



REPUBLIC OF THE PHILIPPINES  
**Sandiganbayan**  
Quezon City

**SIXTH DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
*Plaintiff,*

-versus-

**EDNA V. OGKA BENITO,  
SULTAN RASCAL Z. ARIMAO,  
NAJIB ALYHAR ZACARIA, AND  
CASANGOAN MAROHOM,**  
*Respondents.*

**SB-16-CRM-0438**

For: Violation of Section 3(e) of  
R.A. No. 3019

*Present:*

**FERNANDEZ, SJ, J.**

*Chairperson*

**MIRANDA, J. and**

**VIVERO, J.**

*Promulgated:*

*January 29, 2021*

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**DECISION**

**VIVERO, J.**

For decision is the charge for violation of **Section 3 (e) of Republic Act No. 3019 (R.A. No. 3019)<sup>1</sup>**, otherwise known as the **Anti-Graft and Corrupt Practices Act**, as amended, against **Edna V. Ogka Benito, Sultan Rascal Z. Arimao, Najib Alyhar Zacaria,**

<sup>1</sup> **Section 3. Corrupt practices of public officers.** In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

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(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.

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**and Casangoan Marohom**, for allegedly refusing to pay the salary of Complainant Nasser C. Disalongan as ex-officio Sanggunian Member of the Municipality of Balabagan.

The Information dated 23 May 2016<sup>2</sup> reads as follows:

“That on or about December 2013 up to January 2015, or shortly prior or subsequent thereto, in Balabagan, Lanao del Sur, Philippines and within the jurisdiction of this Honorable Court, the above-named accused **EDNA V. OGKA BENITO**, a high ranking public officer with salary grade 27, being the Municipal Mayor, **SULTAN RASCAL Z. ARIMAO**, Municipal Assessor and Acting Municipal Budget Officer, **NAJIB ALYHAR ZACARIA** Municipal Accountant, and **CASANGOAN MAROHOM**, Assistant Treasurer and Acting Municipal Treasurer, all of Municipality of Balabagan, Lanao del Sur; while in the performance of their official and/or administrative functions; conspiring with one another, committing the offense in relation to their office, acting with evident bad faith or gross inexcusable negligence; did then and there wilfully, unlawfully and criminally cause undue injury to Nasser C. Disalongan, by refusing to pay his salary as ex-officio Sanggunian Member of the Municipality of Balabagan, Lanao del Sur for the period December 2013 to January 2015 in the total amount of Two Hundred Eighty Thousand Pesos (Php 280,000.00), to the damage and prejudice of Nasser C. Disalongan in the aforesaid amount.

CONTRARY TO LAW.”

**FACTS**

From the testimonial and documentary evidence on record, as well as the stipulations of the parties, this Court sets forth hereunder the following duly established relevant facts.

In 2013, Complainant Nasser C. Disalongan was the Barangay Captain of Magolalung Occidental, Balabagan, Lanao del Sur. On 9 December 2013, he was elected as President of the Liga ng Mga Barangay, Balabagan Chapter, by virtue of which he became an ex-officio member of the Sangguniang Bayan of Balabagan.

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<sup>2</sup> Rollo, Volume 1, pp. 1-2.

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In a letter dated 9 December 2013, Complainant informed Vice-Mayor Sultan Quirino R. Sampiano ("Vice-Mayor Sampiano" for brevity) that he assumed his office as President of the Liga ng Mga Barangay, Balabagan Chapter, Lanao del Sur.

In a letter reply dated 10 December 2013, Vice-Mayor Sampiano accepted Complainant's election and thereby recognized him as *ex-officio* member of the Sangguniang Bayan of Balabagan, Lanao del Sur.

On 11 December 2013, in a Certificate of Confirmation, the National Liga Board of the Liga ng Mga Barangay, National Chapter, confirmed the election of officers of the Liga ng Mga Barangay, Balabagan Chapter wherein Complainant was elected as the President.

In a letter dated 16 December 2013, Complainant furnished Vice-Mayor Sampiano a copy of the Certificate of Confirmation for information, record, and proper guidance.

Complainant did not receive his salary and fringe benefits since he was elected as *ex-officio* member of the Sanggunian on 9 December 2013.

Thus, on 2 April 2014, Complainant sent a letter to accused Benito, Arimao, Zacaria, and Marohom, attaching therewith the original copies of Disbursement Vouchers from December 2013 to March 2014, claiming payment of his unpaid salaries for the said period.

In another letter dated 17 November 2014, Complainant followed up his unpaid salaries for April 2014 to November 2014.

On 1 December 2014, Complainant sought legal advice regarding his unpaid salaries from the Office of the Ombudsman. In a letter reply, dated 9 December 2014, the Office of the Ombudsman indorsed the query of Complainant to accused Benito for appropriate action.

On 5 January 2015, Complainant sent another letter to the accused to follow up again on his unpaid salaries and fringe benefits.

In a letter dated 19 December 2014, accused Arimao acknowledged receipt of the demand letters of Complainant dated 2 April 2014 and 17 November 2014 and, acting thereon, required the latter to submit the original copies of his Disbursement Vouchers.

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On 5 January 2015, Complainant sent a second follow-up letter to accused Marohom reiterating his demand for his unpaid salaries from December 2013 to November 2014 taking note that the original disbursement vouchers covering said period were already sent to his office.

In letter reply to the Office of the Ombudsman, dated 18 January 2015, accused Benito clarified that the matter was already referred to accused Arimao for appropriate action. According to her, accused Arimao required Complainant to submit the original copies of the Disbursement Vouchers and other supporting documents but the latter failed to comply.

In a meeting held on 23 January 2015 at 1:30 in the afternoon, Complainant, accompanied by his wife, Sanaira Benito, and Nani C. Disalongan, met accused Marohom and Arimao at the Ground Floor Restaurant of Maria Cristina Hotel in Iligan City. In the said meeting, accused Marohom offered Complainant his salary for the period of December 2013 to January 2015 but for only 50% of his claim which he refused to accept right there and then.

In a letter dated 1 February 2015, Complainant reiterated his demand to accused Benito, at the same time calling the attention of accused Arimao, Zacaria, and Marohom.

On 23 February 2015, a Complaint-Affidavit was filed before the Office of the Ombudsman by Complainant against accused **EDNA V. OGKA BENITO, SULTAN RASCAL Z. ARIMAO, NAJIB ALYHAR ZACARIA,** and **CASANGOAN MAROHOM** for violation of Section 3(e) of R.A. No. 3019 and Article 286 of the Revised Penal Code.

On 7 April 2015, accused Benito filed a Complaint-Affidavit<sup>3</sup> against Complainant for Conduct Prejudicial to the Best Interest of the Service, Grave Abuse of Authority, Grave Misconduct, Gross Neglect of Duty, and Oppression before the Office of the Ombudsman. On the other hand, accused Arimao, Zacaria, and Marohom filed their respective Counter-Affidavits<sup>4</sup> to the Complaint of Complainant Nasser C. Disalongan before the Ombudsman.

In a Resolution dated 7 October 2015, the Office of the Ombudsman found probable cause to indict accused **EDNA V. OGKA BENITO, SULTAN RASCAL Z. ARIMAO, NAJIB ALYHAR ZACARIA,** and **CASANGOAN MAROHOM** for violation of Section

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<sup>3</sup> *Ibid* at pp. 106-109.

<sup>4</sup> *Ibid* at, pp. 110-119.

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3(e) of R.A. No. 3019. As to the charge of Grave Coercion filed by Complainant Nasser C. Disalongan against EDNA V. OGKA BENITO, SULTAN RASCAL Z. ARIMAO, NAJIB ALYHAR ZACARIA, and CASANGOAN MAROHOM, the Office of the Ombudsman did not find probable cause to indict the said accused.

**PROCEEDINGS BEFORE  
THE SANDIGANBAYAN**

In its 15 July 2016 Minute Resolution, this Court found probable cause against all accused and thus, ordered the issuance of Warrants of Arrest<sup>5</sup> against them. Further, this Court directed the Bureau of Immigration to issue a hold departure against accused Benito, Arimao, Zacaria, and Marohom<sup>6</sup>. On the same date, for their provisional liberty, all accused posted Cash Bail Bond triggering the recall of the Warrant of Arrest<sup>7</sup>.

On 18 August 2016, accused Benito filed a Motion to Dismiss<sup>8</sup> on the ground that Complainant executed an Affidavit of Desistance<sup>9</sup> stating therein that he will no longer demand payment of his salaries for the period during which he did not attend Sanggunian Bayan Sessions and that he will no longer pursue and testify in this case.

On 9 September 2016, the Prosecution filed an Opposition<sup>10</sup> to the Motion to Dismiss manifesting to this Court that the Office of the Ombudsman, through the Office of the Special Prosecutor, will not concur with Complainant's Affidavit of Desistance.

On 26 September 2016, accused Benito, Arimao, Zacaria, and Marohom filed a Reply to the Opposition to Dismiss<sup>11</sup> stressing to this Court that, in separate cases then pending before the Court of Appeals where the same parties were involved, entitled "Edna Ogca V. Benito, et al. vs. The Office Of The Ombudsman, the Department of Interior Local Government (DILG) & Nasser C. Disalongan" docketed as CA-G.R. No. Sp No. 07156-Min and "Edna V. Ogka Benito, et al., vs the Office of the Omubdsman, the Department of Interior Local Government (DILG) & Nasser C. Dissalongan", docketed as CA-G.R. No. SP No. 07157-MIN<sup>12</sup>, the accused in this

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<sup>5</sup> *Ibid* at p. 120.

<sup>6</sup> *Ibid* at, p. 119.

<sup>7</sup> *Ibid* at p. 130.

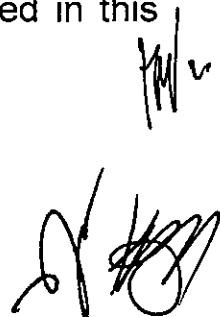
<sup>8</sup> *Ibid* at pp. 182-188.

<sup>9</sup> Annex "B" to the Motion to Dismiss.

<sup>10</sup> *Ibid* at pp. 224-227.

<sup>11</sup> *Ibid* at pp.232-269.

<sup>12</sup> Annex "A" of Reply dated 26 September 2016.



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case were acquitted of the charge for Simple Misconduct and Conduct Prejudicial to the Best Interest of the Service in relation to the herein Complaint. Thus, all accused argued that if they were exonerated for lack of even a mere preponderance of evidence required in administrative cases, involving the same facts as in this case, how can they possibly be convicted in the instant case wherein the more stringent proof beyond reasonable doubt is required<sup>13</sup>.

In a Resolution dated 10 October 2016, this Court denied the Motion to Dismiss holding that the desistance of Complainant does not affect the prosecution of this case.

On 13 October 2016, accused Benito, Arimao, and Zacaria were arraigned. They pleaded NOT GUILTY to the charge<sup>14</sup>. On 21 November 2016, accused Marohom was arraigned and likewise pleaded NOT GUILTY<sup>15</sup>.

On 9 November 2016, all accused filed their respective Pre-Trial Briefs<sup>16</sup>, and thereafter filed an Amended Pre-Trial Brief<sup>17</sup> on 23 January 2017, while the Prosecution filed its Pre-Trial Brief<sup>18</sup> on 25 January 2017.

On 10 January 2017, the Prosecution filed a Motion to Suspend Accused Pendente Lite<sup>19</sup> in accordance with Section 13 of R.A. No. 3019<sup>20</sup>.

On 30 January 2017, accused Arimao, Zacaria, and Marohom filed a Comment/Opposition to Prosecution's Motion to Suspend Accused Pendente Lite on the following grounds: (a) the Motion was belatedly filed; (b) accused are incapable of intimidating witnesses or frustrating their prosecution; (c) the case is only for simple misconduct and conduct prejudicial to the best interest of the service, and guilt of accused is not strong; and (d) there are no new substantial evidence to support criminal prosecution.

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<sup>13</sup> *Ibid.*

<sup>14</sup> *Ibid* at pp. 284-287.

<sup>15</sup> *Ibid* at pp. 32-33.

<sup>16</sup> *Ibid* at pp. 293-299.

<sup>17</sup> *Ibid* at pp. 330-344.

<sup>18</sup> *Ibid* at pp. 320-329.

<sup>19</sup> *Ibid* at pp. 312-315.

<sup>20</sup> **Section 13. Suspension and loss of benefits.** Any public officer against whom any criminal prosecution under a valid information under this Act or under the provisions of the Revised Penal Code on bribery is pending in court, shall be suspended from office. Should he be convicted by final judgment, he shall lose all retirement or gratuity benefits under any law, but if he is acquitted, he shall be entitled to reinstatement and to the salaries and benefits which he failed to receive during suspension, unless in the meantime administrative proceedings have been filed against him.

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On 7 March 2017, all accused filed a Manifestation/Motion for the purpose of submitting for the record Certified True Copy of Resolutions of the Court of Appeals dated February 14, 2017 in CA-G.R. SP No. 07156-MIN and CA-G.R. SP No. 07157-MIN)<sup>21</sup> emphasizing to this Court that the Court of Appeals issued the aforesaid Resolution denying the Motion for Reconsideration filed by Complainant and praying that the Prosecution's Motion to Suspend Accused Pendente Lite be denied.

On 20 March 2017, this Court issued a Resolution<sup>22</sup> granting the Prosecution's Motion to Suspend Accused Pendente Lite as it is the ministerial duty of the Court to issue a preventive suspension order. As to the administrative case against all accused in OMB-M-A-15-0058, this Court reminded the Defense that the Decision of the Court of Appeals does not bind this Court and that it shall be guided in the disposition of this criminal case by its own appreciation of evidence and/or documents presented/submitted before it.

During Pre-Trial, the parties made the following admissions<sup>23</sup>:

1. At the time material to the allegations in the Information, accused Edna V. Ogka Benito, Sultan Rascal Z. Arimao, Najib Alyhar Zacaria, and Casangoan Marohom, are all public officers, being then the Mayor, Municipal Assessor and Acting Municipal Budget Officer, Municipal Accountant, and Assistang Treasurer and Acting Municipal Treasurer, respectively.
2. At the time material to the allegations in the Information, Nasser C. Disalongan is the Punong Barangay of Magolalung Occidental Balabagan, Lanao del Sur.
3. At the time material to the allegations in the Information, Nasser Disalongan is the President of the Liga ng mga Barangay of Balabagan, Lanao del Sur, and as such, an *ex-officio* Sangguniang Member of Balabagan, Lanao del Sur.
4. As *ex-officio* Sangguniang Member of Balabagan, Lanao del Sur, Nasser Disalongan is entitled to receive the salaries and benefits pertaining to a regular member of the Sangguniang Bayan.

<sup>21</sup> *Ibid* at pp. 491-497.

<sup>22</sup> *Rollo*, Volume 2, pp. 6-10.

<sup>23</sup> *Ibid* at pp. 72-91; Pre-Trial Order dated 18 March 2017.

Handwritten signatures and initials are present at the bottom of the page, including a large signature that appears to be 'W. V.' and another signature below it.

5. Complainant was not paid his salary as *ex-officio* Sangguniang Member of Balabangan, Lanao del Sur for the period of December 2013 to January 2015.

Thereafter, trial on the merits commenced.

### **Evidence for the Prosecution**

The Prosecution presented the following witnesses:

**NASSER C. DISALONGAN**, private complainant, who was an *ex-officio* member of the Sangguniang Bayan of Magolalung, Lanao del Sur.

On direct examination, complainant identified the relevant documents attached to his Complaint-Affidavit including his pertinent signatures, as well as the signatures of the accused, and Vice-Mayor Sampiano therein, and Affidavit-Reply dated 6 May 2015. He testified that MLGO Officer Hadji Abduljalil required him to submit the Disbursement Vouchers to the Treasurer, Budget Officer, and Accountant for the payment of his salaries. He signed the portion "Received Payment" in the disbursement vouchers per instruction of MLGO Officer<sup>24</sup>.

Complainant testified that, as *ex-officio* member of the Sangguniang Bayan, his official functions were not limited to attending Sangguniang Bayan sessions since it likewise include the following: (i) representing the barangays of Balabangan, (ii) to meet all barangays and discuss their concerns, and (iii) to convey it to the Presiding Officer Sultan Quirino Sampiano for appropriate actions to be taken. As to the Excerpts from the Minutes of Special Session of the Sangguniang Bayan presented, marked as exhibits for the accused, he testified that there were no Sangguniang Bayan Sessions held, and if there was any, he was not notified to attend<sup>25</sup>.

On cross-examination, complainant affirmed that he did not attend any Sangguniang Bayan sessions throughout his three-year incumbency as *ex-officio* member of Sangguniang Bayan since it never convened in formal sessions. He further affirmed that he executed and signed an Affidavit of Desistance dated 18 July 2016

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<sup>24</sup> TSN, dated 27 June 2017.

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





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but denied having co-signed the Motion to Dismiss dated 22 August 2017 with all accused<sup>26</sup>.

On re-direct examination, complainant clarified that, from 2013 to 2016, it was the practice in their municipality not to hold Sangguniang Bayan Sessions but nonetheless Resolutions were passed through a "ready-made" resolutions brought to the designated signatories to sign. He explained that, as to the Affidavit of Desistance, he signed it considering that his relatives intervened in the case. In consideration thereof, he was given One Hundred Thirty Thousand Pesos (Php 130,000.00) by the Municipal Mayor to cover his expenses in the submission of the said Affidavit in Manila<sup>27</sup>.

**QUIRINO SAMPIANO**, former Vice-Mayor of Balabagan, Lanao del Sur.

On direct-examination, Sampiano corroborated the testimony of complainant that: (a) there were no Sangguniang Bayan sessions from 2013 to 2016; and (b) the Resolutions passed in the said years were already "ready-made" which were brought to him, specifically in his residence, for his signature. He identified an Affidavit dated 10 June 2015 attesting that Complainant was regularly performing his duties as *ex-officio* member of the Sangguniang Bayan and denied the execution of a Certification dated 20 April 2015<sup>28</sup> supported by an Affidavit of Denial dated 10 July 2015<sup>29</sup>, signed and thumb-marked by him.<sup>30</sup>

On cross-examination, Sampiano affirmed that he never presided over any formal session of the Sangguniang Bayan out of the three (3) years of his incumbency from 2013 to 2016 and that the "ready-made" resolutions came from the Office of the Mayor as delivered by the latter's employees. He further stated that accused Benito, as the Municipal Mayor did not pay the salaries of Complainant although he is entitled thereto. He further identified his signatures in the Disbursement Vouchers of Complainant but denied knowledge of whether the said vouchers were duly processed by the respective municipal officials<sup>31</sup>.

On re-direct examination, Sampiano testified that the salary of a Sangguniang Member is TWENTY THOUSAND PESOS (Php

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<sup>26</sup> *Ibid.*

<sup>27</sup> *Ibid.*

<sup>28</sup> Exhibit "II" for the Prosecution.

<sup>29</sup> Exhibit "JJ" for the Prosecution.

<sup>30</sup> TSN, dated 28 June 2017.

<sup>31</sup> *Ibid.*

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20,000.00). In addition, he affirmed that the contents of the Affidavit of Denial, as prepared by his counsel Atty. Mortaba, were explained to him before affixing his signature therein<sup>32</sup>.

On re-cross examination, Sampiano explained that he affixed his signature and thumb-marked the said Affidavit because of the allegations of forgery<sup>33</sup>.

**SANAIRA MARONSING BENITO**, former Barangay Treasurer of Banagon Balabagan, Lanao del Sur.

Sanaira Benito identified her Joint Affidavit dated 23 February 2015<sup>34</sup>. She testified that, on 23 January 2015, together with complainant Nasser C. Disalongan, Aida Disalongan, Nani Disalongan, and Dimasira Sampiano, met with accused Arimao who was then accompanied by Latip Arimao at the Ayala Resort, MSU Campus, Marawi City. She further testified that, in the said meeting, accused Arimao offered complainant the amount of ONE HUNDRED FORTY THOUSAND PESOS (Php 140,000.00) as payment of his salaries. Accused Arimao told Complainant to go to Iligan City and talk to accused Marohom. Complainant heeded the request of accused Arimao and proceeded to Maria Cristina Hotel in Iligan City to meet accused Marohom<sup>35</sup>.

Per Joint Affidavit, Sanaira testified that during the meeting in Iligan City, accused Arimao and Marohom offered to pay the amount of ONE HUNDRED FORTY THOUSAND PESOS (Php 140,000.00) to Complainant representing 50% of his unpaid salary as *ex-officio* member of Sangguniang Bayan which the latter refused to accept.<sup>36</sup>

On cross-examination, Sanaira explained that when Complainant, Aida Disalongan, Nani Disalongan, and Dimasira Sampiano left the restaurant at Maria Cristina, she asked accused Marohom to give in to the demand of Complainant of TWO HUNDRED FIFTY THOUSAND PESOS (Php 250,000.00) but the latter refused leaving the offer at ONE HUNDRED FORTY THOUSAND PESOS (Php 140,000.00)<sup>37</sup>.

On re-direct examination, Sanaira stated that the accused Arimao and Marohom did not give any reason why the offer was at

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<sup>32</sup> *Ibid.*

<sup>33</sup> *Ibid.*

<sup>34</sup> Exhibit CC-1 for the Prosecution.

<sup>35</sup> TSN, 15 August 2017.

<sup>36</sup> *Ibid.*

<sup>37</sup> *Ibid.*

ONE HUNDRED FORTY THOUSAND PESOS (Php 140,000.00) only<sup>38</sup>.

On 17 May 2018, the Prosecution submitted its Formal Offer of Evidence<sup>39</sup>. On 24 May 2018, the accused filed a Comment/Opposition to the Prosecution's Formal Offer of Evidence<sup>40</sup>. On 13 June 2018, the Court issued a Resolution<sup>41</sup> admitting the following exhibits of the Prosecution: "E", "E-1", "AA", "F", "F-1", "I", "I-1", "J", "J-1", "J-2", "L", "L-1", "L-2", "M", "M-1", "N", "N-1", "O", "O-1", "O-2", "P", "P-1", "P-2", "Q", "Q-1", "Q-2", "R", "R-1", "R-2", "S", "S-1", "S-2", "T", "T-1", "T-2", "U", "U-1", "U-2", "V", "V-1", "V-2", "W", "W-1", "X", "Y", "Y-1", "Z", "Z-1", "BB", "BB-1", "BB-2", "CC", "CC-1", "CC-2", "DD", "DD-1", "DD-2", "EE", "EE-1", "FF", "FF-1", "HH", "HH-1", "HH-2", "JJ", "JJ-1", "JJ-2", "OO", "RR", and "RR-1".

On 29 June 2018, a Motion for Leave of Court to File Demurrer to Evidence (with Attached Demurrer to Evidence)<sup>42</sup> was filed by all accused alleging the following: (a) the pieces of evidence of the Prosecution are not sufficient to convict the accused; (b) accused Benito had no participation in the alleged crime under Section 3 (e) of R.A. No. 3019; (c) no evidence was offered to show manifest partiality, evident bad faith, and gross inexcusable negligence; (d) there was no evidence of undue injury; and (e) there was no evidence of conspiracy.

On 9 July 2018, the Prosecution filed an Opposition<sup>43</sup> to the Demurrer to Evidence. In a Resolution dated 1 August 2018, this Court denied the Motion for Leave of Court to File Demurrer to Evidence (with Attached Demurrer to Evidence)<sup>44</sup> filed by all accused.

## **EVIDENCE FOR DEFENSE**

**CASANGOAN MAROHOM**, former Assistant Treasurer and Acting Municipal Treasurer of Balabagan, Lanao del Sur.

Accused Marohom testified that, as Acting Municipal Treasurer, he has the authority to pay the salaries of Complainant and that the bases of the payment thereof are Payroll and/or Voucher duly

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<sup>38</sup> *Ibid.*

<sup>39</sup> *Ibid* at pp. 217-317.

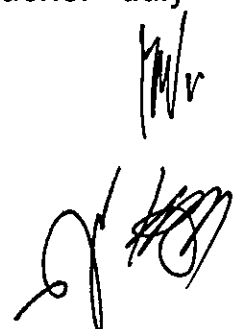
<sup>40</sup> *Ibid* at pp. 318-329.

<sup>41</sup> *Ibid* at pp. 333-334.

<sup>42</sup> *Ibid* at pp. 343-349.

<sup>43</sup> *Ibid* at pp. 355-359.

<sup>44</sup> *Ibid* at pp. 395-396.



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processed and approved. He admitted that the Disbursement Vouchers<sup>45</sup> of Complainant were not paid because they were not yet processed by the Municipal Budget Officer and Municipal Accountant since these Disbursement Vouchers had no stamped certification of availability of appropriation by the Municipal Budget Officer<sup>46</sup>. As to the relation of the Municipal Mayor, accused Marohom testified that the Office of the Municipal Mayor was not required to process the salaries of the Members of the Sangguniang Bayan. Rather, it was the Office of the Vice-Mayor who has the duty to approve it pursuant to Section 39 of the Manual on the New Government Accounting System for Local Government Units<sup>47</sup>.

Accused Marohom further testified that the Disbursement Vouchers contained the same Control Number. Aside from the foregoing issues, proof that services were rendered was likewise required for payment of salaries of the members of Sangguniang Bayan which Complainant failed to attach<sup>48</sup>.

On cross-examination, accused Marohom admitted that he, together with accused Arimao and Zacaria, did not process and certify the Disbursement Vouchers for payment of salaries of Complainant. Neither did he call the attention of Complainant as to the alleged defects in the Disbursement Vouchers nor did he coordinate with the personnel of the Sangguniang Bayan to address it. He explained that the process of payment of salaries, insofar as all accused herein are concerned, is as follows: (a) First, the Municipal Budget Officer certifies the Disbursement Vouchers certifying the appropriation of the budget; (b) Second, the Municipal Accountant certifies the Disbursement Vouchers to obligate the funds to be paid; (c) Lastly, the Municipal Treasurer certifies the availability of funds<sup>49</sup>.

On re-direct examination, accused Marohom denied having seen the Disbursement Vouchers of Complainant prior to the filing of the Complaint-Affidavit and denied that the same was submitted to his office for processing prior to the filing of the case; that he only came to know of these disbursement vouchers when the Office of the Ombudsman required him to submit a Counter-Affidavit. Thus, his failure to advise complainant to correct the alleged defects therein<sup>50</sup>.

<sup>45</sup> Exhibits J, K, L, O, P, Q, R, S, T, U, and V.

<sup>46</sup> *Ibid* at pp. 477-484.

<sup>47</sup> *Ibid*.

<sup>48</sup> *Ibid*.

<sup>49</sup> TSN, dated 15 November 2018.

<sup>50</sup> TSN dated 22 November 2018.

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On re-cross examination, accused Marohom testified that he knew of the unpaid salaries of Complainant when the order of the Ombudsman required them to file a Counter-Affidavit. As to why complainant was not included together with the salaries of the rest of the employees and officials of the Sangguniang Bayan, he asserted that he did not notice that the name of Complainant was excluded<sup>51</sup>.

**SULTAN RASCAL Z. ARIMAO**, former Municipal Budget Officer of Balabagan, Lanao del Sur.

Accused Arimao testified that he received the letters of Complainant dated 2 April 2014 attached with the Disbursement Vouchers, 16 November 2014, and 10 December 2014 and did not process the said vouchers because it contained the same control number, "DV No. 2014-02". Thus, he informed Complainant, through a letter dated 19 December 2014, requiring him to submit the original copies. Yet, Complainant failed to submit it and filed the instant case. He further testified that these vouchers were pre-approved by Vice-Mayor Sampiano. He denied that he received the vouchers, Exhibit "39", covering the period of December 2013 to March 2014, Exhibit "44" covering the period of April 2014 to October 2014, and Exhibit "52" covering the period of November 1 to 30, 2014<sup>52</sup>.

On cross examination, accused Arimao affirmed that the salaries of Complainant were included in the Annual Executive Budget and the existence of an allocation for the payment of his salaries subject to the submission of the Disbursement Vouchers to him. He further affirmed that it was the duty of the Municipal Accountant to determine the control number in the Disbursement Voucher and not Complainant. Thus, he admitted that, despite knowledge thereof, he did not refer the alleged defective disbursement vouchers of Complainant to the Accounting Office for the correction nor to the Office of the Vice-Mayor. He explained that an Allotment Obligation Slip (ALOPS), which is a certification originating from his office certifying that the existence of an appropriation, is a pre-requisite to the processing of the Disbursement Vouchers which he failed to communicate to Complainant. He denied any receipt of eight (8) Disbursement Vouchers of Complainant. He averred that Complainant did not perform his functions as *ex-officio* member of the Sangguniang Bayan. Thus, a ground for non-payment of his salaries. As to the alleged meeting on 23 January 2015, he affirmed that he only noticed

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<sup>51</sup> *Ibid.*

<sup>52</sup> *Rollo*, Volume 3, pp. 4-11.

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the presence of accused Marohom and Complainant at the Ground Floor Restaurant, Maria Cristina Hotel, Iligan City and denied having a conversation with them on that particular occasion<sup>53</sup>.

On re-direct examination, accused Arimao admitted that he only received seven (7) vouchers from Complainant supported by the letters of the latter dated 16 November 2014, and 10 December 2014. As to the letter dated 02 April 2014, he averred that he received it on 24 November 2014. As to the alleged non-issuance of ALOBS, he averred that the requirements thereof include: Appointment, Oath of Office, and Daily Time Record, all of what Complainant failed to submit<sup>54</sup>.

On re-cross examination, accused Arimao admitted that he did not inform Complainant of the requirements for the issuance of ALOBS but only required Complainant to submit the original copy of the Disbursement Vouchers to his office for processing of his salaries through a letter dated 19 December 2014<sup>55</sup>.

**ACMAD DISALONGAN**, a member of the Sangguniang Bayan of Balabagan.

Acmad testified that there were Sangguniang Bayan sessions held every Monday of the week for the period of January 2014 to December 2014 where he was present while Complainant was absent<sup>56</sup>.

On cross examination, Acmad admitted that he was supporting a political party named LAKAS and accused Benito. He averred that he was not in charge of the attendance of the sessions held in the abovementioned period and that, despite non-attendance of Complainant, he did not file any case against him nor do anything as he was only a witness that complainant did not attend Sangguniang Bayan sessions<sup>57</sup>.

**ACCUSED EDNA OGKA BENITO**, former Mayor of Balabagan Lanao del Sur.

Accused Benito testified that she referred the claim of Complainant to the Budget Officer on 19 December 2014. Thereafter, the Budget Officer sent a letter to Complainant dated 19 December 2014. She then furnished Complainant a copy of her letter to the

<sup>53</sup> TSN, dated 15 January 2019.

<sup>54</sup> *Ibid.*

<sup>55</sup> *Ibid.*

<sup>56</sup> *Ibid* at pp. 59- 65.

<sup>57</sup> TSN dated 29 January 2019.

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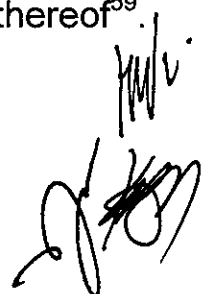
Office of the Ombudsman dated 18 January 2015 in response to the endorsement letter of the said office. She further testified that as Municipal Mayor, she does not have a role in the payment of Complainant's salaries. As to the non-payment of the salaries in question, she corroborated the testimony of accused Arimao that the disbursement vouchers of Complainant were defective because of the following: (i) it bore the same control numbers, (ii) were pre-approved by Vice-Mayor Sampiano, and (iii) and were signed by Complainant acknowledging receipt of payment of his salaries. To support her claim, she averred that it did not pass through the Municipal Budget Officer, Municipal Accountant, and Municipal Treasurer since it does not bear the necessary certifications from the respective offices. As to the non-attendance of sessions, she testified that, per Certification of Vice-Mayor Sampiano dated 20 April 2015, records show that Complainant did not attend Sangguniang Bayan sessions since 1 January 2014. She further testified that Complainant filed the criminal and administrative cases before the Office of the Ombudsman, docketed as OMB-M-C-15-0050 and OMB-M-A-0068, and OMB-M-C-15-0250 and OMB-M-A-15-0306, which were already dismissed. She alleged that, when she assumed office as Mayor of Balabagan on 27 December 2013, Complainant openly declared in public that he will never recognize accused herein as Mayor and that Complainant will only recognize Vice-Mayor Sampiano as Mayor<sup>58</sup>.

On cross examination, accused Benito affirmed that the Certification dated 20 April 2015 was prepared by Secretary Ramla Rascal, that she brought it to the residence of Vice-Mayor Sampiano for signature, and that she saw the latter sign the Certification. She further affirmed that, per her Counter-Affidavit, she filed criminal and administrative complainants against Complainant for his failure to perform his duties and functions as *ex-officio* member of the Sangguniang Bayan which was eventually dismissed by the Office of the Ombudsman for insufficiency of evidence. As to the Disbursement Vouchers, she expounded that her participation in the payment of salaries was merely to counter-sign the disbursement voucher checks. She did not follow up as to why there were no checks issued for payment of the salaries of the Complainant despite approval by the Vice-Mayor raising the defense that accused Arimao was still requiring Complainant to submit the original copies thereof<sup>59</sup>.

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<sup>58</sup> *Ibid* at, pp. 148-157.

<sup>59</sup> *Ibid*.



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On re-direct examination, accused Benito averred that Complainant did not comply with the request of accused Arimao<sup>60</sup>.

After having completed presentation of their testimonial evidence, the accused filed their Formal Offer of Evidence dated 20 July 2019<sup>61</sup>. In a Minute Resolution dated 20 August 2019<sup>62</sup>, this Court admitted the following exhibits of the accused: "1", "1-A", "2", "2-A", "21" to "21-E", "24" to "24-E", "25" to "25-A", "26", "27", "27-A", "28" to "28-D", "29" to "29-C", "30", "31", "32", "33" to "33-A", "36", "37", "38", "40" to "40-C", "41" to "41-C", "48" to "48-C", "49" to "49-C", "50" to "50-C", "51" to "51-C", and "52" to "52-C", "22" to "22-A", and "23" to "23-A". Exhibit "35" was denied admission.

**MEMORANDUM**

*Memorandum for the Prosecution*

The Prosecution failed to file its Memorandum within the period given by this Court.

*Memorandum for Accused Benito, Arimao, Zacaria, and Marohom*

In their Memorandum dated 08 October 2019<sup>63</sup>, accused argued that they did not violate Section 3 (e) of R.A. No. 3019 and further alleged that the second and third elements are lacking.

Accused argued that they acted conformably with Section 344 of the Local Government Code pertaining to the disbursement of the public funds of Local Government Units and that accused Benito, as the Municipal Mayor, has no participation in the payment of the salary of Complainant.

As to the Disbursement Vouchers, the accused emphasized that these are defective because: (a) they bear the same and identical control number "D.V. No. 2014-02"; (b) they bear the signatures of Vice-Mayor Sampiano although the same were not yet processed by the respective offices of accused herein, specifically the Municipal Budget Officer, Municipal Accountant, and Municipal Treasurer; and (c) Complainant acknowledged receipt of payment of his salaries despite lack of payment by affixing his signatures therein.

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<sup>60</sup> TSN dated 17 June 2019.

<sup>61</sup> *Ibid* at pp. 248-266.

<sup>62</sup> *Ibid* at pp. 428-A - 428-B

<sup>63</sup> *Ibid* at pp. 443-462.



Accused contended that, even assuming for the sake of argument that Complainant is entitled to payment of salaries, the payment thereof is not automatic since the disbursement of public funds must be processed in accordance with the law and accounting principle under Section 344 of the Local Government Code.

In addition, accused alleged that Complainant did not perform the duties and functions of an *ex-officio* member of Sangguniang Bayan pursuant to Section 447 of the Local Government Code. Thus, accused invokes the "No Work, No Pay" principle.

Accused negated the contention of undue injury to Complainant alleging the following: (a) that the actions of accused Benito of referring the concern of Complainant to the office of the Municipal Budget Officer was proper; (b) that accused Marohom and Zacaria could not process/pass the Disbursement Vouchers since these were not certified by Municipal Budget Officer as to the availability of funds from the; and (c) Complainant had the option to comply with the requirements prescribed by accused Arimao but he chose not to submit and filed the instant case.

Lastly, accused argued that the Prosecution failed to establish conspiracy beyond reasonable doubt.

### **ISSUE**

**WHETHER OR NOT ACCUSED ARE LIABLE FOR VIOLATION OF SECTION 3(E) OF R.A. NO. 3019, AS AMENDED**

### **RULING**

The elements of Section 3(e) of R.A. No. 3019 are as follows:

1. The accused must be a public officer discharging administrative, judicial or official functions;
2. He must have acted with manifest partiality, evident bad faith or inexcusable negligence; and
3. That his action caused any undue injury to any party, including the government, or giving any private party



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unwarranted benefits, advantage or preference in the discharge of his functions<sup>64</sup>.

*First element:* Accused Benito, Arimao, Zacaria, and Marohom are public officers

It is undisputed that the accused are all public officers having been stipulated by the parties during Pre-Trial that, during the material time and date alleged in the Information accused **EDNA V. OGKA BENITO** was the Municipal Mayor, **SULTAN RASCAL Z. ARIMAO** was the Municipal Assessor and Acting Municipal Budget Officer, **NAJIB ALYHAR ZACARIA** was the Municipal Accountant, and **CASANGOAN MAROHOM** was the Assistant Treasurer and Acting Municipal Treasurer, all of Municipality of Balabagan, Lanao del Sur. It is therefore similarly undisputed that the first element is present.

*Second element: that the accused must have acted with manifest partiality, evident bad faith or inexcusable negligence*

It is the position of the Prosecution that accused Benito, Arimao, Zacaria, and Marohom, while in the performance of their official and/or administrative functions acted with evident bad faith or gross inexcusable negligence and caused undue injury to the Complainant by refusing to pay his salaries as *ex-officio* member of Sangguniang Bayan of the Municipality of Balabagan, Lanao del Sur for the period covering December 2013 to January 2015<sup>65</sup>. The salaries of Complainant remained unpaid as of the filing of the Reply-Affidavit or on 25 April 2015<sup>66</sup>.

While accused Benito admitted that the salaries of Complainant were not paid, she hastened to stress, as a defense, that she did not have any participation in processing the payment of salaries of Complainant and pointed out that the payment thereof is the duty of the Office of the Vice-Mayor. In addition, accused Benito, Arimao, and Marohom were consistent in their defense that the Disbursement Vouchers submitted by Complainant, an essential pre-requisite for

<sup>64</sup> Silverina E. Consgina v. People of the Philippines, the Honorable Sandiganbayan (THIRD DIVISION), and Emerlina Moleta, G.R. No. 175750-51, 02 April 2014.

<sup>65</sup> *Ibid at Rollo*, Volume 1, pp. 1-2.

<sup>66</sup> Reply-Affidavit, Exhibit "FF".

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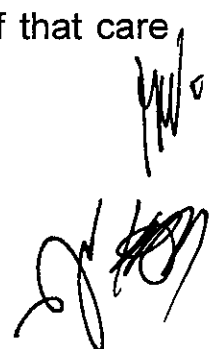
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the payment of salary, were defective because of the following: (i) they bore the same control numbers, (ii) they were pre-approved by Vice-Mayor Sampiano, and (iii) and were signed by Complainant acknowledging receipt of payment of his salaries. Further, all accused argued in chorus that Complainant did not attend a single Sangguniang Bayan Session. Thus, he was not entitled to the payment of his salaries. As to accused Zacaria, in addition to all the foregoing arguments, he denied having received the disbursement vouchers.

To reiterate, the basic and essential facts constituting the case are as follows: (i) Complainant is the Punong Barangay of Magolalung Occidental Balabagan, Lanao del Sur and the President of the Liga ng mga Barangay of Balabagan, Lanao del Sur and; (ii) as such, he was an *ex-officio* Sangguniang Member of Balabagan, Lanao del Sur; (iii) he was entitled to receive salaries and benefits pertaining to a regular member of the Sangguniang Bayan; and (iii) however, he was not paid his salaries as *ex officio* member for the period of December 2013 to January 2015.

On the basis of the foregoing narrative, this Court shall now proceed to determine whether the omission/s of accused herein to process and cause to be paid Complainant's salaries covering the abovementioned period constitutes bad faith and/or gross inexcusable negligence within the purview and contemplation of Section 3(e) of R.A. No. 3019, as amended.

The law provides three (3) modes of commission of the crime of which accused are being charged, namely: (a) manifest partiality; (b) evident bad faith; and/or (c) gross negligence. As defined by the Court "Partiality" is synonymous with "bias" which "excites a disposition to see and report matters as they are wished for rather than as they are." "Bad faith does not simply connote bad judgment or negligence; it imputes a dishonest purpose or some moral obliquity and conscious doing of a wrong; a breach of sworn duty through some motive or intent or ill will; it partakes of the nature of fraud." "Gross negligence has been so defined as negligence characterized by the want of even slight care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but wilfully and intentionally with a conscious indifference to consequences in so far as other persons may be affected. It is the omission of that care,



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which even inattentive and thoughtless men never fail to take on their own property.<sup>67</sup>"

Based on the Information, the Prosecution alleged that accused Benito, Arimao, Zacaria, and Marohom conspired with one another in committing the offense charged.

According to the Supreme Court's consistent ruling, conspiracy exists where two or more persons come to an agreement concerning the commission of a felony and decide to commit it. The essence of conspiracy is the unity of action and purpose. Its elements, like the physical acts constituting the crime itself, must be proved beyond reasonable doubt<sup>68</sup>.

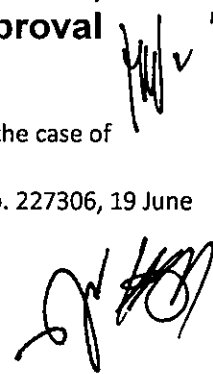
During the trial of this case, however, the Prosecution failed to establish the existence of conspiracy. Thus, the Court shall proceed to determine the criminal liability of all accused separately.

To determine whether the accused acted in bad faith or were guilty of gross inexcusable negligence, their respective participation in the payment of salaries of Complainant must be established. Section 344 of the Local Government Code enumerates the necessary certifications required from the Local Budget Officer, Local Accountant, and Local Treasurer, *to wit*—

**Section 344. Certification, and Approval of, Vouchers. -**  
No money shall be disbursed unless **the local budget officer certifies to the existence of appropriation that has been legally made for the purpose, the local accountant has obligated said appropriation, and the local treasurer certifies to the availability of funds for the purpose.** Vouchers and payrolls shall be certified to and approved by the head of the department or office who has administrative control of the fund concerned, as to validity, propriety, and legality of the claim involved. **Except in cases of disbursements involving regularly recurring administrative expenses such as payrolls for regular or permanent employees, expenses for light, water, telephone and telegraph services, remittances to government creditor agencies such as GSIS, SSS, LDP, DBP, National Printing Office, Procurement Service of the DBM and others, approval**

<sup>67</sup> Roberto P. Fuentes v. People of the Philippines, G.R. No. 186421, 17 April 2017 citing the case of Coloma Jr. v. Sandiganbayan 744 Phil. 214 (2014).

<sup>68</sup> People of the Philippines v. Roberto Esperanza Jesalva alias "ROBERT SANTOS, G.R. No. 227306, 19 June 2017.



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**of the disbursement voucher by the local chief executive himself shall be required whenever local funds are disbursed. (Emphasis supplied)**

The foregoing procedure in the processing and approval of vouchers was acknowledged by accused Marohom before this Court and testified that—

Justice Miranda:

Do you know the function of *(sic)*

Q: Of the Budget Officer insofar as processing of disbursement voucher

A: In processing of voucher, as far as I know, the Municipal Budget Officer is the one who make the appropriations of the funds of the payments on the corresponding voucher.

Q: So, in short he will certify as to the appropriation.

A: Yes.

Q: And, what about this Municipal Accountant, sir – what was his participation, if you know?

A: The participation of the Municipal Accountant is to obligate the funds that is payments. *(sic)*

Q: Okay. So, he will certify these disbursement vouchers as to obligation, is that correct, sir?

A: Yes.

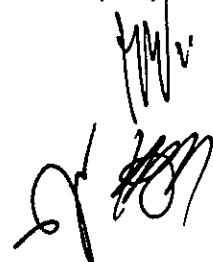
Q: So, in the course of the proceedings, sir, between you, among you, the Municipal Budget Officer, the Municipal Accountant and the Municipal Treasurer, who among you will certify first the disbursement voucher?

A: The disbursement vouchers will first certify to be processed in the Office of the Municipal Budget Officer certifying the appropriation of the budget.

Q: Then, then after that certification from the Municipal Budget Officer, who will be the next one to certify?

A: The next one to certify is in the Office of the Municipal Accountant to obligate the funds to be paid.

Q: And, after that, it will be the Municipal Treasurer. *(sic)*



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A: Yes, certifying the availability of funds<sup>69</sup>.

Evidently, accused Arimao as Acting Municipal Budget Officer, accused Zacaria as Municipal Accountant, and accused Marohom as Acting Municipal Treasurer were all part of the entire exercise to process the requisite Disbursement Vouchers for the payment of salaries of the employees of the Municipality of Balagan, Lanao del Sur, which includes that of Complainant.

Based from the records, Complainant submitted his Disbursement Vouchers for the payment of his salaries for the period of December 2013 to November 2014 only. These are shown by the Disbursement Vouchers, submitted and admitted in evidence as Exhibits "J", "K", "L", "O", "P", "Q", "R", "S", "T", "U", and "V" and the following:

1. Letter dated 2 April 2014<sup>70</sup> addressed to the Municipal Treasurer, Municipal Accountant, and Municipal Budget Officer which Complainant sent with respect of his salary from December 2013 to March 2014; and
2. Letter dated 17 November 2014<sup>71</sup> addressed to the Municipal Treasurer, Municipal Accountant, and Municipal Budget Officer which Complainant sent relating to any evidence that would prove his salary from April 2014 to October 2014.

Before proceeding further, this Court would like to preliminary note that, after carefully examining the Disbursement Vouchers so submitted, the Prosecution failed to present before this Court the alleged non-payment of salaries of Complainant from the period of December 2014 to April 2015 per Reply-Affidavit of Complainant. Thus, this Court shall only consider the Disbursement Vouchers, so submitted for the period of December 2013 to November 2014 in deciding the instant case.

As can be gleaned from the submitted Disbursement Vouchers<sup>72</sup>, it shows that: (i) all bear the same Control Number "DV No. 2014-02"; (ii) the signature of Vice-Mayor Sampiano under the "Approving for Payment"; and (iii) the signature of Complainant under

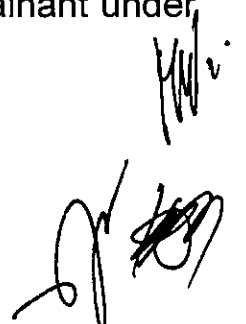
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<sup>69</sup> TSN, dated 15 November 218.

<sup>70</sup> Exhibit "I".

<sup>71</sup> Exhibit "M".

<sup>72</sup> Exhibits "J", "K", "O", "P", "Q", "R", "S", "T", "U", and "V".



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the item "Received Payment", which are all consistent with the alleged defects by the Defense.

This Court finds these defects as too insubstantial as to militate against the processing of the Disbursement Vouchers of Complainant. First, as to the defect of Control Number, it cannot be gainsaid that the same cannot be attributed to the Complainant as admitted by no less than accused Arimao, *to wit* –

PROSEC. MATEO

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Q: And, the defect of the Disbursement Voucher is that, the Disbursement Voucher numbers indicated are all the same? (*sic*)

A: Yes, sir.

Q: Now, my question is, in the Municipality of Balabagan, who determines the number to be indicated in the Disbursement Vouchers?

A: It is the Municipal Accountant, Accounting Division.

Q: So, in short, it is not the duty of claimant in this case, Mr. Nasser Disalongan, to put the Disbursement Voucher numbers in this Disbursement Vouchers? (*sic*)

A: Yes, sir<sup>73</sup>.

Second, as to the signature of Vice-Mayor Sampiano in the Disbursement Vouchers in question, the same is not fatal to the processing of the Disbursement Vouchers of Complainant considering that it only signifies the allowance of the payment of the salaries consistent with Section 39 of the Manual on the New Government Accounting System for Local Government Units. Section 39, it should be noted, provides the duty of the Local Chief Executive in the approval of disbursements of local funds vis-à-vis the duty of the Vice-Mayor in the approval for the operation of the Sanggunian, *to wit* -

**Sec. 39. Approval of Disbursements.** – Approval of disbursements by the Local Chief Executive (LCE) himself shall be required whenever local funds are disbursed, except for regularly recurring administrative expenses such as: payrolls for regular or permanent employees, expenses for light, water, telephone and

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<sup>73</sup> *Ibid.*

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telegraph services, remittances to government creditor agencies such as GSIS, BIR, PHILHEALTH, LBP, DBP, NPO, PS of the DBM and others, where the authority to approve may be delegated. **Disbursement vouchers for expenditures appropriated for the operation of the Sanggunian shall be approved by the provincial Vice Governor, the city Vice Mayor or the municipal Vice Mayor, as the case may be.** (Emphasis supplied)

Third, as to the signatures of Complainant acknowledging receipt of his salaries, the same is not fatal since the parties have already stipulated before this Court that Complainant was not paid his salaries as *ex-officio* Sangguniang Member of Balabangan, Lanao del Sur.

In brief, these alleged defects by the accused cannot be considered as a substantial ground to deny the Disbursement Vouchers submitted by Complainant considering that the same may be corrected or a new Disbursement Vouchers could have easily been issued as required from Complainant to be submitted to their respective offices in order to process his salaries. However, accused Arimao, Zacaria, and Marohom miserably failed to require submission of new and valid Disbursement Voucher.

To stress, Complainant did not receive his salaries for the period of December 2013 to November 2014 or for a period of twelve (12) months by reason of the non-certification of the Disbursement Vouchers of Complainant by accused Arimao, Zacaria, and Marohom notwithstanding the absence of any legal ground therefore, and necessary consequence of withholding the salaries of Complainant. After the submission of the Disbursement Vouchers by Complainant, accused Arimao, Zacaria, and Marohom should have immediately took note of the defects and addressed it bearing in mind that as Municipal Budget Officer, Municipal Accountant, and Municipal Treasurer, respectively, they know the standard procedure in the processing of the Disbursement Vouchers. Lamentably, they neglected to do so resulting in the non-payment of salaries of Complainant which therefore prompted the filing of this case. Clearly, such omission constitutes gross inexcusable negligence.

As defined by the Court in the case of *Pedro G. Sistoza v. Aniano Disierto and Eliseo Co*<sup>74</sup>, *gross inexcusable negligence* does not signify mere omission of duties nor plainly the exercise of less

<sup>74</sup> G.R. No. 144784, 3 September 2002.



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than the standard degree of prudence. Rather, it 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. It entails the omission of care that even inattentive and thoughtless men never fail to take on their own property, and in cases involving public officials it takes place only when breach of duty is flagrant and devious.

To emphasize, accused Arimao, Zacaria, and Marohom are duty bound by law to process the Disbursement Vouchers of Complainant. Despite repeated demands<sup>75</sup>, they wilfully and deliberately failed, without just cause, to act on it for a year.

Worse, as admitted by accused Arimao, the salaries of Complainant were included in the Annual Executive Budget of the Municipality of Balagan and thus, it was his ministerial duty to certify as to the existence of appropriation. Such notwithstanding, accused Arimao failed to certify the Disbursement Vouchers. In his testimony before this Court, he testified as follows:

**PROSEC. MATEO**

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Q: And once an expenditure is included in the Annual Executive Budget, such as the payment of salaries, you have nothing to do, but to Certify (*sic*) as to the existence of appropriation?

A: Yes, sir.

Q: So, in short once an expenditure is included in the Annual Executive Budget it is your ministerial duty to Certify (*sic*) as to the existence of the existence (*sic*) of appropriation?

A: Yes, sir.

Q: And, in this case, as you testified a while ago, the salaries of Nasser Disalongan, is included in the Annual Executive Budget, correct?

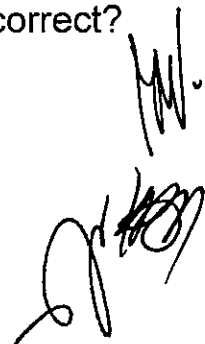
A: Yes, sir.

Q: So, there is an allocation for the payment of salary subject of the Disbursement Vouchers to you, is that correct?

A: Yes, sir.<sup>76</sup>

<sup>75</sup> Exhibits "I" and "M".

<sup>76</sup> TSN, dated 15 January 2019.



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Similarly, the omission of accused Marohom to process the Disbursement Vouchers of the Complainant constitutes gross and inexcusable negligence in view of the fact that the employees of the Sangguniang Bayan of the Municipality of Balabagan were paid their respective salaries during the period in question while Complainant was not as admitted by accused Marohom, *to wit* -

Chairperson:

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Q: No, the question of the Court is, the Sanggunian has a lot of members, councilors, right?

A: Yes.

Q: And it has other employees as well including the Vice-Mayor?

A: Yes.

Q: No (*sic*), the question of the Court is, why is the salary of Mr. Disalongan separated from the salary of the rest of employees and officials of the Sangguniang Bayan?

A: The salary of the Sangguniang Bayan is being approved by the Vice-Mayor.

Q: Bakit ho nahiwalay yung suweldo ni Disalongan, Nacer (*sic*) Disalongan? Bakit hindi siya kasabay na sumweldo doon sa iba?

A: I don't know.

Q: You do not know why?

A: Yes.

Q: Okay. But you processed the salaries of the regular, of the other employees of the Sangguniang Bayan during the relevance (*sic*) period?

A: Yes.

Q: You did not notice that the name of Nacer (*sic*) Disalongan was not included?

A: I did not notice<sup>77</sup>.

<sup>77</sup> TSN, dated 22 November 2018.



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Verily, it is extremely difficult to find a plausible explanation why the salaries of Complainant were excluded from the rest of the employees of the Municipality of Balabagan, Lanao del Sur.

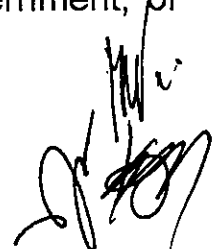
With regard to accused Benito, however, the Prosecution failed to establish that he acted in bad faith and/or gross inexcusable negligence in the processing of the Disbursement Vouchers of Complainant for payment of his salaries. Neither did the Prosecution convincingly show to this Court the legal duty of accused Benito in relation to the processing of Disbursement Vouchers and payment of salaries of the members of the Sangguniang Bayan. Thus, it is just and reasonable to acquit accused Benito of the charge for violation Section 3 (e) of R.A. No. 3019.

As to the "No Work No Pay" principle raised as a defense by the accused, the same is inapplicable in this case. There is neither law nor jurisprudence which entails that the members of the Sangguniang Bayan are not entitled to salaries solely by reason of the alleged failure to attend session of the Sanggunian. If indeed Complainant did not perform his duties as President of the Liga ng Mga Barangay, Balabagan Chapter, the accused should have instituted an administrative case in the proper forum.

Even assuming for the sake of argument that Complainant did not attend a single Sangguniang Bayan session, the Defense failed to show to this Court that Complainant did not perform his duties and functions as mandated by the Local Government Code considering that the duty of Complainant is not limited to attending Sangguniang Bayan sessions.

*Third element: that his action caused any undue injury to any party, including the government, or giving any private party unwarranted benefits, advantage or preference in the discharge of his functions*

There are two (2) ways by which a public official violates Section 3 (e) of R.A. No. 3019 in the performance of his functions: (a) by causing undue injury to any party, including the Government; or



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(b) by giving any private party any unwarranted benefit, advantage or preference<sup>78</sup>.

As discussed by the Supreme Court in the case of *Cresente Y. Llorente, Jr. v. Sandiganbayan and Leticia G. Fuentes*<sup>79</sup>, undue injury in Sec. 3(e) cannot be presumed even after a wrong or a violation of a right has been established. Its existence must be proven as one of the elements of the crime. In fact, the causing of undue injury or the giving of any unwarranted benefits, advantage or preference through manifest partiality, evident bad faith, or gross inexcusable negligence constitutes the very act punished under this section. Thus, it is required that the undue injury be specified, quantified and proven to the point of moral certainty.

This Court need not belabour the fact of non-payment of the salaries of Complainant as the same was already admitted by the parties during Pre-Trial. Thus, this Court shall now proceed in determining whether or not the non-payment of his salaries constitutes undue injury within the contemplation of Section 3(e) of R.A. No. 3019.

In this case, the testimony of Sampiano that the salary per month of Complainant as *ex-officio* member of the Sangguniang Bayan is TWENTY THOUSAND PESOS (Php 20,000.00) was undisputed. Sampiano testified as follows:

Q: Okay. And, you likewise mentioned during cross examination that SB members are receiving salaries including those *ex-officio* members of the Sangguniang Bayan. Do you know how much is the salary of the Sangguniang Bayan (*sic*), or an *ex-officio* member of the Sangguniang Bayan?

A: Yes, sir.

Q: How much is that, Mr. Witness?

A: Php 20,000<sup>80</sup>.

In sum, a total of TWO HUNDRED FORTY THOUSAND PESOS (Php 240,000.00) remains unpaid to Complainant representing his salaries as *ex-officio* member of the Sangguniang Bayan for the period of December 2013 to November 2014.

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<sup>78</sup> *Isabelo Braza v. The Honorable Sandiganbayan (1<sup>st</sup> Division)* citing the case of *Velasco v. Sandiganbayan*, 492 Phil. 669, 667 (2005); *Constantino v. Sandiganbayan*, G.R. Nos. 140656 & 154482, 13 September 2007, 533 SCRA 205, 221.

<sup>79</sup> G.R. No. 122166, 11 March 1998.

<sup>80</sup> TSN, dated 28 June 2017.



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The Prosecution proved that the undue injury is present in this case. Complainant firmly testified that, by reason of the non-payment of his salaries, his family suffered financial burden, most specifically that his son was forced to stop attending school. In addition, by reason of unlawful non-payment of his salaries, Complainant hired the services of a lawyer to vindicate his claim. Thus, he incurred legal expenses in asserting his right.

**WHEREFORE**, in the light of the foregoing, the Court finds-

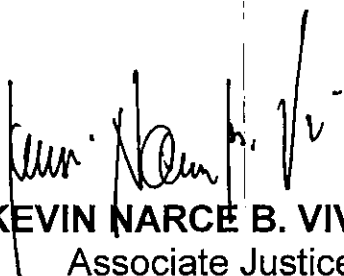
1. Accused **EDNA V. OGKA BENITO NOT GUILTY** of the charge of violation of Section 3(e) of R.A. No. 3019, as amended, for failure of the Prosecution to prove her guilt beyond reasonable doubt;

Accordingly, the Hold Departure Order issued against accused **BENITO** is hereby **LIFTED**. Let the cash bond posted be **RELEASED** subject to the usual auditing and accounting procedures.

2. Accused **SULTAN RASCAL Z. ARIMAO, NAJIB ALYHAR ZACARIA and CASANGOAN MAROHOM GUILTY** of violation of Section 3(e) of R.A. No. 3019, as amended;

Accordingly, each of them shall suffer the penalty of six (6) years and one (1) month, as minimum, to eight (8) years, as maximum, with perpetual disqualification from holding public office.

**SO ORDERED.**

  
**KEVIN NARCE B. VIVERO**  
Associate Justice



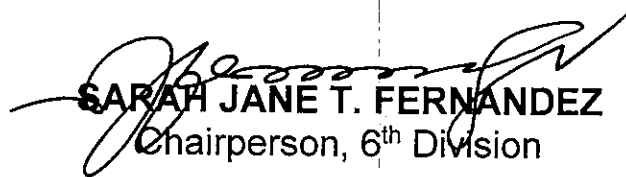
**WE CONCUR:**

  
**SARAH JANE T. FERNANDEZ**  
Associate Justice  
Chairperson

  
**KARL B. MIRANDA**  
Associate Justice

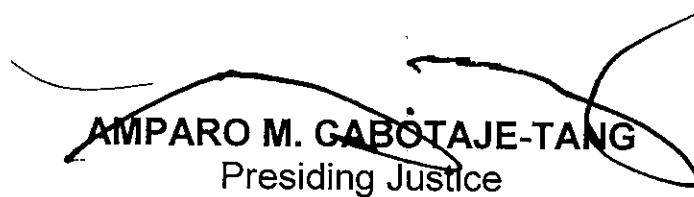
**ATTESTATION**

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

  
**SARAH JANE T. FERNANDEZ**  
Chairperson, 6<sup>th</sup> Division

**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. GABOTAJE-TANG**  
Presiding Justice

