Sale of Lot No. 2024-L entered into by Jose C. Canillo and Avelino C. Ceriola on September 28, 2011
11-I	Seismic Analysis
11-J	Fire Safety Evaluation Clearance No. 2012-002 dated August 7, 2012
11-K	Certificate of Non-Coverage No. CNC-R05-1109-0046 dated September 30, 2011
11-L, 11-M, 11-M-1 to 6	Lot Plan with Certification from Geodetic Engineer
11-N	Order of Payment dated June 8, 2012
12	Building Permit Form Application No. 0933-9-12-2011
14	Letter dated April 23, 2012 of Wainwright C. Berden addressed to Hon. Noel B. Tuazon
15	Letter dated January 23, 2014 of Wainwright C. Berden addressed to Hon. Leonora C. Capuz
16	Letter dated February 14, 2014 of Wainwright C. Berden addressed to Hon. Alice B. Morales
17	Letter dated August 20, 2014 of Rosemarie C. Capus addressed to Wainwright C. Berden
18	Letter dated August 22, 2014 of Wainwright C. Berden addressed to Mayor Alicia B. Morales
19	Letter dated March 13, 2012 of the Office of the Sanggunian Bayan, Municipality of Malinao addressed to Ceriola Property Holdings, Co. Inc.
21	Deed of Assignment between Alvin M. Ceriola and Celso B. Burce dated February 18, 2012
21-A	Deed of Assignment between Alvin M. Ceriola and Nelson A. Daria dated February 18, 2012
22	Deed of Assignment between Lenyabelle C. Santos and Celso B. Burce dated February 18, 2012
22-A	Deed of Assignment between Lenyabelle C. Santos and Manuel O. dated February 18, 2012
23	Deed of Assignment between Erlinda M. Ceriola and Manuel O. dated February 18, 2012
23-A	Deed of Assignment between Erlinda M. Ceriola and Wainwright C. Berden dated February 18, 2012
24	Deed of Assignment between Avelino C. Ceriola and Wainwright C. Berden dated February 18, 2012
24-A	Deed of Absolute Sale of shares of stock between Avelino C. Ceriola and Wainwright C. Berden dated February 20, 2012
25	Deed of Assignment between Leonard Allan M. Ceriola and Nelson A. Daria dated February 18, 2012
26	Deed of Assignment between Ailene C. Dela Cruz and Celso B. Burce dated February 18, 2012
27	Deed of Assignment between Ernalyne C. Soljisa and Manuel O. dated February 18, 2012

DECISION

People vs. Ceriola  
SB-14-CRM-0420 to 0424

Page 34 of 51

x-----x

28	Deed of Assignment between Christian Albert M. Ceriola and Zaldy P. Florano dated February 18, 2012
37	Resolution No. 2012-021 of the Office of the Sangguniang Barangay, Barangay Balading
38	Letter dated May 14, 2012 of Avelino C. Ceriola addressed to Hon. Noel B. Tuazon
40	Letter dated November 10, 2014 of Zaldy P. Florano addressed to Mayor Alicia B. Morales
41	Letter dated February 24, 2015 of Zaldy P. Florano addressed to Mayor Alicia B. Morales
42	Department of the Interior and Local Government Memorandum dated July 1, 2016
43	Resolution No. 15, s. 2016 of the Sangguniang Bayan, Municipality of Malinao
47 to 47-B	Pictures of Paraputo Cockpit Arena
48 to 48-A	Pictures of Old Malinao Cockpit Arena
56	Order dated October 12, 2015 of the Regional Trial Court, Branch 15, Tabaco City
57	Writ of Preliminary Injunction dated October 20, 2015 of the Regional Trial Court, Branch 15, Tabaco City
67, 67-A to T, W to AA	Pictures of the New Malinao Cockpit Arena dated February 18, 2018
69	SEC Certificate of Articles of Incorporation of Ceriola Marine Services, Inc. on May 20, 1993
75	Certification dated June 19, 2017 issued by Mayflor Atos-Deang, ICO-Provincial Treasurer
76	Certification dated July 3, 2017 issued by Mayflor Atos-Deang, ICO-Provincial Treasurer
77	Certification dated October 6, 2017 issued by Mayflor Atos-Deang, ICO-Provincial Treasurer
78	Certification dated November 8, 2017 issued by Mayflor Atos-Deang, ICO-Provincial Treasurer
79	Certification dated January 4, 2018 issued by Mayflor Atos-Deang, Acting Provincial Treasurer
80	Certification dated February 1, 2018 issued by Mayflor Atos-Deang, Acting Provincial Treasurer
81	Certification dated March 8, 2018 issued by Mayflor Atos-Deang, Acting Provincial Treasurer
82	Certification dated April 4, 2018 issued by Mayflor Atos-Deang, Acting Provincial Treasurer
83	Certification dated April 20, 2018 issued by Rey Samuel P. Locsin, Provincial Accountant
84	Governor's Permit for Calendar Year 2018 issued on January 3, 2018
84-A	Official Receipt No. 7213171 dated January 3, 2018
85	Letter dated March 15, 2012 of the Office of the Sangguniang Bayan, Municipality of Malinao
86	Letter dated May 16, 2012 of Leonora P. Capus addressed to Hon. Ervin O. Fajut, with attachments

## DECISION

*People vs. Ceriola*  
SB-14-CRM-0420 to 0424

Page 35 of 51

X-----X

87	Resolution No. 16 series of 2017 of the Office of the Sangguniang Barangay, Barangay Cabunturan
88	Resolution No. 24 series of 2017 of the Sangguniang Barangay, Barangay Awang
89	Resolution No. 17 s. 2017 of the Sangguniang Barangay, Barangay Malolos

### THE FINDINGS OF FACT

Since 2007, the members of the Sangguniang Bayan of Malinao had been exploring the idea of establishing a cockpit in Malinao. On August 14, 2007, the Sangguniang Bayan passed Resolution No. 31, s. 2007,<sup>228</sup> authorizing accused Avelino C. Ceriola, then the Mayor of said municipality, to seek permission and/or advice from then Governor Joey S. Salceda for the establishment of a cockpit. Later, on July 12, 2011, the Sangguniang Bayan of Malinao passed Resolution No. 36, s. 2011,<sup>229</sup> reiterating Resolution No. 31, s. 2007.

Thereafter, On September 20, 2011, in view of the onslaught of typhoon "Juaning," which caused heavy damage on the Malinao Cockpit, the Sangguniang Bayan of Malinao passed Resolution No. 46, s. 2011,<sup>230</sup> authorizing Ceriola Property Holdings Co., Inc. (Ceriola Property Holdings) to construct a new building for the Malinao Cockpit Arena.

At the time, the accused owned 68,750 of the 157,500 subscribed shares in Ceriola Property Holdings.<sup>231</sup> In the General Information Sheet for 2011 of Ceriola Property Holdings, the following are the corporate officers, with the corresponding number of subscribed shares:<sup>232</sup>

Name	Position	Number of shares subscribed
Avelino C. Ceriola	President/ Chairperson of the Board	68,750
Alvin M. Ceriola	EVP/ Board Member	6,250
Leonard Allan M. Ceriola	VP Marketing/ Board Member	6,250

<sup>228</sup> Exhibit 2

<sup>229</sup> Exhibit 1

<sup>230</sup> Exhibits J/3

<sup>231</sup> Exhibit K-4

<sup>232</sup> Exhibits K-3 to K-5

**DECISION**

*People vs. Ceriola*  
*SB-14-CRM-0420 to 0424*

Page 36 of 51

X -----X

Christian Albert M. Ceriola	VP Finance/ Board Member	6,250
Lenybelle C. Santos	VP Regional Operations/ Board Member	10,000
Ailene C. Dela Cruz	VP Public Relations/ Board Member	6,250
Ernalyn M. Ceriola/ Ernalyn C. Solisa	VP Operation/ Board Member	10,000
Erlinda M. Ceriola	Treasurer/ Board Member	37,500
Celso B. Burce	Corporate Secretary/ Board Member	6,250

Ceriola Property Holdings constructed the building for the subject cockpit arena sometime in December 2011.<sup>233</sup> On the following dates, the accused issued the following permits in favor of Ceriola Property Holdings/New Malinao Cockpit Arena, Inc.:

Mayor's Permit No./Date issued	Grantee	Description
2012-097/February 3, 2012 (Exhibit U) SB-14-CRM-0420	CERIOLA'S PROPERTY HOLDINGS CORP. [sic]	To operate Ceriola's Property Holdings Corp. [sic]
2012-116/February 21, 2012 (Exhibit V) SB-14-CRM-0421	New Malinao Cockpit Arena, Inc.	Operate 3 Cock Derby
2012-212/April 14, 2012 (Exhibit W) SB-14-CRM-0422	New Malinao Cockpit Arena, Inc.	Operate 4 Cock Derby

Also, within said period, "New Malinao Cockpit Arena, Inc." paid the following fees and taxes:

Official Receipt No. / Date	Nature of Collection	Amount
1249882 / February 3, 2012 (Exhibit R-10)	Filing fee (Application) Filing fee <sup>234</sup> Annual inspection fee	₱200.00 ₱5,000.00 ₱500.00
1249900 / February 7, 2012 (Exhibit R-9)	Amusement tax	₱10,500.00
1250416 / February 21, 2012 (Exhibit R-3)	Mayor's Permit (3 Cock Derby)	₱600.00
1250445 / February 28, 2012 (Exhibit R-8)	Amusement tax	₱10,000.00
1252514 / April 19, 2012 (Exhibit R-5)	Mayor's Permit (4 Cock Derby)	₱800.00
1252513 / April 19, 2012 (Exhibit R-7)	Amusement tax	₱12,000.00

<sup>233</sup> Pre-Trial Order dated February 15, 2017, p. 2; Record, Vol. 1, p. 389

<sup>234</sup> Annual cockpit permit fee (Exhibit R)

DECISION

People vs. Ceriola

SB-14-CRM-0420 to 0424

Page 37 of 51

X -----X

1252769 / April 24, 2012 (Exhibit R-6)	Amusement tax	₱10,000.00
---	---------------	------------

In the letter dated March 13, 2012, the members of the Sangguniang Bayan advised Ceriola Property Holdings to secure a permit to operate from the Sangguniang Bayan. In the letter dated March 15, 2012, the Sangguniang Bayan of Malinao informed the accused that under Sec. 89 of the Local Government Code, local government officials or employees are prohibited from directly or indirectly holding an interest in any cockpit or other games licensed by the local government unit.

The accused responded to the aforementioned letters by sending his letter dated May 14, 2012<sup>235</sup> addressed to Hon. Noel B. Tuazon, Chairperson of the Committee on Laws and Ethics of the Sangguniang Bayan. There, the accused informed Councilor Tuazon that he and his family had already divested from Ceriola Property Holdings.

In the General Information Sheet for 2012 of Ceriola Property Holdings, the following are the corporate officers, with the corresponding number of subscribed shares:<sup>236</sup>

Name	Position	Number of shares subscribed
Wainwright C. Berden	President/ Chairperson of Board	94,100
Manuel O.	VP Marketing/ Board Member	31,500
Celso B. Burce	VP Finance/ Board Member	15,750
Nelson A. Daria	VP Operation/ Board Member	7,875
Zaldy P. Florano	Corporate Secretary/ Board Member	7,875
Leodegario L. Laruan	Board Member	100
Robby Renan C. Labalan	Board Member	100
Freddie E. Hunggay	Board Member	100
Janette G. Ibeas	Board Member	100

<sup>235</sup> Exhibits S/38

<sup>236</sup> Exhibits X-2 to X-4

DECISION

People vs. Ceriola  
SB-14-CRM-0420 to 0424

Page 38 of 51

x-----x

DISCUSSION

I. *Violation of Sec. 3(e) of R.A. No. 3019*

In SB-14-CRM-0420 to 0422, the accused is charged with acting with evident bad faith and manifest partiality by issuing Mayor's Permits in favor of Ceriola Property Holdings (SB-14-CRM-0420) and New Malinao Cockpit Arena, Inc. (SB-14-CRM-0421 and 0422), wherein he held an interest, thereby, giving Ceriola Property Holdings/New Malinao Cockpit Arena unwarranted benefits advantage or preference by allowing the same to benefit from, and exercise a privilege it otherwise could not.

Sec. 3(e) of R.A. No. 3019 reads:

**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 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 elements of said offense are as follows:<sup>237</sup>

1. The accused must be a public officer discharging administrative, judicial, or official functions (or a private individual acting in conspiracy with such public officer);
2. The accused acted with manifest partiality, evident bad faith, or gross inexcusable negligence; and
3. The accused' 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 or her functions.

<sup>237</sup> Please see *Fuentes v. People*, G.R. No. 186421, April 17, 2017

DECISION

*People vs. Ceriola*

SB-14-CRM-0420 to 0424

Page 39 of 51

x-----x

The first element is present. The accused issued the subject Mayor's Permits in the exercise of his official functions. Under Sec. 444 (b) (3) (iv) of R.A. No. 7160, Municipal Mayors have the power to issue permits pursuant to law or ordinance. *viz.*:

**Sec. 444. The Chief Executive: Powers, Duties, Functions and Compensation. --**

x x x

(b) For efficient, effective and economical governance the purpose of which is the general welfare of the municipality and its inhabitants pursuant to Section 16 of this Code, the municipal mayor shall:

x x x

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

x x x

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

Here, it is indicated in the subject Mayor's Permits<sup>238</sup> that the same were issued pursuant to Sec. 3A.01, Article A, Chapter III of the Municipal Tax Ordinance No. 01, s. 2004, otherwise known as the Revenue Code of 2004 of Malinao, Albay.

The second element of violation of Sec. 3(e) pertains to the modes by which the crime may be committed, *i.e.*, through manifest partiality, evident bad faith, or gross inexcusable negligence. The Supreme Court, in *Uriarte v. People*,<sup>239</sup> explained these three terms as follows:



<sup>238</sup> Exhibits U, V and W

<sup>239</sup> G.R. No. 169251, December 20, 2006

## DECISION

People vs. Ceriola  
SB-14-CRM-0420 to 0424

Page 40 of 51

X-----X

Section 3(e) of R.A. 3019 may be committed either by *dolo*, as when the accused acted with evident bad faith or manifest partiality, or by *culpa* as when the accused committed gross inexcusable negligence. 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. 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. "**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.

The second element is present. The accused acted with evident bad faith when he issued the following Mayor's Permits:

Mayor's Permit No./Date issued	Grantee	Description
2012-097/February 3, 2012 (Exhibit U) SB-14-CRM-0420	CERIOLA'S PROPERTY HOLDINGS CORP. [sic]	To operate Ceriola's Property Holdings Corp. [sic]
2012-116/February 21, 2012 (Exhibit V) SB-14-CRM-0421	New Malinao Cockpit Arena, Inc.	Operate 3 Cock Derby
2012-212/April 14, 2012 (Exhibit W) SB-14-CRM-0422	New Malinao Cockpit Arena, Inc.	Operate 4 Cock Derby

At the time the accused issued the subject permits, he was still the President and Chairperson of the Board of Directors of Ceriola Property Holdings, and had substantial interest in said corporation, holding 68,750 of the 157,500 subscribed shares.<sup>240</sup> It appears that the accused retained said positions in the corporation and held such shares of stock until around May 10, 2012. By then, the names of the accused and his family no longer appeared in the GIS for 2012.<sup>241</sup>

Notably, Mayor's Permit No. 2012-097 was issued in favor of Ceriola Property Holdings, and Mayor's Permits No. 2012-116 and 2012-212 were issued in favor of New Malinao Cockpit Arena, Inc. While it may appear that "Ceriola Property Holdings" and "New Malinao

<sup>240</sup> It is indicated in Exhibit K-4 that the accused owns 55% of the subscribed shares. However, his subscribed shares (68,750) represent only 43.65% of the total number of subscribed shares (157,500)

<sup>241</sup> Exhibit X to X-7



DECISION

*People vs. Ceriola*

SB-14-CRM-0420 to 0424

Page 41 of 51

x -----x

Cockpit Arena, Inc.” are different entities, an examination of the evidence on record would show that the two operated the New Malinao Cockpit Arena, albeit in different periods.

A reading of Resolution No. 46, s. 2011<sup>242</sup> would show that the Sangguniang Bayan of Malinao authorized Ceriola Property Holdings to construct the new building for the Malinao Cockpit Arena because the old building was heavily damaged by typhoon “Juaning.” The addition of the word “new” appears to have been made to indicate that the new building was constructed to replace the one that was damaged. The Articles of Incorporation of Ceriola Property Holdings was amended only on April 7, 2012,<sup>243</sup> to properly reflect the fact that it is engaged in operating the Malinao Cockpit Arena, but it appears that from the time of the construction of the cockpit building, no entity other than Ceriola Property Holdings operated the New Malinao Cockpit Arena.

When the accused issued the subject Mayor’s Permits in favor of Ceriola Property Holdings/New Malinao Cockpit Arena, Inc., a corporation in which he had a substantial financial or pecuniary interest, it can be said that he acted with self-interest, and hence, with evident bad faith.

The accused claims that he and his family divested from Ceriola Property Holdings on February 18, 2012. To support this claim, the accused presented the purported Deeds of Assignment and Deed of Sale, all dated February 18, 2012. But these documents are mere copies. It was not established that the originals were lost or destroyed, or cannot be produced in court. Neither were the assignors—aside from the accused himself—and the assignees presented as witnesses.

In any event, the Court finds that the prosecution failed to prove the third element of violation of Sec. 3(e) of R.A. No. 3019 in SB-14-CRM-0420 to 0423

The third element is present if the accused’ act done with manifest partiality, evident bad faith or gross inexcusable negligence caused undue injury to any party, or gave unwarranted benefits, advantage or preference to any private party.

---

<sup>242</sup> Exhibits J/3

<sup>243</sup> Exhibit T-3

DECISION

*People vs. Ceriola*  
SB-14-CRM-0420 to 0424

Page 42 of 51

x -----x

Here, the accused is charged with giving Ceriola Property Holdings/Malinao Cockpit Arena unwarranted benefits, advantage or preference when he issued the subject Mayor's Permits. In *Rivera v. People*,<sup>244</sup> the Supreme Court explained the phrase, thus:

x x x. The word "unwarranted" means lacking adequate or official support; unjustified; unauthorized or without justification or adequate reason. "Advantage" means a more favorable or improved position or condition; benefit, profit or gain of any kind; benefit from some course of action. "Preference" signifies priority or higher evaluation or desirability; choice or estimation above another.

The subject permits were issued pursuant to Sec. 3A.01, Article A, Chapter III of the Municipal Tax Ordinance No. 01, s. 2004, otherwise known as the Revenue Code of 2004 of Malinao, Albay. But this Court cannot determine if unwarranted benefits, advantage or preference were given to Ceriola Property Holdings/Malinao Cockpit Arena by reason of the grant of such permits because the pertinent provision was not proved by the prosecution.<sup>245</sup> Ordinances are not included in the enumeration of matters covered by mandatory judicial notice under Rule 129, Sec. 1 of the Rules of Court.<sup>246</sup>

This Court also cannot arrive at the conclusion that Ceriola Property Holdings/Malinao Cockpit Arena was given unwarranted benefits under Sec. 447(a)(3)(v) of R.A. No. 7160. At the risk of repetition, the subject permits were issued pursuant to Sec. 3A.01, Article A, Chapter III of the Municipal Tax Ordinance No. 01, s. 2004, otherwise known as the Revenue Code of 2004 of Malinao, Albay, and not under Sec. 447(a)(3)(v) of R.A. No. 7160, which gives the Sangguniang Bayan the exclusive power to authorize or license the operation of cockpits in the municipality.

Municipal Mayors do not have the authority to authorize or license the operation of cockpits. Prior to the effectivity of R.A. No. 7160, Municipal Mayors, with the concurrence of their Sanggunians, had the authority to license and regulate cockfighting.<sup>247</sup> However, this

<sup>244</sup> G.R. Nos. 156577, 156587 and 156749, December 3, 2014

<sup>245</sup> The provision was not included in Exhibit Z

<sup>246</sup> Please see *Social Justice Society (SJS) v. Atienza*, G.R. No. 156052, February 13, 2008

<sup>247</sup> P.D. 449, Sec. 6. *Licensing of Cockpits*. City and municipal mayors are authorized to issue licenses for the operation and maintenance of cockpits subject to the approval of the Chief of Constabulary or his authorized representatives. x x x; P.D. No. 1802, as amended by P.D. No. 1802-A, Sec. 4. City and Municipal Mayors with the concurrence of their respective "Sanggunians" shall have the authority to license and regulate regular cockfighting pursuant to the rules and regulations promulgated by the Commission and subject to its review and supervision.

DECISION

People vs. Ceriola  
SB-14-CRM-0420 to 0424

Page 43 of 51

X -----X

authority had been removed in R.A. No. 7160, Sec. 447(a)(3)(v) of which provides that such power to authorize and license cockpits belongs to the Sangguniang Bayan. The provision reads:

**Sec. 447. Powers, Duties, Functions and Compensation.** – (a) The sangguniang bayan, as the legislative body of the municipality, shall enact ordinances, approve resolutions and appropriate funds for the general welfare of the municipality and its inhabitants pursuant to Section 16 of this Code and in the proper exercise of the corporate powers of the municipality as provided for under Section 22 of this Code, and shall:

x x x

- (3) Subject to the provisions of Book II of this Code, grant franchises, enact ordinances authorizing the issuance of permits or licenses, or enact ordinances levying taxes, fees and charges upon such conditions and for such purposes intended to promote the general welfare of the inhabitants of the municipality, and pursuant to this legislative authority shall:

x x x

- (v) Any law to the contrary notwithstanding, authorize and license the establishment, operation, and maintenance of cockpits, and regulate cockfighting and commercial breeding of gamecocks: *Provided*, That existing rights should not be prejudiced;

In *Teves v. Sandiganbayan*,<sup>248</sup> the Supreme Court agreed with the Sandiganbayan that therein accused Mayor Teves could not have intervened or taken part in his official capacity in the issuance of a cockpit license because only the Sangguniang Bayan could have issued such permit to operate the Valencia Cockpit. In *Tan v. Pereña*,<sup>249</sup> the Supreme Court emphasized that the phrase “any law to the contrary notwithstanding” removes any doubt that it is the Sangguniang Bayan alone which has the power to authorize and license the establishment, operation and maintenance of cockpits, and regulate cockfighting and commercial breeding of gamecocks within its territorial jurisdiction.

Here, it is without question that the accused issued the subject Mayor's Permits in favor of Ceriola Property Holdings/Malinao Cockpit

<sup>248</sup> G.R. No. 154182, December 17, 2004

<sup>249</sup> G.R. No. 149743, February 18, 2005

## DECISION

*People vs. Ceriola*  
SB-14-CRM-0420 to 0424

Page 44 of 51

x-----x

Arena. But such permit, by itself, could not have authorized Ceriola Property Holdings/Malinao Cockpit Arena to legally operate a cockpit within the Municipality of Malinao. A cockpit operator may secure all other necessary permits—including the Mayor's Permit—and pay the various fees and taxes in connection with its operation. Nevertheless, without the requisite authorization or license from the Sangguniang Bayan, it cannot legally operate within the municipality concerned.

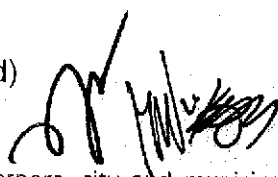
The prosecution failed to prove the third element of violation of Sec. 3(e) of R.A. No. 3019 beyond reasonable doubt. Consequently, the accused, who enjoys the right to be presumed innocent until the contrary is proved, must be acquitted.

This Court is not unaware that operating a cockpit without the requisite license,<sup>250</sup> knowingly tolerating the illegal operation of a cockpit, or engaging in another occupation while at the same time being a Municipal Mayor<sup>251</sup> may give rise to criminal or administrative liability. However, these are not the charges against the accused in the present cases. The Informations in the present cases charge the accused with violation of Sec. 3(e) of R.A. No. 3019, specifically, by issuing Mayor's Permits in favor of a corporation in which he has a financial or pecuniary interest.

As the Supreme Court held in *Patula v. People*,<sup>252</sup> convicting an accused of an offense not charged in the Information would violate said accused' Constitutional right to be informed of the nature and cause of the accusation. To wit:

The importance of the proper manner of alleging the nature and cause of the accusation in the information should never be taken for granted by the State. An accused cannot be convicted of an offense that is not clearly charged in the complaint or information. To convict him of an offense other than that charged in the complaint or information would be violative of the Constitutional right to be informed of the nature and cause of the accusation. Indeed, the accused cannot be convicted of a crime, even if duly proven, unless the crime is alleged or necessarily included in the information filed against him.

(underscoring supplied)



<sup>250</sup> P.D. No. 449. Sec. 5(d) in relation to Sec. 8

<sup>251</sup> R.A. No. 7160. Sec. 90. *Practice of Profession*. – (a) All governors, city and municipal mayors are prohibited from practicing their profession or engaging in any occupation other than the exercise of their functions as local chief executives. (underscoring supplied)

<sup>252</sup> G.R. No. 164457, April 11, 2012

DECISION

People vs. Ceriola  
SB-14-CRM-0420 to 0424

Page 45 of 51

x-----x

II. Violation of Sec. 3(h) of R.A. No. 3019 and  
Sec. 89 (a) (2) of R.A. No. 7160

Sec. 3(h) of R.A. No. 3019 reads:

**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

(h) Directly or indirectly having financial or pecuniary interest in any business, contract or transaction in connection with which he intervenes or takes part in his official capacity, or in which he is prohibited by the Constitution or by any law from having any interest.

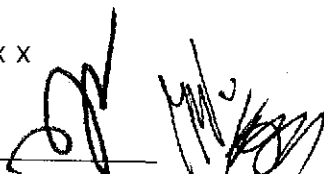
The elements of violation of Sec. 3(h) of R.A. No. 3019 are as follows:<sup>253</sup>

1. The accused is a public officer;
2. The accused has a direct or indirect financial or pecuniary interest in any business, contract, or transaction;
3. The accused either
  - a. intervenes or takes part in his or her official capacity in connection with such interest; or
  - b. is prohibited from having such interest by the Constitution or by any law.

Here, the accused is charged with committing violation of Sec. 3(h) of R.A. No. 3019 under the second mode, *i.e.*, possession of prohibited interest. In particular, he is charged with having a direct or indirect financial or pecuniary interest in Ceriola Property Holdings, in violation of Sec. 89 (a) (2) of R.A. No. 7160, which provides:

**Sec. 89. Prohibited Business and Pecuniary Interest.** – (a) It shall be unlawful for any local government official or employee, directly or indirectly, to:

x x x



<sup>253</sup> Please see *Teves v. Sandiganbayan*, G.R. No. 154182, December 17, 2004

## DECISION

*People vs. Ceriola*  
SB-14-CRM-0420 to 0424

Page 46 of 51

X-----X

(2) Hold such interests in any cockpit or other games licensed by a local government unit;

It is undisputed that the accused was a public officer at the time of the alleged commission of the offense. As previously discussed, the accused had financial or pecuniary interest in Ceriola Property Holdings until around May 10, 2012. Said corporation appears to have operated a cockpit before February 7, 2012, as evidenced by its payment of the amusement tax, which is based on the gross receipts from the admission fees.<sup>254</sup> From the fact that it paid the amusement tax, it can be inferred that the corporation actually operated the cockpit before said date.

The accused did not deny, and even admitted, the fact that he had financial or pecuniary interest in Ceriola Property Holdings, and that said corporation operated the Malinao Cockpit Arena.<sup>255</sup> For his defense, he contends that (1) he did not want to build the cockpit arena, but the members of the Sangguniang Bayan urged him to do so as part of a plan to put him in a situation where he will be barred from running for public office;<sup>256</sup> (2) he assumed that there were no legal issues when the Sangguniang Bayan authorized Ceriola Property Holdings to construct the cockpit arena; and (3) he and his family divested themselves of their shareholdings on February 18, 2012. These contentions are untenable.

First, ignorance of the law excuses no one from compliance therewith.<sup>257</sup> This especially applies to the accused who, as the Municipal Mayor, was duty-bound to enforce laws and ordinances relative to the governance of the municipality.<sup>258</sup> As the Municipal Mayor, he should have known that he was prohibited from directly or indirectly holding an interest in a cockpit.

Second, even assuming that the accused convincingly proved that he and his family divested themselves of their shareholdings in Ceriola Property Holdings on February 18, 2012, this Court's conclusion will not change. In *People v. Delfin*,<sup>259</sup> it was held that in crimes where the date of commission is not a material element, it is not

<sup>254</sup> R.A. No. 7160. Sec. 140

<sup>255</sup> *Judicial Affidavit* dated August 24, 2018, pp. 29-30 (Record, Vol. 3, pp. 205-206)

<sup>256</sup> *Judicial Affidavit* dated August 24, 2018, pp. 13, 24 (Record, Vol. 3, pp. 189, 200)

<sup>257</sup> *Civil Code*. Art. 3

<sup>258</sup> R.A. No. 7160. Sec. 444(b)(2)

<sup>259</sup> G.R. No. 201572, July 9, 2014

DECISION

People vs. Ceriola  
SB-14-CRM-0420 to 0424

Page 47 of 51

X -----X

necessary to allege the date with absolute specificity or certainty in the information. *viz.*:

In crimes where the date of commission is not a material element, like murder, it is not necessary to allege such date with absolute specificity or certainty in the information. The Rules of Court merely requires, for the sake of properly informing an accused, that the date of commission be approximated:

X X X

**Sec. 11. Date of commission of the offense.** – It is not necessary to state in the complaint or information the precise date the offense was committed except when it is a material ingredient of the offense. The offense may be alleged to have been committed on a date as near as possible to the actual date of its commission.

Since the date of commission of the offense is not required with exactitude, the allegation in an information of a date of commission different from the one eventually established during the trial would not, as a rule, be considered as an error fatal to the prosecution. In such cases, the erroneous allegation in the information is just deemed supplanted by the evidence presented during the trial or may even be corrected by a formal amendment of the information.

Assuming that the accused and his family divested themselves of their shareholdings in Ceriola Property Holdings on February 18, 2012, the fact remains that the accused held such prohibited interest in a cockpit sometime before February 7, 2012 until February 18, 2012. The discrepancy between February 18, 2012 and "on or about 21 February 2012" is not so great such that it will induce the perception that the Information and the evidence are no longer pertaining to one and the same offense.

The present cases must be differentiated from the situation where the accused held the prohibited interest prior to assuming office. In such situation, the public officer may be given reasonable time to divest from the corporation.<sup>260</sup> Here, the accused was the incumbent Municipal Mayor when the corporation in which he had substantial financial or pecuniary interest, and where he was the President and Chairperson of the Board of Directors, started to operate a cockpit. In fact, Ceriola Property Holdings was not originally engaged in operating

<sup>260</sup> R.A. No. 6713. Sec. 9. *Divestment.* – A public official or employee shall avoid conflicts of interest at all times. When a conflict of interest arises, he shall resign from his position in any private business enterprise within thirty (30) days from his assumption of office and/or divest himself of his shareholdings or interest within sixty (60) days from such assumption.

## DECISION

*People vs. Ceriola*  
SB-14-CRM-0420 to 0424

Page 48 of 51

x -----x

a cockpit.<sup>261</sup> As Municipal Mayor, the accused should have known that local officials are prohibited from possessing direct or indirect financial or pecuniary interest in cockpits.

The prosecution established beyond reasonable doubt the accused' guilt of violation of Sec. 3(h) of R.A. No. 3019 and violation of Sec. 89(a)(2) of R.A. No. 7160. The only matter left to be resolved is the appropriate penalty to be imposed.

Citing *Teves v. Sandiganbayan*,<sup>262</sup> the accused argues that if he should be found guilty of having prohibited interest in a cockpit, the penalty to be imposed on him should only be the fine as provided in Sec. 514 of R.A. No. 7160, and not the penalty under R.A. No. 3019, *in addition to* that under R.A. No. 7160. Although this Court agrees that only the penalty provided in Sec. 514 of R.A. No. 7160 should be imposed, it disagrees with the accused' assertion that the lighter penalty of only a fine should be imposed on him.

In *Teves*, the Supreme Court, in essence, considered violation of Sec. 3(h) of R.A. No. 3019 and Sec. 89(a)(2) of R.A. No. 7160 as one offense. It held that therein accused was guilty of violation of Sec. 3(h) of R.A. No. 3019, but imposed only the penalty provided in Sec. 514 of R.A. No. 7160. The High Court explained that the penalty under R.A. No. 7160 must be imposed because R.A. No. 7160, aside from being the later statute, specifically deals with local officials possessing prohibited pecuniary interest in a cockpit. *viz.:*

The next question we have to grapple with is under what law should petitioner Edgar Teves be punished. It must be observed that Section 3(h) of the Anti-Graft Law is a general provision, it being applicable to all prohibited interests; while Section 89(2) of the LGC of 1991 is a special provision, as it specifically treats of interest in a cockpit. Notably, the two statutes provide for different penalties. xxx

It is a rule of statutory construction that where one statute deals with a subject in general terms, and another deals with a part of the same subject in a more detailed way. The two should be harmonized if possible; but if there is any conflict, the latter shall prevail regardless of whether it was passed prior to the general statute. Or where two statutes are of contrary tenor or of different dates but are of equal theoretical application to a particular case, the one designed therefor specially should prevail over the other.

<sup>261</sup> Exhibit T-3

<sup>262</sup> G.R. No. 154182, December 17, 2004



## DECISION

People vs. Ceriola  
SB-14-CRM-0420 to 0424

Page 49 of 51

x-----x

Conformably with these rules, the LGC of 1991, which specifically prohibits local officials from possessing pecuniary interest in a cockpit licensed by the local government unit and which, in itself, prescribes the punishment for violation thereof, is paramount to the Anti-Graft Law, which penalizes possession of prohibited interest in a general manner. Moreover, the latter took effect on 17 August 1960, while the former became effective on 1 January 1991. Being the earlier statute, the Anti-Graft Law has to yield to the LGC of 1991, which is the later expression of legislative will.

Thus, applying the abovesited ruling, only the penalty under Sec. 514 of R.A. No. 7160 will be imposed on the accused. Said provision reads:

**Sec. 514. Engaging in Prohibited Business Transactions or Possessing Illegal Pecuniary Interest.** – Any local official and any person or persons dealing with him who violate the prohibitions provided in Section 89 of Book I hereof, shall be punished with imprisonment for six (6) months and one (1) day to six (6) years, or a fine of not less than Three thousand pesos (P3,000.00) nor more than Ten thousand pesos (P10,000.00), or both such imprisonment and fine, at the discretion of the court.

Indeed, in *Teves*, the Supreme Court imposed the penalty of only a fine in the amount of ₱10,000.00, as provided in Sec. 514. But it bears stressing that in said case, the Supreme Court found that the imposition of such lighter penalty was justified because therein accused committed the offense shortly after the effectivity of R.A. No. 7160, considering that under the old Local Government Code, mere possession of pecuniary interest in a cockpit was not a prohibited act. Such circumstance is not present here. R.A. No. 7160 has been in effect since January 1, 1992, or over two (2) decades before herein accused committed the offense.

## CONCLUSION

The prosecution failed to prove beyond reasonable doubt the accused' guilt of violation of Sec. 3(e) of R.A. No. 3019. Hence, the Court is constrained to acquit the accused of said offense. On the other hand, the prosecution proved beyond reasonable doubt the accused' guilt of violation of Sec. 3(h) of R.A. No. 3019 and Sec. 89(a)(2) of R.A. No. 7160. However, applying the Supreme Court's

DECISION

People vs. Ceriola  
SB-14-CRM-0420 to 0424

Page 50 of 51

x-----x


ruling in *Teves v. Sandiganbayan*, only the penalty under Sec. 514 of R.A. No. 7160 will be imposed.

**WHEREFORE**, judgment is hereby rendered as follows.

1. in SB-14-CRM-0420 to 0422, accused AVELINO C. CERIOLA is hereby **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt.
2. In SB-14-CRM-0423 and 0424, accused AVELINO C. CERIOLA is hereby found **GUILTY** beyond reasonable doubt of violation of Sec. 3(h) of R.A. No. 3019 and Sec. 89(a)(2) of R.A. No. 7160, and is accordingly sentenced to suffer the indeterminate penalty of imprisonment of six (6) months and one (1) day, as minimum, to two (2) years, as maximum,<sup>263</sup> and to pay a fine in the amount of Ten Thousand Pesos (P10,000.00).

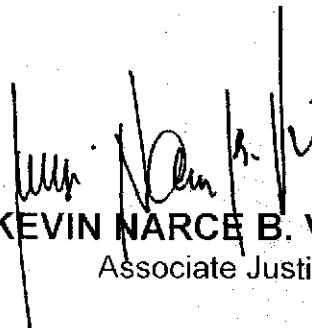
Let the hold departure order against him by reason of SB-14-CRM-0420 to 0422 be lifted and set aside, and his bond released, subject to the usual accounting and auditing procedure.

SO ORDERED.

  
SARAH JANE T. FERNANDEZ  
Associate Justice  
Chairperson

**We Concur:**

  
KARL B. MIRANDA  
Associate Justice

  
KEVIN NARCE B. VIVERO  
Associate Justice

<sup>263</sup> Act No. 4103, Sec. 1. x x x; and if the offense is punished by any other 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.

DECISION

People vs. Ceriola  
SB-14-CRM-0420 to 0424

Page 51 of 51

x-----x

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.

  
SARAH JANE T. FERNANDEZ  
Associate Justice  
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13, of the Constitution, and the Division Chairperson'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

