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instead requested respondent to reconsider its amended counter-offer. Petitioner's request was ultimately rejected and respondent offered to refund its ₱725,000.00 deposit.

In sum, then, there was no perfected contract of sale between petitioner and respondent over the subject property.

IN LIGHT OF ALL THE FOREGOING, the petition is *DENIED*. The assailed decision is *AFFIRMED*. Costs against petitioner Manila Metal Container Corporation.

SO ORDERED.

Ynares-Santiago, Austria-Martinez, and *Chico-Nazario, JJ.,* concur.

Panganiban, C.J., retired as of December 7, 2006.

FIRST DIVISION

[G.R. No. 169251. December 20, 2006]

DEMIE L. URIARTE, *petitioner, vs.* **PEOPLE OF THE PHILIPPINES,** *respondent.*

SYLLABUS

1. CRIMINAL LAW; R.A. 3019 (ANTI-GRAFT AND CORRUPT PRACTICES ACT); CORRUPT PRACTICES OF PUBLIC OFFICERS; CAUSING UNDUE INJURY OR GIVING UNWARRANTED ADVANTAGE; ELEMENTS. — Section 3(e), R.A. 3019 provides: 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. x x x (e) Causing any undue injury to any party, including the Government, or giving any private party any

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unwarranted benefits, advantage or preference in the discharge of his official, administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions. The essential elements of this crime have been enumerated in several cases decided by this Court, 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 unwarranted benefits, advantage or preference in the discharge of his functions.

2. **ID.; ID.; ID.; ID.; MAYBE COMMITTED BY *DOLO* OR *CULPA*; ELUCIDATED.** — Section 3(e) of R.A. 3019 may be committed either by *dolo,* as when the accused acted with evident bad faith or manifest partiality, or by *culpa* as when the accused committed gross inexcusable negligence. There is **"manifest partiality"** when there is a clear, notorious or plain inclination or predilection to favor one side or person rather than another. **"Evident bad faith"** connotes not only bad judgment but also palpably and patently fraudulent and dishonest purpose to do moral obliquity or conscious wrongdoing for some perverse motive or ill will. It contemplates a state of mind affirmatively operating with furtive design or with some motive or self-interest or ill will or for ulterior purposes. **"Gross inexcusable negligence"** refers to negligence characterized by the want of even the slightest care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally, with conscious indifference to consequences insofar as other persons may be affected.

3. **ID.; ID.; ID.; ID.; ELEMENTS; EVIDENT BAD FAITH; PRESENT WHEN MUNICIPAL ASSESSOR MADE IRREGULAR ALTERATION ON THE ENTRIES IN TAX DECLARATIONS; CASE AT BAR.** — From the evidence adduced by the parties, petitioner indeed acted with evident bad faith in making the alteration on the entries in the tax declarations of both Joventino Correos and Antioco Uriarte. The fact of alteration is shown not only in the tax declarations presented in evidence; petitioner also admitted that he made

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the alterations himself. Petitioner even attempted to justify his act by stating that such changes were made pursuant to the General Instructions issued in 1978 for the general revision of tax declarations, and that he was authorized to make the alterations because municipal assessors were mandated to identify the properties according to the *barangay* where the property is located. Petitioner likewise justified his act of changing the boundaries of the property covered by the tax declarations of Joventino and Antioco because of the alleged instruction that the boundaries should be designated using the name of the landowner. Contrary to petitioner's contention that the boundaries should be designated only according to the names of persons, the provision under paragraph 28 of the General Instructions Governing the Conduct and Procedures in the General Revision of Real Property Assessments clearly allows the streets, rivers, and natural boundaries of the property to be placed on the tax declarations. Petitioner was aware of the consequences of altering the entries in the tax declarations, particularly in the untitled properties. Petitioner's bad faith is further strengthened by the fact that he did not inform Joventino Correos or the private complainant of the alterations, including his act of restoring the original entries in the tax declarations. Assuming for the sake of argument that he was not motivated by ill will but merely committed a mistake in the interpretation of the wording of the Instructions, petitioner's act is nevertheless unjustified. We cannot fathom why a municipal assessor would think that the boundaries of a particular property should only be designated by persons' names. Even one of ordinary intelligence would know that a property may be bounded by a street, a river, or a mountain. In any event, therefore, petitioner may still be considered guilty of inexcusable negligence. Petitioner contends that due to the prosecution's failure to cite any law that prohibits the municipal assessor from altering tax declarations, the presumption is that he regularly performed his official duties. However, the very Instructions petitioner relies upon to justify his acts outlines the limitations on the authority of municipal assessors to revise tax declarations. Paragrah 27 provides: Utmost care should be taken that the full christian and surname appearing in the existing 1978 tax declaration must exactly be the same christian and surname which has to be carried forward to the field sheets. For obvious reasons, *no transfer or change of ownership of*

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real property be made by assessors or appraisers in the process of general revision. x x x

4. ID.; ID.; ID.; ID.; ID.; CAUSING UNDUE INJURY OR GIVING UNWARRANTED ADVANTAGE; ACCUSED MAY BE CHARGED UNDER EITHER MODE OR UNDER BOTH; BOTH PRESENT IN CASE AT BAR. — The third element provides for the modalities in which the crime may be committed, namely: (a) by causing undue injury to any party, including the Government; **or** (b) by giving any private party any unwarranted benefit, advantage or preference. The use of the disjunctive term "or" connotes that either act qualifies as a violation of Sec. 3, par. (e), or as aptly held in *Santiago v. Garchitorena*, as two (2) different modes of committing the offense. This does not, however, indicate that each mode constitutes a distinct offense, rather, that an accused may be charged under *either* mode or under *both*. We affirm the Sandiganbayan's finding that there was substantial compliance with the requirement. The wording of the information shows that petitioner, in willfully changing the boundaries of the tax declarations of Joventino Correos and Antioco Uriarte, both caused undue injury to private complainant and gave himself and his father unwarranted benefit. In jurisprudence, "undue injury" is consistently interpreted as "actual damage." *Undue* has been defined as more than necessary, not proper, or illegal; and *injury* as any wrong or damage done to another, either in his person, rights, reputation or property, that is, the invasion of any legally protected interest of another. On the other hand, in *Gallego v. Sandiganbayan*, the Court ruled that *unwarranted* means lacking adequate or official support; unjustified; unauthorized; or without justification or adequate reasons. *Advantage* means a more favorable or improved position or condition; benefit or gain of any kind; benefit from course of action. *Preference* signifies priority or higher evaluation or desirability; choice or estimation above another.

5. CIVIL LAW; PROPERTY; OWNERSHIP; HOW CLAIM THEREOF ESTABLISHED. — While tax declarations are indicia of a valid claim of ownership, they do not constitute conclusive evidence thereof. They are *prima facie* proofs of ownership or possession of the property for which such taxes have been paid. Coupled with proof of actual possession of the property, however, they may become the basis of a claim

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for ownership. Moreover, a person who claims ownership of real property is duty bound to clearly identify the land being claimed in accordance with the document on which he anchors his right of ownership. Proof of ownership together with identity of the land is the basic rule.

6. **CRIMINAL LAW; R.A. 3019 (ANTI-GRAFT AND CORRUPT PRACTICES ACT); CORRUPT PRACTICES OF PUBLIC OFFICERS; CAUSING UNDUE INJURY OR GIVING UNWARRANTED ADVANTAGE; CRIMINAL LIABILITY FOR IRREGULAR ALTERATION ON ENTRIES IN TAX DECLARATIONS, NOT EXTINGUISHED BY RESTORATION OF ORIGINAL ENTRIES.** — It must be stressed that the alterations made by petitioner compromised the identity of the private complainant's property. The fact that petitioner restored the original entries in the tax declarations is of no moment; restoration of the entries in the tax declaration is not one of those enumerated under Article 89 of the Revised Penal Code as one of the ways by which to extinguish criminal liability. Article 89 of the Revised Penal Code applies in a suppletory character as provided for under Article 10 of the same Code.

7. **ID.; ID.; ID.; ID.; PROPER PENALTY IN CASE AT BAR.** – The penalty for violation of Section 3(e) of R.A. 3019 is provided for in Section 9 of the law: SECTION 9. *Penalties for violations* — (a) Any public officer or private person committing any of the unlawful acts or omission enumerated in Sections 3, 4, 5 and 6 of this Act shall be punished with imprisonment for not less than six years and one month nor more than fifteen years, perpetual disqualification from public office, and confiscation or forfeiture in favor of the Government of any prohibited interest and unexplained wealth manifestly out of proportion to his salary and other lawful income. Under the Indeterminate Sentence Law, if the offense is punished by special law, as in the present case, an indeterminate penalty shall be imposed on the accused, the maximum term of which shall not exceed the maximum fixed by the law, and the minimum not less than the minimum prescribed therein. In view of the circumstances obtaining in the instant case, the Sandiganbayan correctly imposed the indeterminate prison term of six (6) years and one (1) month, as minimum, to ten (10) years and one (1) day, as maximum, with perpetual disqualification from public office.

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APPEARANCES OF COUNSEL

Pamaran Ramos & Partners Law Offices for petitioner.

D E C I S I O N

CALLEJO, SR., *J.*:

This is a Petition for Review on *Certiorari* of the Decision[1] of the Sandiganbayan in A.R. No. 058 and its Resolution[2] denying the motion for partial reconsideration thereof. The assailed decision affirmed with modification the Decision[3] of the Regional Trial Court (RTC) of Cantilan, Surigao del Sur, Branch 41, convicting petitioner Demie L. Uriarte for violation of Section 3(e), Republic Act (R.A.) No. 3019.

Petitioner was the Municipal Assessor of the Municipality of Carrascal, Surigao del Sur. In 1948, Joventino Correos declared for taxation purposes a .9434-hectare parcel of land under Tax Declaration (TD) No. 3352.[4] The pertinent entries read:

Location: Batong, Carrascal, Surigao
Area: .9434 hectares
Boundaries:
North: Carrascal River;
South: Maximo Leva and Botong Rill;
East: Botong Creek;
West: Carrascal River

In 1974, TD No. 3352 was cancelled by TD No. 5249.[5] In 1980, the previous tax declaration was "revised" by TD

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[1] Penned by Associate JusticeTeresita V. Diaz-Baldos, with Associate Justices Roland B. Jurado and Ma. Cristina Cortez-Estrada (Chairman), concurring; *rollo*, pp. 39-53.

[2] *Rollo*, pp. 72-77.

[3] Penned by Presiding Judge Romeo C. Buenaflor; *rollo*, pp. 54-71.

[4] Exh. "G"; records, p. 385.

[5] Exh. "Q"; *id.* at 387.

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No. 116,[6] where the entry pertaining to the location of the property was changed from "Batong, Carrascal, Surigao del Sur" to "(S) Botong, (B) Doyos, Carrascal, Surigao del Sur." In 1985, TD No. 116 was cancelled by TD No. 121,[7] where the boundaries of the property were also changed, as follows:

Boundaries:
North: Carrascal River
South: Botong Rill
East: Botong Creek
West: Antioco Uriarte

TD No. 121 thus contained significant "revisions." The subsequent tax declarations, however, no longer contained alterations: TD No. 132[8] which canceled T.D. No. 121; ARP No. 93-08-00344[9] in 1994; and ARP No. 96-08-00349[10] in 1997. However, in ARP No. 96-08-00328[11] filed in 2000, the entries in the original tax declaration — TD No. 3352–were restored.

Meantime, in 1954, Antioco Uriarte, petitioner's father, declared a two-hectare lot for taxation purposes under TD No. 4642.[12] The pertinent entries are the following:

Area: 2 hectares
Location: Doot, Poblacion, Carrascal, Surigao
Boundaries:
North: Carrascal River;
South: Maximo Leva;
East: Botong Rill;
West: Maximo Leva and Carrascal River

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[6] Exh. "A"; *id.* at 388.

[7] Exh. "B"; *id.* at 389.

[8] Exh. "C"; *id.* at 391.

[9] Exh. "O"; *id.* at 392.

[10] Exh. "P"; *id.* at 394.

[11] Exh. "F"; *id.* at 395.

[12] Exh. "H"; *id.* at 396.

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In 1974, TD No. 4642 was canceled by TD No. 1534,[13] and the entries regarding the boundaries of the property were also altered.[14] In 1980, TD No. 1534 was cancelled by TD No. 243,[15] where "Embarcadero" was inserted on the entry pertaining to the location of the property. In 1985 TD No. 243 was canceled by TD No. 247.[16] This time, the area of the property was changed from two (2) to three (3) hectares, and the boundary in the east became "Joventino Correos." The subsequent tax declarations, TD No. 270[17] which canceled TD No. 247 and ARP No. 96-09-00290[18] effective 1997, did not contain any further alterations. Thus, the "boundaries" of the lot became

North: Carrascal River;
South: Pantaleon Cervantes;
East: Joventino Correos;
West: Maximo Leva

The above alterations were allegedly committed by petitioner when she was the Municipal Assessor and Deputy Provincial Assessor of Carrascal, Surigao del Sur. On May 21, 1999, Evelyn Arpilleda, through counsel, sent a letter[19] informing petitioner of the alterations that had been made on the tax declarations of her predecessor, Joventino Correos. She requested that the "erroneous and prejudicial entries" be rectified.

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[13] Exh. "I"; *id.* at 397.

[14] The "new entries" are as follows:

In the south, to "Pantaleon Cervantes"; in the east, to "Pelong Brook"; and in the west, where the entry "Carrascal River" was deleted. The entry pertaining to the location of the property was likewise changed to "Doot Pelong."

[15] Exh. "J"; *id.* at 398.

[16] Exh. "K"; *id.* at 399.

[17] Exh. "D"; *id.* at 402.

[18] Exh. "E"; *id.* at 403.

[19] Exh. "11"; *id.* at 416.

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Petitioner complied with the request. Thus, in ARP No. 96-08-00328, the original entries were restored.

On July 5, 1999, Arpilleda, through counsel, sent a letter[20] to the Office of the Ombudsman (Mindanao) stating the alleged unlawful acts of petitioner in altering the tax declarations of Joventino Correos and Antioco Uriarte. It was alleged that the alterations prejudiced her since they became the basis of petitioner's "forceful and unlawful possession" of the subject property.

The Office of the Ombudsman requested Arpilleda to formalize the charges.[21] She later complied by filing a Sworn Complaint[22] dated August 19, 1999. Petitioner filed his Counter-Affidavit,[23] to which Arpilleda filed her Reply-Affidavit[24] on October 28, 1999.

The Office of the Ombudsman-Mindanao later filed an Information[25] dated November 24, 1999 before the RTC[26] of Tandag, Surigao del Sur against petitioner for violation of Section 3(e), R.A. 3019.

On December 15, 1999, the Administrative Officer of the Office of the Provincial Prosecutor of Tandag, Surigao del Sur forwarded[27] the entire case record to the RTC of Cantilan, Surigao del Sur, Branch 41.

On March 13, 2000, private complainant, through counsel, filed a Motion to Suspend *Pendente Lite*,[28] alleging that the

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[20] *Id.* at 24-26.

[21] *Id.* at 33.

[22] *Id.* at 35-37.

[23] *Id.* at 40-43.

[24] *Id.* at 68-70.

[25] *Id.* at 1-2.

[26] The case was docketed as Crim. Case No. C-232.

[27] *Id.* at 15.

[28] *Id.* at 85-88.

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immediate suspension of petitioner is proper in view of the provisions of R.A. 3019 and existing jurisprudence.[29]

Petitioner was arraigned on March 14, 2000, and pleaded not guilty. On even date, the trial court ordered [30] his preventive suspension.

The case was then set for pre-trial and the parties submitted their respective pre-trial briefs. On June 15, 2000, petitioner filed a Motion to Lift Order of Preventive Suspension,[31] pointing out that he had already served three months' suspension. The trial court granted the motion on June 16, 2000.[32]

On October 2, 2000, petitioner filed a Motion to Quash the Information.[33] He claimed that the trial court did not acquire jurisdiction over the case because in the first place, the special prosecution officer of the Office of the Ombudsman-Mindanao had no authority to file the information. To support his claim, petitioner cited *Uy v. Sandiganbayan,*[34] where it was held that the authority to file the corresponding information before the RTC rests in the prosecutor, not the Ombudsman, and that the latter exercises prosecutorial powers only in cases cognizable by the Sandiganbayan. The trial court provisionally dismissed[35] the case and ordered the cancellation of petitioner's bail bond.

On July 12, 2001, the private prosecutor moved to reinstate the case,[36] claiming that the Supreme Court likewise declared in a Resolution in *Uy v. Sandiganbayan*[37] that the Ombudsman

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[29] *Id.* at 86.

[30] *Id.* at 89.

[31] *Id.* at 138-140.

[32] *Id.* at 143.

[33] *Id.* at 156-159.

[34] 371 Phil. 1, 16 (1999).

[35] Records, pp. 185-186.

[36] *Id.* at 189-190.

[37] G.R. Nos. 105965-70, March 20, 2001, 354 SCRA 651.

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is clothed with authority to conduct preliminary investigation, and to prosecute all criminal cases involving public employees — not only those involving public officers within the jurisdiction of the Sandiganbayan but also those within the jurisdiction of the regular courts.

On November 6, 2001, the trial court ordered the case reinstated. Since the bail bond of petitioner had been cancelled, the trial court further ordered the issuance of a warrant of arrest. Petitioner posted bail.

Private complainant filed a Reservation to File Civil Action[38] which the trial court granted in an Order[39] dated March 15, 2002. She likewise filed a Manifestation and/or Motion for Inhibition,[40] which was however denied in an Order[41] dated July 3, 2002.

Trial on the merits ensued, and the prosecution presented the following witnesses: private complainant Arpilleda, who testified that petitioner, as Municipal Assessor, took advantage of his position and caused changes in the location and boundaries of various tax declarations of Joventino Correos and Antioco Uriarte, and that these changes were designed to promote petitioner's own interest, thus causing damage and prejudice to her and her co-heirs;[42] Tremy Correos who corroborated private complainant's testimony, specifically on the damage they sustained when petitioner evicted them from the land they had been occupying;[43] Richard Paniamogan who, as *barangay* captain of Embarcadero, issued a certification that Botong is located in that *barangay* and testified thereon;[44] Charmelinda A. Yañez,

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[38] Records, pp. 274-275.

[39] *Id.* at 331.

[40] *Id.* at 287-291.

[41] *Id.* at 348-349.

[42] TSN, December 3, 2002, p. 3.

[43] TSN, December 4, 2003, p. 19.

[44] TSN, February 13, 2003, p. 2.

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then the provincial assessor who testified on the limitations of the powers of the municipal assessor;[45] SPO2 Saturnino Cubero, whose testimony was, however, dispensed with in view of the parties' admission of the copy of the police blotter on the alleged eviction of private complainant and her co-heirs from the lot;[46] and Carlito A. Ladroma who likewise testified that Botong is part of barangay Embarcadero.[47]

On the other hand, the defense presented four (4) witnesses, namely: Leovino Constantino, an employee of the Department of Environment and Natural Resources who testified that the land covered by the subject tax declarations had not been surveyed and no title had been issued by the City Environment and Natural Resources Office;[48] Florida Coma who was once the *barangay* captain of Barangay Embarcadero and testified that *Sitio* or Purok Doot, Pelong belongs to Barangay Embarcadero, while Botong belongs to Barangay Doyos;[49] and Gaudiosa Tolentino who testified on the creation of barangays Embarcadero and Doyos as well as the existing *sitios.*[50]

Petitioner, for his part, admitted that he had made changes on the tax declarations. He however justified the changes, stating that they were the result of the general revision made in 1978. He also claimed that as municipal assessor, he has absolute authority to determine the *barangay* to which a particular property belongs. He further asserted that the prosecution failed to cite any law that prohibits a municipal assessor from making revisions on (a) the location of the property according to *barangay;* (b) the names of the adjoining owner; or (c) the boundaries of the property. Petitioner likewise insisted that the case is civil and not criminal in nature.[51]

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[45] TSN, February 13, 2003, p. 7.

[46] *Id.* at 26.

[47] *Id.*

[48] TSN, October 8, 2003, p. 2.

[49] *Id.* at 16.

[50] TSN, December 4, 2003, p. 2.

[51] *Rollo*, p. 65.

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Petitioner filed a Motion for Leave to file Demurrer to Evidence[52] dated June 25, 2003. However, the trial court denied the motion in its Order[53] dated August 1, 2003.

After the parties rested their respective cases, the RTC, on April 29, 2004, rendered a decision[54] convicting petitioner of violating Section 3(e) of R.A. 3019. The *fallo* reads:

WHEREFORE, premises considered, this Court finds DEMIE URIARTE *Y* LIMGUANGCO, Municipal Assessor of Carrascal, Surigao del Sur, GUILTY BEYOND REASONABLE DOUBT as principal for violation of Section 3, paragraph (e) of Republic Act 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act and applying the Indeterminate Sentence Law, this Court imposes upon the accused the penalty of imprisonment ranging from SIX (6) YEARS and ONE (1) MONTH to TEN (10) YEARS and ONE (1) DAY; perpetual disqualification from holding public office and forfeiture of all retirement benefits or gratuity benefits under any law and in the event that such convicted officer, who may have already been separated from the service, has already received such benefits shall be liable to restitute the same to the government.

The bail bond put up by the accused for his temporary liberty is ordered cancelled. Accused shall serve his sentence at the Davao Prison and Penal Farm, Panabo City, Davao del Norte pursuant to Circular No. 63-97 of the Supreme Court dated October 6, 1997.

To pay the cost.

SO ORDERED.[55]

On April 29, 2004, petitioner filed a Notice of Appeal[56] to the Court of Appeals (CA), which was later withdrawn.[57] On

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[52] Records, pp. 456-466.

[53] *Id.* at 480.

[54] *Supra* note 3.

[55] *Rollo*, pp. 70-71.

[56] Records, pp. 656-658.

[57] *Id.* at 661-666.

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May 6, 2004, petitioner filed a Notice of Appeal[58] before the Sandiganbayan on the following grounds:

I.

THE TRIAL COURT ERRED IN CONVICTING DEMIE L. URIARTE FOR VIOLATION OF SEC. 3(E) OF R.A. 3019 UNDER THE INFORMATION THAT DOES NOT CHARGED (SIC) SUCH AN OFFENSE.

II.

EVEN ASSUMING FOR THE SAKE OF ARGUMENT (THAT) THE INFORMATION CHARGES THE OFFENSE OF VIOLATION OF SEC. 3 (E) OF R.A. 3019, STILL, THE TRIAL COURT COMMITTED GRAVE AND REVERSIBLE ERROR IN CONVICTING THE ACCUSED BASED ON FACTS NOT ALLEGED IN THE INFORMATION AND NOT SUPPORTED BY EVIDENCE.

III.

ASSUMING FURTHER THAT THE INFORMATION CHARGED VIOLATION OF SEC. 3 (E) OF R.A. 3019, AGAIN, THE TRIAL COURT SERIOUSLY ERRED AND ACTED WITH GRAVE ABUSE OF DISCRETION TANTAMOUNT TO LACK OR IN EXCESS OF JURISDICTION IN CONVICTING THE ACCUSED NOTWITHSTANDING THE FAILURE OF THE PROSECUTION TO SPECIFY, QUANTIFY AND PROVE THE ELEMENT OF "UNDUE INJURY" PURSUANT TO THE RULING OF THE SUPREME COURT IN *LLORENTE V. SANDIGANAYAN* (SIC) [G.R. NO. 122166. MARCH 11, 1998].

IV.

THE TRIAL COURT ERRED IN NOT ACQUITTING THE ACCUSED FOR FAILURE OF THE PROSECUTION TO PRESENT CLEAR AND CONVINCING EVIDENCE TO OVERCOME THE LEGAL PRESUMPTION OF REGULARITY IN THE PERFORMANCE OF HIS OFFICIAL DUTIES AND FUNCTIONS AS MUNICIPAL ASSESSOR.[59]

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[58] *Id.* at 667-669.

[59] Sandiganbayan *rollo*, pp. 61-62.

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Petitioner averred that the prosecution failed to allege in the information any prohibited act which he had committed in the performance of his official duties or in relation to his public position. He further averred that no mention was made of the injury caused to any party, which is essential in a charge under Section 3(e), R.A. 3019; this violated his constitutional right to be informed of the accusation against him.[60] Petitioner also claimed that the RTC erred in concluding that he had intended to dispossess private complainant of their property, since this was not alleged in the information.[61] He pointed out that private complainant could not prove, much less impute, any undue injury because the original entries in the tax declarations had already been restored. He also invoked the presumption of regularity in the performance of his official function as an additional ground.

On April 15, 2005, the Sandiganbayan affirmed with modification the decision of the RTC.[62] The *fallo* reads:

> WHEREFORE, in the light of all the foregoing, this Court hereby finds no cogent reason to disturb or reverse, and therefore AFFIRMS, the findings and conclusion of the trial court, with modification of the imposable penalty, such that the accused is hereby sentenced to suffer the penalty of imprisonment ranging from SIX (6) YEARS and ONE (1) MONTH to TEN (10) YEARS and ONE (1) DAY and perpetual disqualification from holding public office. The clause "and forfeiture of all retirement benefits or gratuity benefits under any law and in the event that such convicted officer, who may have already been separated from the service, has already received such benefits shall be liable to restitute the same to the government" is hereby ordered deleted.
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> SO ORDERED.[63]

The anti-graft court held that all the elements of violation of the offense had been alleged in the information; the allegation

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[60] *Id.* at 83-84.

[61] Sandiganbayan *rollo*, p. 89.

[62] *Supra* note 1.

[63] *Rollo*, p. 52.

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that the appellant willfully changed the location and boundaries of the subject properties was the prohibited act, while the element of undue injury was alleged in the phrase "to the damage and prejudice of the said heirs." The facts that had not been alleged in the information were evidentiary matters.

As to the prosecution's alleged failure to specify the element of undue injury, the anti-graft court held that the injury caused by petitioner was not in terms of money but, on the part of private complainant, the deprivation of three-fourths of her property. Lastly, the court held that under the General Instructions Governing the Conduct and Procedures in the General Revision of Real Property Assessment,[64] the municipal assessor had no discretion to change the entries in tax declarations. Moreover, the failure of petitioner to notify Joventino Correos of the changes in the entries defies the provision therein that owners should participate in the revision. Lastly, the presumption of regularity has been overcome by petitioner's unilateral act of restoring the original boundaries and location of the property owned by Joventino Correos.

Petitioner comes before this Court on the following issues:

I. CAN AN ACCUSED BE CONVICTED UNDER AN INFORMATION THAT CHARGES AN OFFENSE WHICH THE COURT ADMITTED THE PROSECUTION FAILED TO PROVE AS A VIOLATION OF ANY LAW?

II. CAN AN ACCUSED BE CONVICTED OF VIOLATION OF SEC. 3 (E) OF R.A. 3019 BASED ON CONCLUSION OF FACTS MADE BY THE TRIAL COURT THAT HE COMMITTED LANDGRABBING AND/OR DISPOSSESSING THE COMPLAINANT OF HER PROPERTY, WHICH OFFENSES WERE NOT CHARGED IN THE INFORMATION?[65]

The resolution of the issues raised by petitioner hinges on the interpretation of the elements of the crime of violation of Section 3(e), R.A. 3019, in relation to the facts alleged in the information and those proven during trial. The provision reads:

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[64] Records, pp. 504-510.

[65] *Rollo*, p. 20.

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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.

x x x x x x x x x

(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official, administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

The essential elements of this crime have been enumerated in several cases[66] decided by this Court, 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 unwarranted benefits, advantage or preference in the discharge of his functions.

A perusal of the Information filed against petitioner shows that all these elements were sufficiently alleged, as correctly ruled upon by both the RTC and Sandiganbayan. The accusatory portion of the Information reads:

That in 1993, and sometime prior or subsequent thereto, at the Municipality of Carrascal, Surigao del Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused DEMIE L. URIARTE, a public officer being the Municipal Assessor of Carrascal, Surigao del Sur, while in the performance of his official functions, committing the offense in relation to office, taking

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[66] *Santos v. People*, G.R. No. 161877, March 23, 2006, 485 SCRA 185, 194; *Cabrera v. Sandiganbayan*, G.R. Nos. 162314-17, October 25, 2004, 441 SCRA 377, 386; and *Jacinto v. Sandiganbayan*, G.R. No. 84571, October 2, 1989, 178 SCRA 254, 259.

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advantage of his position, acting with evident bad faith and manifest partiality, did then and there willfully, unlawfully, and feloniously cause the change of the location and boundaries of the property of one Joventino Correos as indicated in Tax Declaration (TD) Nos. 121 and 132 despite knowing fully well that in the previously issued TD Nos. 3352 and 5249, of the same property state different location and boundaries and also, cause the change of the location and boundaries of the property of his own father, Antioco Uriarte, particularly, to make it appear that the property is adjacent to the property of Joventino Correos, in order to favor his own interest being an heir of Antioco Uriarte and occupant of the land subject of the application of the heirs of Joventino Correos, to the damage and prejudice of the said heirs.

CONTRARY TO LAW.[67]

Section 3(e) of R.A. 3019 may be committed either by *dolo,* as when the accused acted with evident bad faith or manifest partiality, or by *culpa* as when the accused committed gross inexcusable negligence. There is "**manifest partiality**" when there is a clear, notorious or plain inclination or predilection to favor one side or person rather than another.[68] "**Evident bad faith**" connotes not only bad judgment but also palpably and patently fraudulent and dishonest purpose to do moral obliquity or conscious wrongdoing for some perverse motive or ill will.[69] It contemplates a state of mind affirmatively operating with furtive design or with some motive or self-interest or ill will or for ulterior purposes.[70] **"Gross inexcusable negligence"** refers to negligence characterized by the want of even the slightest care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally,

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[67] Records, p. 1.

[68] *Alvizo v. Sandiganbayan*, 454 Phil. 34, 72 (2003), citing WEBSTER, *THIRD NEW INTERNATIONAL DICTIONARY* 1646 and BOUVIER'S *LAW DICTIONARY*, 3rd ed., p. 2083.

[69] *Sistoza v. Desierto*, 437 Phil. 117, 132 (2002), citing *Llorente, Jr. v. Sandiganbayan*, 350 Phil. 820, 843 (1998).

[70] *Air France vs. Carrascoso*, 124 Phil 722, 737 (1966), cited in *Alvizo v. Sandiganbayan*, *supra*, at 344.

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with conscious indifference to consequences insofar as other persons may be affected.[71]

From the evidence adduced by the parties, petitioner indeed acted with evident bad faith in making the alteration on the entries in the tax declarations of both Joventino Correos and Antioco Uriarte. The fact of alteration is shown not only in the tax declarations presented in evidence; petitioner also admitted that he made the alterations himself. Petitioner even attempted to justify his act by stating that such changes were made pursuant to the General Instructions issued in 1978 for the general revision of tax declarations, and that he was authorized to make the alterations because municipal assessors were mandated to identify the properties according to the *barangay* where the property is located. Petitioner likewise justified his act of changing the boundaries of the property covered by the tax declarations of Joventino and Antioco because of the alleged instruction that the boundaries should be designated using the name of the landowner.

Paragraph 28 of the General Instructions Governing the Conduct and Procedures in the General Revision of Real Property Assessments[72] provides:

> 28) The boundaries which will appear in the field sheets shall be the name of persons, streets, rivers or natural boundaries adjoining the property subject of revision. The technical descriptions of the land to be revised should not be written down on the field sheets, not only to follow the prescribed form but also to avoid additional or unnecessary typing costs. Tax declarations are issued for taxation purposes and they are not titles to lands. In case boundary conflict arises, the parties can refer to the titles.[73]

Thus, contrary to petitioner's contention that the boundaries should be designated only according to the names of persons,

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[71] *Sistoza v. Desierto*, *supra* note 69, at 326, citing *De la Victoria v. Mongaya*, 404 Phil. 609, 619 (2001).

[72] *Supra* note 64.

[73] Records, p. 507.

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the provision clearly allows the streets, rivers, and natural boundaries of the property to be placed on the tax declarations. Petitioner was aware of the consequences of altering the entries in the tax declarations, particularly in the untitled properties. Petitioner's bad faith is further strengthened by the fact that he did not inform Joventino Correos or the private complainant of the alterations, including his act of restoring the original entries in the tax declarations. Assuming for the sake of argument that he was not motivated by ill will but merely committed a mistake in the interpretation of the wording of the Instructions, petitioner's act is nevertheless unjustified. We cannot fathom why a municipal assessor would think that the boundaries of a particular property should only be designated by persons' names. Even one of ordinary intelligence would know that a property may be bounded by a street, a river, or a mountain. In any event, therefore, petitioner may still be considered guilty of inexcusable negligence.

Petitioner contends that due to the prosecution's failure to cite any law that prohibits the municipal assessor from altering tax declarations, the presumption is that he regularly performed his official duties. However, the very Instructions petitioner relies upon to justify his acts outlines the limitations on the authority of municipal assessors to revise tax declarations. Paragrah 27 provides:

> 27) Utmost care should be taken that the full christian and surname appearing in the existing 1978 tax declaration must exactly be the same christian and surname which has to be carried forward to the field sheets. For obvious reasons, *no transfer or change of ownership of real property be made by assessors or appraisers in the process of general revision.* The primary purpose of general revision is not to transfer or change ownership of property from one person to another during the period of revision but to update or upgrade property values for real property taxation purposes. However, real property declared for the first time shall be appraised and assessed for taxation purposes. Lands declared for the first time shall be accepted provided the declaration is supported by corresponding certification of the Bureau of Forest Development and the Bureau of Lands that the land so declared is in the alienable or disposable area (emphasis supplied).

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The third element provides for the modalities in which the crime may be committed, namely: (a) by causing undue injury to any party, including the Government; **or** (b) by giving any private party any unwarranted benefit, advantage or preference.[74] The use of the disjunctive term "or" connotes that either act qualifies as a violation of Sec. 3, par. (e), or as aptly held in *Santiago v. Garchitorena*,[75] as two (2) different modes of committing the offense. This does not, however, indicate that each mode constitutes a distinct offense, rather, that an accused may be charged under *either* mode or under *both.*

We affirm the Sandiganbayan's finding that there was substantial compliance with the requirement. The wording of the information shows that petitioner, in willfully changing the boundaries of the tax declarations of Joventino Correos and Antioco Uriarte, both caused undue injury to private complainant and gave himself and his father unwarranted benefit. In jurisprudence,[76] "undue injury" is consistently interpreted as "actual damage." *Undue* has been defined as more than necessary, not proper, or illegal; and *injury* as any wrong or damage done to another, either in his person, rights, reputation or property, that is, the invasion of any legally protected interest of another. On the other hand, in *Gallego v. Sandiganbayan*,[77] the Court ruled that *unwarranted* means lacking adequate or official support; unjustified; unauthorized; or without justification or adequate reasons. *Advantage* means a more favorable or improved position or condition; benefit or gain of any kind; benefit from course of action. *Preference* signifies priority or higher evaluation or desirability; choice or estimation above another.[78]

From the foregoing definitions, petitioner's act of altering the boundaries of the property in question as stated in the tax

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[74] *Cabrera v. Sandiganbayan, supra* note 66, at 386.

[75] G.R. No. 109266, December 2, 1993, 228 SCRA 214, 222.

[76] *Cabrera v. Sandiganbayan, supra*, at 390; *Llorente, Jr. v. Sandiganbayan, supra* note 69, at 399.

[77] 201 Phil. 379, 384.

[78] *Cabrera v. Sandiganbayan, supra*, at 389-390.

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declaration clearly falls under the very act punishable by Section 3(e), R.A. 3019.

It bears stressing that it is beyond the power of this Court to settle the issue of who, between petitioner and private complainant, has the better right to own and possess the subject property. This Court has no jurisdiction over the issue, and the evidence presented is not sufficient to make a definite determination of ownership. Suffice it to state that the alteration of the entries in the subject tax declarations, especially on the boundaries of the property, caused undue injury to private complainant as an heir of Joventino Correos. The alteration substantially changed the identity of the property. Considering that the property in question was not titled and no survey had yet been conducted to settle the actual areas and boundaries of the properties, the tax declarations constitute important evidence of the declarant's possession and ownership, though not conclusive.

Indeed, the alterations made by petitioner are too substantial to ignore. It was made to appear that petitioner's property is between the Carrascal River and that of the private complainant. In the original tax declaration, no such property existed. The new entries in effect "lessened" the area of private complainant's property, which would have been evident had the lot been surveyed. Moreover, the deletion of the entry "Maximo Leva" in the south boundary of Joventino Correos' property was also prejudicial, since this alteration had the effect of deleting the property entirely.

Petitioner in fact admitted that while he declared that the subject property was in the name of Joventino Correos, he was in possession thereof; he later stated that the property in his possession was declared for taxation in the name of his father.[79]

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[79] COURT: You said you declared this property in the name of Joventino Correos in tax declaration 338, when was that?

A: May 24, 1999.

Q: You declared this after a request from the complainant that you will rectify the erroneous boundary of the tax declaration?

A: Yes, sir.

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From this testimony, it can be inferred that the identities of the properties in his possession, the lot in his father's name and that declared under Joventino Correos' name, are not certain.

While tax declarations are indicia of a valid claim of ownership, they do not constitute conclusive evidence thereof. They are *prima facie* proofs of ownership or possession of the property for which such taxes have been paid. Coupled with proof of actual possession of the property, however, they may become the basis of a claim for ownership.[80] Moreover, a person who claims ownership of real property is duty bound to clearly identify the land being claimed in accordance with the document on which he anchors his right of ownership. Proof of ownership together with identity of the land is the basic rule.[81]

It must be stressed that the alterations made by petitioner compromised the identity of the private complainant's property. The fact that petitioner restored the original entries in the tax declarations is of no moment; restoration of the entries in the tax declaration is not one of those enumerated under Article 89

Q: And why did you say nor (sic) that you are in the possession of the property?

A: We are in the possession of the property.

Q: Do I understand from you while you declare this property in the name of Joventino Correos, you are in the possession of the property?

A: Yes, your Honor.

COURT: Proceed

Q: Mr. witness, you said you are in the possession of the property that was subject of the complaint alleged complaint (sic) of Evelyn Correos Arpilleda before the *Barangay* captain, do you have with you the tax declaration of that property?

A: Yes sir.

Q: And whose name?

A: My father, Antioco Uriarte.

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[80] *De la Cruz v. Court of Appeals*, G.R. No. 127593, September 30, 2003, 412 SCRA 282, 292.

[81] *Id.* at at 290; *Gesmundo v. Court of Appeals*, 378 Phil. 1099 (1999).

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of the Revised Penal Code[82] as one of the ways by which to extinguish criminal liability. Article 89 of the Revised Penal Code applies in a suppletory character as provided for under Article 10[83] of the same Code.[84]

Lastly, petitioner avers that he cannot be convicted on the basis of the court's conclusion of land-grabbing and dispossession as no such facts have been alleged in the information.

We do not agree. It is evident from the decisions of both the RTC and the Sandiganbayan that petitioner was charged and convicted of violating Section 3(e), R.A. 3019; he was not civilly held liable for dispossession of property or eviction. The anti-graft court correctly held that the finding of the RTC — "that there was hidden intention on the part of the petitioner to grab and dispossess private complainant from their property" — was merely descriptive of how petitioner acted with evident bad faith. There was thus no need for this matter to be alleged in the information.

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[82] ART. 89. *How criminal liability is totally extinguished.*— Criminal liability is totally extinguished:

1. By the death of the convict, as to the personal penalties; and as to pecuniary penalties, liability therefore is extinguished only when the death of the offender occurs before final judgment.
2. By service of the sentence.
3. By amnesty, which completely extinguishes the penalty and all its effects.
4. By absolute pardon.
5. By prescription of the crime.
6. By prescription of the penalty.
7. By the marriage of the offended woman, as provided in Article 344 of this Code.

[83] ART. 10. *Offenses not subject to the provisions of this Code.* – Offenses which are or in the future may be punishable under special laws are not subject to the provisions of this Code. This Code shall be supplementary to such laws, unless the latter should specially provide the contrary.

[84] *Cruz v. Sandiganbayan*, G.R. No. 134493, August 16, 2005, 467 SCRA 52.

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It bears stressing that an information needs only to allege the acts or omissions complained of as constituting the offense.[85] It must state only the relevant facts, since the reason therefor could be proved during the trial.[86] Thus, an allegation of evident bad faith on the part of petitioner is sufficient. The trial court correctly found that petitioner's hidden intention to grab the land of private complainant is a manifestation of evident bad faith, which need not be further alleged in the information.

The penalty for violation of Section 3(e) of R.A. 3019 is provided for in Section 9 of the law:

> SECTION 9. *Penalties for violations* — (a) Any public officer or private person committing any of the unlawful acts or omission enumerated in Sections 3, 4, 5 and 6 of this Act shall be punished with imprisonment for not less than six years and one month nor more than fifteen years, perpetual disqualification from public office, and confiscation or forfeiture in favor of the Government of any prohibited interest and unexplained wealth manifestly out of proportion to his salary and other lawful income.

Under the Indeterminate Sentence Law, if the offense is punished by special law, as in the present case, an indeterminate penalty shall be imposed on the accused, the maximum term of which shall not exceed the maximum fixed by the law, and the minimum not less than the minimum prescribed therein.

In view of the circumstances obtaining in the instant case, the Sandiganbayan correctly imposed the indeterminate prison term of six (6) years and one (1) month, as minimum, to ten (10) years and one (1) day, as maximum, with perpetual disqualification from public office.

IN LIGHT OF ALL THE FOREGOING, the petition is hereby *DENIED* for lack of merit. The Decision of the Sandiganbayan dated March 21, 2005 is *AFFIRMED.*

SO ORDERED.

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[85] *Id.* at 64.

[86] *Cabrera v. Sandiganbayan, supra* note 66, at 384.

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Ynares-Santiago, Austria-Martinez, and *Chico-Nazario, JJ.,* concur.

Panganiban, C.J., retired as of December 7, 2006.

FIRST DIVISION

[G.R. No. 170563. December 20, 2006]

SPOUSES PEDRO AND PAZ SURTIDA, *petitioners, vs.* **RURAL BANK OF MALINAO (ALBAY), INC.,** *respondent.*

SYLLABUS

1. **REMEDIAL LAW; CIVIL PROCEDURE; APPEALS; MODIFICATION OF JUDGMENT ALREADY FINAL, PROSCRIBED.** — Irrefragably, when petitioners filed their petition in this Court, the Decision of the CA was already final and executory. The corresponding entry of judgment was already made of record. Clearly then, the decision of the appellate court is immutable and unalterable. The rule is that a final judgment may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact or law, and regardless of whether the modification is attempted to be made by the court rendering it or by the highest court of the land. The doctrine is founded on considerations of public policy and sound practice that, at the risk of occasional errors, judgments must become final at some definite point in time.

2. **ID.; ID. ID.; FACTUAL FINDINGS OF TRIAL COURT, GENERALLY RESPECTED; EXCEPTION, WHEN FINDINGS NOT IN CONFORMITY WITH EVIDENCE.** — Indeed, the general rule is that findings of facts of the trial court will not ordinarily be disturbed by an appellate court absent any clear showing that the trial court has overlooked, misunderstood or misapplied some facts or circumstances of