

SUPREME COURT OF THE PHILIPPINES  
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Republic of the Philippines  
Supreme Court  
Baguio City

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,  
*Plaintiff-Appellee,*

G.R. Nos. 245931-32

Present:

- versus -

PERLAS-BERNABE, S.A.J.,\*  
HERNANDO,  
*Acting Chairperson,\*\**  
ZALAMEDA,  
ROSARIO, and  
MARQUEZ, JJ.

RENE MONDEJAR, ARNALDO  
PARTISALA, FRANCISCO TO-  
LENTINO, ILDEFONSO ES-  
PEJO, MARGARITA GUMAPAS,  
MANUEL PIOLO, ROBERTO B.  
VELASCO and HELEN EDITH  
LEE TAN,

*Accused;*

Promulgated:

ARNALDO PARTISALA,  
*Accused-Appellant.*

APR 25 2022

X-----X

DECISION

HERNANDO, J.:

Challenged in this appeal<sup>1</sup> is the November 23, 2018 Decision<sup>2</sup> and February 14, 2019 Resolution<sup>3</sup> of the Sandiganbayan in Criminal Case Nos. 25674 and 25675, which found accused-appellant Arnaldo Partisala (Partisala)

\* On official leave.

\*\* Per Special Order No. 2887 dated April 8, 2022.

<sup>1</sup> Records, Vol. 10, pp. 334-335.

<sup>2</sup> Id. at 252-277. Penned by Associate Justice Maria Theresa V. Mendoza-Arcega and concurred in by Associate Justices Michael Frederick L. Musngi and Reynaldo P. Cruz.

<sup>3</sup> Id. at 323-327.

guilty beyond reasonable doubt of violation of Section 3 (e) of Republic Act No. (RA) 3019,<sup>4</sup> otherwise known as the "Anti-Graft and Corrupt Practices Act"; and Falsification of Public Document, defined and penalized under Article 171 of the Revised Penal Code (RPC).

### **Procedural Antecedents**

Partisala, together with his co-accused, Municipal Mayor Rene Mondejar (Mondejar), *Sangguniang Bayan* (SB) Secretary Francisco Tolentino (Tolentino), SB Members Ildefonso Espejo (Espejo), Margarita Gumapas (Gumapas), Manuel Piolo (Piolo), Roberto Velasco (Velasco), and President of International Builders Corporation (IBC), Helen Edith Lee Tan (Lee Tan), was charged before the Sandiganbayan with violation of Section 3 (e) of RA 3019 and Falsification of Public Documents under Article 171 of the RPC<sup>5</sup> in two separate Informations which read:

a) Criminal Case No. 25674

That on or about the 27th day of June 1996, and for sometime prior or subsequent thereto, in the Municipality of Maasin, Province of Iloilo, Philippines and within the jurisdiction of this Honorable Court, above-named accused, public officers, having been duly elected, appointed and qualified to such public positions above-mentioned, in such capacity and committing the offense in relation to Office, and while in the performance of their official functions, conniving, confederating and mutually helping with each other and with accused HELEN EDITH LEE TAN, a private individual and President/Proprietor of International Builders Corporation, (IBC) Iloilo City with deliberate intent, with manifest partiality and evident bad faith, did then and there willfully, unlawfully and feloniously make it appear that Resolution No. 30-B, series of 1996, was validly enacted by the Sangguniang Bayan of Maasin, Iloilo, authorizing Mayor Rene M. Mondejar to exercise his emergency powers as in fact accused RENE M. MONDEJAR, entered into a Memorandum of Agreement with accused HELEN EDITH LEE TAN of IBC authorizing the said IBC to engage in massive quarrying in the guise of rechanneling the Tigum River in Maasin, Iloilo, thus accused in the performance of their official functions had given unwarranted benefits, advantage, and preference to Helen Edith Lee Tan and themselves, to the damage and prejudice of the government, particularly the Municipality of Maasin.

CONTRARY TO LAW.<sup>6</sup>

b) Criminal Case No. 25675

That on or about the 21st day of June 1996, and for sometime prior or subsequent thereto, in the Municipality of Maasin, Province of Iloilo, Philippines and within the jurisdiction of this Honorable Court, above-named accused, public officers, being incumbent Municipal Officials of the aforementioned

<sup>4</sup> Entitled "ANTI-GRAFT AND CORRUPT PRACTICES ACT." Approved: August 17, 1960.

<sup>5</sup> Entitled "AN ACT REVISING THE PENAL CODE AND OTHER PENAL LAWS." Approved: December 8, 1930.

<sup>6</sup> Records, Vol. 2 at 1-3.

municipality, having been duly elected, appointed and qualified to such public positions above-mentioned, in such capacity and committing the offense in relation to Office, taking advantage of their official positions, conspiring and confederating together and mutually helping one another with deliberate intent to defraud and falsify, did then and there willfully, unlawfully and feloniously falsify a Public Document consisting of the Minutes of the Regular Session of the Sangguniang Bayan of Maasin, Iloilo on 21 June 1996, by making it appear therein that the Sangguniang Bayan of Maasin, Iloilo validly enacted and passed Resolution Nos. 30-A and 30-B entitled "A Resolution Strongly Endorsing Resolution No. 9 of Barangay NASLO and Resolution No. 9, Series of 1996, of the Municipal Development Council" and "A Resolution Authorizing Mayor Rene M. Mondejar to Exercise His Emergency Powers" thereby making untruthful statements in a narration of facts and causing it to appear that persons participated in an act when they did not in fact so participate, when in truth and in fact, as above-named accused, very well knew, that Resolution No. 30-A and Resolution No. 30-B were never taken up, deliberated nor acted upon by the Sangguniang Bayan of Maasin on its 21 June 1996 regular session.

CONTRARY TO LAW.<sup>7</sup>

On September 1, 2003, Partisala failed to appear in his arraignment despite due notice. However, trial ensued as to the other accused. On November 7, 2013, the Sandiganbayan rendered a Decision<sup>8</sup> convicting accused Mondejar, Tolentino, Espejo, Gumapas, Piolo, Velasco, and Lee Tan, except Partisala, who remained at large when the judgment was promulgated. The dispositive portion of the Decision reads:

**WHEREFORE**, premises considered, the Court hereby rules as follows:

1. In Criminal Case No. 25674, the Court finds the accused RENE MONDEJAR, FRANCISCO TOLENTINO, ILDEFONSO ESPEJO, MARGARITA GUMAPAS, MANUEL PIOLO, ROBERTO VELASCO and HELEN EDITH LEE TAN **GUILTY** beyond reasonable doubt of the offense of violation of Section 3 (e) of Republic Act No. 3019, as amended, and sentences each of them to suffer an indeterminate penalty of six (6) years and one (1) month as minimum to ten (10) years as maximum; and to suffer perpetual disqualification from public office. Insofar as ARNALDO PARTISALA is concerned, since he is still at large up to the present, let the case be **ARCHIVED** and let an alias warrant of arrest issue against him.

2. In Criminal Case No. 25675, the Court finds the accused RENE MONDEJAR, FRANCISCO TOLENTINO, ILDEFONSO ESPEJO, MARGARITA GUMAPAS, MANUEL PIOLO and ROBERTO VELASCO **GUILTY** beyond reasonable doubt of Falsification defined under Article 171 of the Revised Penal Code and sentences each of them to suffer the penalty of imprisonment of six (6) months and one (1) day of prision correccional as minimum to eight (8) years and one (1) day of prision mayor as maximum in the absence of any mitigating and aggravating circumstance in accordance with the provisions of the indeterminate Sentence Law; to pay a fine of Five Thousand Pesos (Php

<sup>7</sup> Id. at 4-6.

<sup>8</sup> Id., Vol. 7. at 110-152.

perpetual special disqualification from the right of suffrage. Insofar as ARNALDO PARTISALA is concerned, since he is still at large up to the present, let the case be **ARCHIVED** and let an alias warrant of arrest issue against him.

**SO ORDERED.**<sup>9</sup>

All the accused, except Partisala, filed their respective motions for reconsideration which were denied by the Sandiganbayan in its June 30, 2015 Resolution.<sup>10</sup> Accused Lee Tan questioned Sandiganbayan's November 7, 2013 Decision and June 30, 2015 Resolution before this Court *via* a petition for review on *certiorari* under Rule 45 with respect to Criminal Case No. 25674. In Our October 17, 2016 Decision in G.R. No. 218902,<sup>11</sup> accused Lee Tan was acquitted for failure of the prosecution to prove the presence of conspiracy beyond reasonable doubt, to wit:

**WHEREFORE**, premises considered, the present Petition is hereby **GRANTED**. The Sandiganbayan Decision and Resolution dated 7 November 2013 and 30 June 2015, respectively, in Criminal Case No. 25674 insofar as petitioner Tan is concerned are hereby **REVERSED and SET ASIDE**. Accordingly, petitioner Tan is **ACQUITTED** from the charge of Violation of Section 3 (e) of Republic Act No. 3019.

**SO ORDERED.**<sup>12</sup>

Similarly, accused Mondejar filed a Petition for Review on *Certiorari*<sup>13</sup> under Rule 45 before this Court docketed as G.R. No. 219692. On December 2, 2015, this Court rendered a Resolution<sup>14</sup> affirming with modifications the Sandiganbayan's November 7, 2013 Decision and June 30, 2015 Resolution, *viz.*:

**WHEREFORE**, in view of the foregoing, the Decision and the Resolution of the Sandiganbayan in Criminal Cases Nos. 25674 and No. 25675 dated 7 November 2013 and 30 June 2015, respectively, are hereby **AFFIRMED with MODIFICATIONS**. For violation of Section 3 (e) of R.A. No. 3019, petitioner Mayor Rene Mondejar is sentenced to suffer the penalty of imprisonment for six (6) years and one (1) month as minimum to ten (10) years as maximum and perpetual disqualification from public office. However, the penalty imposed by the Sandiganbayan for violation of Article 171 of the Revised Penal Code is amended to the following modifications that Mayor Mondejar is to suffer an indeterminate penalty of two (2) years, four (4) months and one (1) day to four (4) years and two (2) months as minimum to eight (8) years and one (1) day to ten (10) years as maximum penalty, fine of ₱5,000.00 and perpetual special disqualification from the right of suffrage.

**SO ORDERED.**<sup>15</sup>

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<sup>9</sup> Id. at 150-151.

<sup>10</sup> Id., Vol. 8 at 305-311.

<sup>11</sup> Id., Vol 10 at 110-127.

<sup>12</sup> Id. at 125.

<sup>13</sup> *Rollo*, p. 8.

<sup>14</sup> Records, Vol. 9 at 241-243.

<sup>15</sup> Id. at 243.

Meanwhile, Partisala was apprehended,<sup>16</sup> and trial against him ensued. The prosecution adopted its Formal Offer of Exhibit dated March 21, 2006,<sup>17</sup> and Supplemental Formal Offer of Exhibits dated July 30, 2012.<sup>18</sup> It likewise adopted and presented the testimonies of Elisa L. Trojillo (Trojillo), Vicente Albacete (Albacete), Imelda Maderada (Maderada), Solidad Sualdito, Rogelio Rentoy, Darell A. Cabanero, and Rogelio Trinidad as evidence against Partisala.<sup>19</sup>

On the other hand, Partisala adopted the Formal Offer of Exhibits of his co-accused Tolentino, Espejo, Gumapas, Piolo, Velasco, Lee Tan, and Mondejar.<sup>20</sup> He likewise admitted that at the time of the incident, he was holding the position of Municipal Vice Mayor of Maasin, Iloilo.<sup>21</sup> He presented Seth Emmanuel Tolentino Casco as additional witness.<sup>22</sup>

### **Factual Antecedents**

On June 16, 1996, the *Sangguniang Barangay* of Naslo, Maasin, Iloilo, enacted Resolution No. 9 requesting IBC to rechannel the path of the Tigum River to protect the barangay from the usual overflow during typhoon season. As payment for its services, IBC was granted the authority to extract surplus sand and gravel supply.<sup>23</sup>

On June 17, 1996, the Municipal Development Council (MDC) of Maasin, Iloilo City adopted Resolution No. 9 also requesting: (a) IBC to perform the rechanneling of the Tigum River path; and (b) the Department of Environment and Natural Resources (DENR) to issue the Environmental Clearance Certificate (ECC) in connection with the rechanneling project.<sup>24</sup>

Consequently, on June 21, 1996, the SB of Maasin, Iloilo enacted: (1) Resolution No. 30-A, which endorsed the resolutions of *Barangay* Naslo and MDC;<sup>25</sup> and (2) Resolution No. 30-B authorizing Mondejar to use his emergency powers to negotiate with IBC for the rechanneling project.<sup>26</sup>

Hence, on June 27, 1996, the Municipality of Maasin, Iloilo entered into a Memorandum of Agreement (MOA) with IBC, through Lee Tan, for the rechanneling project. The parties agreed that IBC would proceed with the project with

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<sup>16</sup> Id., Vol. 7 at 362.

<sup>17</sup> Id., Vol. 3 at 119-286.

<sup>18</sup> Id., Vol. 6 at 269-276.

<sup>19</sup> Id., Vol. 10 at 256.

<sup>20</sup> Id.

<sup>21</sup> Id.

<sup>22</sup> Id., Vol. 9 at 404.

<sup>23</sup> Id., Vol. 3 at 166.

<sup>24</sup> Id. at 167.

<sup>25</sup> Id., Vol. 5 at 480.

<sup>26</sup> Id. at 481.

no monetary consideration provided it would get the surplus supply of sand and gravel taken out from the river after the necessary dike had been constructed.<sup>27</sup>

On September 25, 1997, a Letter-Petition was filed with the Municipality of Maasin, Iloilo by the residents of Mabini-Rizal, Maasin, Iloilo, airing their grievances for the continued exploitation and destruction of the Tigum River caused by the massive quarrying activities done by IBC in *Barangay* Naslo, Maasin, Iloilo.<sup>28</sup>

October 21, 1997, the Provincial Government of Iloilo issued their Investigation Report finding that the Municipality of Maasin, Iloilo violated Sections 3 and 6 (d) of Provincial Ordinance No. 11, series of 1997, by quarrying without the necessary permit from the governor, and by quarrying within a distance of one kilometer from the bridge and other infrastructures.<sup>29</sup> Consequently, the Provincial Government of Iloilo recommended the temporary suspension of the rechanneling project of the Municipality of Maasin, Iloilo pending compliance of the provisions of Provincial Ordinance No. 11-95, and other requirements which the governor may impose in the interest of the public.<sup>30</sup>

Thereafter, criminal complaints for Falsification under Article 171 of the RPC, and violation of Section 3 (e) of RA 3019, were filed before the Office of the Ombudsman-Visayas (OMB-Visayas) against all the accused involved in the rechanneling of the Tigum River path, including Partisala.<sup>31</sup>

On May 31, 1999, the OMB-Visayas issued a Resolution recommending the filing of Informations for Falsification under Article 171 of the RPC and violation of Section 3 (e) of RA 3019 against all the accused.<sup>32</sup> On September 16, 1999, the OMB approved the May 31, 1999 Resolution of the OMB-Visayas.<sup>33</sup>

In the case of Falsification of Public Documents, Mondejar, Partisala, Tolentino, Espejo, Gumapas, Piolo, and Velasco were criminally charged for making it appear in the Minutes of the Regular Session of the SB of Maasin, Iloilo, held on June 21, 1996, that Resolution No. 30-A and Resolution No. 30-B were deliberated, approved, and/or enacted by the SB on said date. Apparently, no such resolutions were passed and/or enacted. Arguably, the authority given to Mondejar to enter into a MOA with IBC for the rechanneling of Tigum River path was to grant an authority to IBC to engage into massive quarrying activities without the necessary permit.<sup>34</sup>

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<sup>27</sup> Id., Vol. 3 at 149-151.

<sup>28</sup> Id. at 175-202.

<sup>29</sup> Id. at 214-217.

<sup>30</sup> Id. at 219-227.

<sup>31</sup> Id., Vol. 7 at 111-112.

<sup>32</sup> Id., Vol. 1 at 5-9.

<sup>33</sup> Id. at 10-12.

<sup>34</sup> Id. at 11.

With the foregoing falsification done by the accused, they were also charged with violation of Section 3 (e) of RA 3019 for giving unwarranted benefits and advantage, and displaying manifest partiality, in favor of IBC by entering into a contract grossly disadvantageous to the government, particularly to the Municipality of Maasin, Iloilo, which was unduly deprived of the revenues out of the hauling activities of IBC for sand and gravel by reason of such MOA.<sup>35</sup>

On his part, Partisala submitted an allegedly original copy of the Minutes of the Regular Session, *i.e.*, Exhibit “8,”<sup>36</sup> held by the SB of Maasin, Iloilo on June 21, 1996 under the custody of witness Casco.<sup>37</sup> The said document differed from the Minutes of the Regular Session dated June 21, 1996, *i.e.*, Exhibit “B,”<sup>38</sup> submitted by the prosecution as its evidence. Exhibit “8” offered by Partisala showed that Resolution No. 30-A and Resolution No. 30-B were deliberated, enacted and/or approved by the SB during the session held on June 21, 1996.<sup>39</sup>

On rebuttal, the prosecution presented witness Maderada who pointed out that the Minutes offered by Partisala was falsified as there were insertions of phrases and paragraphs, particularly items 9 to 12, to make it appear that Resolution No. 30-A and Resolution No. 30-B had been enacted by the SB on June 21, 1996.<sup>40</sup>

### **Ruling of the Sandiganbayan**

On November 23, 2018, the Sandiganbayan rendered its Decision<sup>41</sup> convicting Partisala of Falsification under Article 171 of the RPC and violation of Section 3 (e) of R.A. No. 3019. The dispositive portion of which reads:

WHEREFORE, premises considered, Accused ARNALDO PARTISALA is found GUILTY beyond reasonable doubt for the crime of violation of Section 3(e) of Republic Act 3019 and for the crime of Falsification defined under Article 171 of the Revised Penal Code. Thus, he is hereby sentenced to suffer the following:

1. The indeterminate penalty of imprisonment for six (6) years and one (1) month as minimum and ten (10) years as maximum and to suffer perpetual disqualification from public office for violation of Section 3(e) of R.A. No. 3019 under Criminal Case No. 25674; and

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<sup>35</sup> Id., Vol. 3 at 152-155.

<sup>36</sup> Id., Vol. 5 at 468-471.

<sup>37</sup> Id.

<sup>38</sup> Id., Vol. 3 at 152-155.

<sup>39</sup> Id.

<sup>40</sup> Id., Vol. 10 at 268-270.

<sup>41</sup> Id. at 323-327.

2. The imprisonment for two (2) years, four (4) months and one (1) day to four (4) years and two (2) months as minimum to eight (8) years and one (1) day to ten (10) years as maximum penalty in the absence of mitigating and aggravating circumstances in accordance with the provisions of the Indeterminate Sentence Law, to pay a fine amounting to Five Thousand Pesos (Php5,000), and perpetual special disqualification from the right of suffrage.

SO ORDERED.<sup>42</sup>

In the charge for Falsification, the appellate court gave credence on the Minutes of Regular Session dated June 21, 1996 presented by the prosecution, hereinafter referred as Exhibit "B," and the testimonies of witnesses Trojillo and Albacete to hold Partisala guilty under Article 171 of the RPC. Both witnesses testified that the true and correct Minutes was not signed by Partisala, as then Municipal Vice Mayor of Maasin, Iloilo and presiding officer of the SB. During those times, the members of SB were not used to signing the minutes of the session. Also, the absence of any ill motive on the part of Trojillo and Albacete convinced the appellate court to give full faith and credit on their testimonies and the authenticity of Exhibit "B." Partisala failed to timely object on the admissibility of Exhibit "B."<sup>43</sup>

The anti-graft court was not persuaded by Partisala's own presentation of the Minutes of Regular Session dated June 21, 1996, hereinafter referred as Exhibit "8," showing that the SB deliberated, enacted, and/or approved Resolution No. 30-A and Resolution No. 30-B. Defense witness Casco merely certified that he had the custody and possession of Exhibit "8" as then incumbent Secretary of the SB, but was not in any way connected nor part thereof during the enactment of the subject Resolutions. In addition, the rebuttal of witness Maderada is credible. She declared that Exhibit "8" was a falsified document by pointing out the presence of members Espino and Espejo in the original session as per Exhibit "B," but Espino was declared absent in the session as per Exhibit "8," as he was already deceased during the execution of the said falsified minutes.<sup>44</sup>

In the case of violation of Section 3 (e) of RA 3019, the Sandiganbayan found evident bad faith on the part of Partisala when he participated in the falsification of the subject Resolutions granting Mondejar emergency powers to enter into a MOA with IBC. Without such deliberate falsification, IBC would not have any authority to haul any and all excess sand and gravel from Tigum River. The act of falsifying the subject resolutions affirmatively perpetrated their furtive design to quarry sand and gravel from Tigum River for self-interest and ulterior purpose.<sup>45</sup>

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<sup>42</sup> Id. at 276.

<sup>43</sup> Id. at 272.

<sup>44</sup> Id. at 272-274.

<sup>45</sup> Id. at 274-276.



Lastly, the anti-graft found that with the enactment of the subject Resolutions, IBC was given unwarranted benefits without the necessary permit, which must be obtained from the Provincial Government of Iloilo. Although IBC already have a quarrying permit issued by the provincial government, its consequent MOA with the Municipality of Maasin, Iloilo had given it the liberty to engage in quarrying activities beyond the scope granted to it by the provincial government under the guise of performing service to the people through the construction of a dike and rechanneling of Tigum River.<sup>46</sup>

### Issues

The issues raised for consideration of this Court are:

1. Whether or not, the act of SB Members, including herein accused Partisala, in authorizing then Mayor Rene Mondejar to enter in the Memorandum of Agreement, has given unwarranted benefit and/or advantage to Helen Edith Lee Tan in violation of R.A. No. 3019.
2. Whether or not accused Partisala, with his co-accused public officers conspired with each other in falsifying the Minutes of the Regular Session of the SB of Maasin, Iloilo.<sup>47</sup>

### Our Ruling

After due consideration, We resolve to sustain Partisala's conviction of violation of Section 3(e) of RA 3019 and Falsification of Public Documents under Article 171 of the RPC.

### Falsification of Public Documents

Partisala contends that the prosecution failed to prove or present evidence of the deliberations of Resolution No. 30-A and Resolution No. 30-B. He insists that Exhibit "8" was certified and identified by witness Casco, the legal custodian. The minutes he offered as evidence, *i.e.*, Exhibit "8" was recorded in the journal, *i.e.*, Exhibit "37" as testified to by Tolentino. Both Exhibit "8" and Exhibit "37" are the same on material points.<sup>48</sup>

He adds that to prove Falsification of Public Documents, the prosecution must present the true or real copy of the minutes, which they failed to do. Exhibit "B" offered in evidence by the prosecution was the draft minutes provided to all *sanggunian* members, which may or may not include all matters deliberated upon. To duly prove his guilt under paragraph 2, Article 171 of the RPC, that is, "*that he falsifies a document by causing it to appear that a person or persons*

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<sup>46</sup> Id. at 275.

<sup>47</sup> Id. at 271.

<sup>48</sup> Id. at 198-201.

*have participated in any act or proceeding when they did not so participate,”* the prosecution must produce the alleged original copy of the minutes claimed to have been falsified.<sup>49</sup>

However, in the case at bar, Partisala argues that there is a dispute as to which document, *i.e.* between Exhibit “B” or Exhibit “8,” is authentic or original. The prosecution’s alleged copy of the minutes, *i.e.*, Exhibit “B” is a personal copy of Ernie Malaga who was not presented to identify the same, in contrast to the defense’s Exhibit “8,” which was certified and identified by the SB Secretary at that time, witness Casco.<sup>50</sup>

We are not persuaded.

In Falsification of Public Documents under paragraph 2, Article 171 of the RPC, the prosecution must prove the existence of the following elements: (1) that the offender is a public officer, employee, or notary public; (2) that he takes advantage of his official position; (3) that he falsifies a document by causing it to appear that persons have participated in any act or proceeding; and (4) that such persons did not in fact so participate in the proceeding.<sup>51</sup>

Admittedly, Partisala was a public officer, being the Vice-Mayor of Maasin, Iloilo City, at the time material to the case. He took advantage of his official position as the vice mayor, together with his co-accused, to falsify the Minutes of the SB on the session held on June 21, 1996 by making or preparing or intervening in the preparation thereof, to make it appear that the SB deliberated on the issuance of Resolution No. 30-A and Resolution No. 30-B giving Mondejar the authority to enter into a contract with IBC with respect to the rechanneling of Tigum River.

Contrary to Exhibit “8,” SB Members Trojillo and Albacete testified that they did not deliberate on the issuance of Resolution No. 30-A and Resolution No. 30-B. In fact, Trojillo declared that Partisala himself asked him to sign a document “*Minutes of the Regular Session of the Sangguniang Bayan of the Municipality of Maasin, Iloilo, held in the Municipal Session hall on June 21, 1996 in the afternoon.*”<sup>52</sup> She merely signed the document without reading its full contents on the presumption that it was reflective of the session held on June 21, 1996 and a true copy of the minutes.<sup>53</sup> However, she discovered that Exhibit “8” contained insertions which were not deliberated upon by the SB.<sup>54</sup> Hence, she readily executed an Affidavit of Retraction dated December 19, 1997<sup>55</sup> to contest her signature on the said Minutes.

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<sup>49</sup> Id. at 201-204.

<sup>50</sup> Id.

<sup>51</sup> *Constantino v. People*, G.R. No. 225696, April 8, 2019.

<sup>52</sup> TSN, April 25, 2005, p. 8.

<sup>53</sup> Id.

<sup>54</sup> Id. at 9.

<sup>55</sup> Records, Vol. 3, p. 263.

Albacete corroborated the testimony of Trojillo when he declared that Exhibit "8" presented by Partisala contained items which were not discussed nor deliberated upon by the SB, specifically Item Nos. 9 to 12.<sup>56</sup> Upon knowledge thereof, he executed an Affidavit dated April 29, 1998<sup>57</sup> regarding the absence of deliberation on rechanneling of Tigum River on the regular session dated June 21, 1996. He affirmed that he could not recall Item No. 11 in Exhibit "8," that is, Resolution No. 9, which was a resolution requesting for the rechanneling of Tigum River by the MDC, being taken up during the subject session.<sup>58</sup>

Contrary to Partisala's contention, there is no need to present the alleged true copy of the Minutes of the session held on June 21, 1996, *i.e.*, Exhibit "B," nor it be identified by Malaga in order for him to be held liable for Falsification of Public Documents. It is undisputed, and in fact admitted by Partisala himself, that he took part in executing Exhibit "8" and even signed it. However, as per the testimonies of the SB members Trojillo and Albacete, Exhibit "8" contained items which were not discussed during the session held on June 21, 1996, thereby causing them to participate in a session which approved the assailed Resolution Nos. 30-A and 30-B wherein fact they did not participate.

Even without the prosecution presenting Malaga to identify Exhibit "B," all the elements of Falsification of Public document are duly established in the case at bar. Besides, SB Members Trojillo and Albacete, who were present during the June 21, 1996 session, confirmed the absence of deliberations on the enactment of Resolution Nos. 30-A and 30-B as reflected in Exhibit "B." Even Resolution No. 30, which pertains to the appropriation of funds for the construction of farm to market roads in certain *barangays* to generate maximum farm production, is not in any way related to the sub-resolutions, namely, Resolution Nos. 30-A and 30-B, which concern the rechanneling of Tigum River. Another Resolution enacted by the SB on the same day, June 21, 1996, that is, Resolution No. 31, refers to the approval of re-alignment of the 20% IRA Development Fund allotted for the improvement of the public market.<sup>59</sup> Plainly, Resolution Nos. 30-A and 30-B were merely inserted in the minutes of the session held on June 21, 1996, as there is no logical reason for its inclusion under the heading of Resolution No. 30, which had no connection with the subject matter of Resolution Nos. 30-A and 30-B. The SB should have enacted another resolution separate from Resolution No. 30 if the SB indeed enacted such assailed resolutions on the same day, June 21, 1996.

Also, it bears noting that Resolution No. 30 recommended the approval of Resolution No. 10, series of 1996 issued by the MDC, while Resolution No. 30-A recommended the approval of Resolution No. 9, series of 1996 issued by the MDC. Patently, Resolution No. 30 and Resolution No. 30-A referred to

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<sup>56</sup> TSN, April 27, 2005, pp. 13-14.

<sup>57</sup> Records, Vol. 3, p. 157.

<sup>58</sup> TSN, April 27, 2005, p. 10.

<sup>59</sup> Records, Vol. 3, p. 164.

different issues and/or subjects as contained in the resolutions issued by the MDC. It is also worth pointing out that Resolution No. 30-A and Resolution No. 30-B were allegedly taken from the excerpts of the Minutes of Regular Session on June 21, 1996 at 1:30 p.m., or thirty minutes ahead of Resolution No. 30, which was taken up at 2:00 p.m. on June 21, 1996. If indeed the SB had taken up and deliberated the matter of rechanneling of Tigum River ahead of construction of farm to market roads, then there is no wisdom in issuing another "Resolution No. 30" when "Resolution No. 30-A and Resolution No. 30-B" were already enacted, especially when these three resolutions were not at all related. Evidently, Partisala and his co-accused concealed their (Resolution Nos. 30-A and 30-B) insertion in the minutes of June 21, 1996 by having it signed by other members of the SB who were unaware that they were signing a falsified public document, which contained matters not deliberated upon in the session held on June 21, 1996.

Falsification of Public Document is committed when the public document is simulated "in a manner so as to give it the appearance of a true and genuine instrument, thus, leading others to errors as to its authenticity."<sup>60</sup> The refusal of Trojillo and Albacete to sign the falsified minutes prepared by Tolentino after June 21, 1996 to legitimize the MOA entered into by Mondejar, sufficiently proved that the minutes did not reflect the true and actual proceedings of the session held on June 21, 1996. Clearly, Partisala's participation in the falsification of the minutes cannot be denied, as he himself persuaded Trojillo to sign it to make it appear that there are two resolutions justifying the MOA entered into by Mondejar with IBC.<sup>61</sup>

As a rule, the Court considers as conclusive the factual findings of the Sandiganbayan unless they fall under certain exceptions, which is not present in the case at bar.<sup>62</sup> The Court accords great respect and weight to the Sandiganbayan's findings as it had the better opportunity to examine and evaluate the evidence presented before it.<sup>63</sup> Hence, We find no error in the assailed Decision of the Sandiganbayan finding Partisala guilty beyond reasonable doubt of Falsification of Public Documents under Article 171 of the RPC.

Nonetheless, We deem it proper to correct the penalty imposed by the Sandiganbayan, which is imprisonment of two (2) years, four (4) months and one (1) day to four (4) years and two (2) months, as minimum, to eight (8) years and one (1) day to ten (10) years, as maximum. In applying the Indeterminate Sentence Law (ISLAW) for offenses punishable under the RPC or special laws, the indeterminate sentence should have a fixed minimum and maximum term

<sup>60</sup> *Constantino v. People*, supra note 51, citing *Goma v. Court of Appeals*, 596 Phil. 1, 13 (2009) citing *Re: Fake Decision Allegedly in G.R. No. 75242*, 491 Phil. 539, 567 (2005).

<sup>61</sup> TSN, April 25, 2005, pp. 8-9.

<sup>62</sup> See *Ltc. Guillergan (Ret.) v. People*, 656 Phil. 527, 535 (2011), citing *Cadio-Palacios v. People*, 601 Phil. 695, 704 (2009).

<sup>63</sup> See *id.*, citing *Regidor, Jr. v. People*, 598 Phil. 714, 738 (2009), citing *Atty. Pactolin v. Hon. Fourth Div. of the Sandiganbayan*, 577 Phil. 27, 37 (2008).

of imprisonment,<sup>64</sup> and not a range as imposed in this case by the Sandiganbayan.

Article 171 of the RPC imposed the penalty of *prision mayor* and a fine not to exceed ₱5,000.00. Under ISLAW, the maximum term of the indeterminate sentence shall be taken from the maximum period of the prescribed penalty, after considering the modifying circumstances in the commission of the crime. There being no aggravating or mitigating circumstances in this case, the maximum term should be within the medium period of the prescribed penalty, that is, eight (8) years and one (1) day, to (10) ten years, of *prision mayor*. On the other hand, the minimum term of the indeterminate sentence shall be within the range of the penalty next lower in degree to that provided by law, that is, *prision correccional*, or within six (6) months and one (1) day to six (6) years.

Applying the foregoing, We hereby impose on Partisala the penalty of imprisonment of two (2) years of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor*, as maximum; and a fine of ₱5,000.00.

#### **Violation of Section 3 (e) of R.A. No. 3019**

To reiterate, Partisala averred that Exhibit “8” is the certified true copy of the minutes of the session held on June 21, 1996 which deliberated upon the enactment of Resolution No. 30-A and Resolution No. 30-B. Hence, he argues that Resolution No. 30-B, authorizing Mondejar to negotiate with IBC regarding the rechanneling project was validly enacted, and that he did not give any form of benefit or advantage to anyone.

We are not convinced.

In *Ampil v. Office of the Ombudsman*,<sup>65</sup> the Court specified the following elements of the offense falling under Section 3(e) of RA 3019:

- (1) The offender is a public officer;
- (2) The act was done in the discharge of the public officer's official, administrative or judicial functions;
- (3) The act was done through manifest partiality, evident bad faith, or gross inexcusable negligence; and
- (4) The public officer caused any undue injury to any party, including the Government, or gave any unwarranted benefits, advantage or preference.<sup>66</sup>

To restate, Partisala is the Vice Mayor of Maasin, Iloilo at the time material to the offense charged. A perusal of the records reveal that he deliberately acted with manifest partiality and bad faith when he, as the presiding officer of the

<sup>64</sup> *Atty. Estoya vs. Judge Singson*, 307 Phil. 1, 14 (1994).

<sup>65</sup> 715 Phil. 733, 755 (2013).

<sup>66</sup> *Id.*

with manifest partiality and bad faith when he, as the presiding officer of the SB, signed Exhibit "8" and persuaded the other *sangguniang* members to sign it, knowing fully well that there were certain items not included nor discussed on the regular session held on June 21, 1996, specifically the enactment of Resolution No. 30-A and Resolution No. 30-B.

As a result thereof, Mondejar was given the authority to enter into a MOA with IBC with respect to the rechanneling of Tigum River, which was grossly disadvantageous to the government. IBC was given unwarranted benefits, advantage, or preference by virtue of the MOA to rechannel the Tigum River, not in the form of monetary compensation, but by getting the surplus supply of sand and gravel extracted from the river, despite not having the necessary permit to do so. As per Section 138 of the Local Government Code, the permit to extract sand, gravel, and other quarry resources shall be issued exclusively by the provincial governor, by virtue of an ordinance of the *sangguniang panlalawigan*. With the enactment of Resolution No. 30-A and Resolution No. 30-B, which paved the way for the execution of the MOA, the SB of Maasin, Iloilo clearly acted without authority, and caused undue injury to the government, when it authorized IBC to extract sand and gravel from Tigum River. As per the Investigation Report dated October 21, 1997,<sup>67</sup> and Final Investigation dated November 18, 1997 issued by the Provincial Legal Office,<sup>68</sup> IBC was able to extract sand and gravel without any permit from the provincial government and/or payment of any tax, on the pretext that it was doing a rechanneling project for the benefit of the municipality as per the MOA. Clearly, the execution of the MOA contemplates unwarranted benefit, advantage, or preference given to IBC, which is proscribed by RA 3019. The said benefit, advantage, or preference would not have been probable without the participation of Partisala, as the presiding officer of the SB of Maasin, Iloilo, in enacting Resolution No. 30-A and Resolution No. 30-B, through falsification of the minutes of the regular session dated June 21, 1996.

As to the penalty imposed, the Sandiganbayan correctly meted the penalty of imprisonment of six (6) years and one (1) month, as minimum, to ten (10) years, as maximum; and perpetual disqualification from public office.


**WHEREFORE**, the appeal is **DISMISSED**. The November 23, 2018 Decision and February 14, 2019 Resolution of the Sandiganbayan in Criminal Case Nos. 25674 and 25675, are hereby **AFFIRMED** with **MODIFICATION** as to the penalty imposed on accused-appellant Arnaldo Partisala for Falsification of Public Document, defined and penalized under Article 171 of the Revised Penal Code. He is hereby sentenced to suffer an imprisonment of two (2) years of *prision correccional*, as minimum, to eight (8) years and one (1) day of *prision mayor* as maximum, and to pay a fine of ₱5,000.00.

<sup>67</sup> Records, Vol. 3, pp. 214-217.

<sup>68</sup> Id. at 219-227.

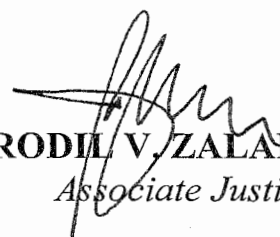
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**SO ORDERED.**

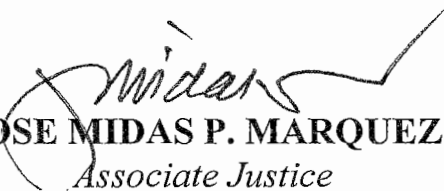
  
**RAMON PAUL L. HERNANDO**  
*Associate Justice*

WE CONCUR:

On official leave.  
**ESTELA M. PERLAS-BERNABE**  
*Senior Associate Justice*

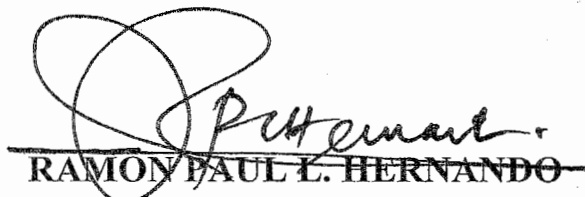
  
**RODIL V. ZALAMEDA**  
*Associate Justice*

  
**RICARDO R. ROSARIO**  
*Associate Justice*

  
**JOSE MIDAS P. MARQUEZ**  
*Associate Justice*

### ATTESTATION

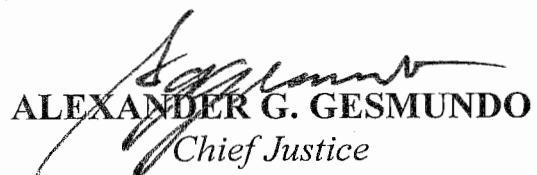
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



~~RAMON PAUL L. HERNANDO~~  
*Associate Justice*  
*Acting Chairperson*

### CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Acting Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALEXANDER G. GESMUNDO  
*Chief Justice*