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SECOND DIVISION

[G.R. Nos. 231538-39; December 1, 2021]

JUDITH B. CARDENAS, JIMMY L. CLERIGO, DIEGO E. SANTIAGO, JOSE CHUBASCO B. CARDENAS, ALDIN L. AVILA, EDGAR D. ESTAMPADOR, ROBERTO F. BOLO, MAMERTO S. BERMIL, JR., AMADO E. DELOS REYES, PEDRO C. MONTERO, WAGNER BEKIM Y. CARDENAS, and MA. LUISA L. LUZA, *Petitioners*, *v.* **PEOPLE OF THE PHILIPPINES, CORAZON G. JAVIER and GUIA ADVINCULA,** *Respondents*.

D E C I S I O N

INTING, *J.*:

This Petition for Review on *Certiorari* with Prayer for Allowance of Petitioners to Post Bail Pending Appeal[1] assails the Decision[2] dated November 29, 2016 and the Resolution[3] dated April 19, 2017 of the Sandiganbayan in Criminal Case No. SB-09-CRM-0180 and Criminal Case No. SB-09-CRM-0181 which essentially found Judith B. Cardenas (Judith), Jimmy L. Clerigo (Clerigo), Diego E. Santiago (Santiago), Jose Chubasco B. Cardenas (Jose), Aldin L. Avila (Avila), Edgar D. Estampador (Estampador), Roberto F. Bolo (Bolo), Mamerto S. Bermil, Jr. (Bermil, Jr.), Amado E. Delos Reyes (Delos Reyes), Pedro C. Montero (Montero), Wagner Bekim Y. Cardenas (Wagner), and Ma. Luisa L. Luza (Luza) (collectively, petitioners) guilty beyond reasonable doubt of violation of Section 3(g) of Republic Act

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[1] *Rollo*, pp. 3-32.

[2] *Id.* at 36-55; penned by Associate Justice Samuel R. Martires with Associate Justices Amparo M. Cabotaje-Tang and Alex L. Quiroz, concurring.

[3] *Id.* at 58-67; penned by Associate Justice Amparo M. Cabotaje-Tang with Associate Justices Alex L. Quiroz and Sarah Jane T. Fernandez, concurring.

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No. (RA) 3019,[4] otherwise known as the Anti-Graft and Corrupt Practices Act.

The Antecedents

Petitioners are elected local officials and public officers of the local government unit (LGU) of Canlaon City, particularly, Judith as the City Mayor, Clerigo as the City Vice Mayor, members of the *Sangguniang Panlungsod*: Santiago, Jose, Avila, Estampador, Bolo, Bermil, Jr., Delos Reyes, Montero, and Wagner (collectively, petitioners-Sanggunian members) and Luza as the City Treasurer. Petitioners, along with the other *Sangguniang Panlungsod* members, Eric M. Suganob (Suganob) and Hernani L. Blanco (Blanco), were charged with violation of Section 3 (g) of RA 3019 in Criminal Case No. SB-09-CRM-0180; while in Criminal Case No. SB-09-CRM-0181, an additional count for violation of Section 3 (g) of RA 3019 was filed against Judith. The charges arose from the ₱60,000,000.00 loan obtained by the LGU of Canlaon City during the term of Judith as City Mayor. The Informations[5] read:

Criminal Case No. SB-09-CRM-0180

That on or about the 12th day of December 2005, or sometime prior or subsequent thereto, at the City of San Carlos, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused JUDITH B. CARDENAS and MA. LUISA L. LUZA, public officers, being the City Mayor and City Treasurer, respectively, of Canlaon City, and upon authority from co-accused JIMMY L. CLERIGO, Vice Mayor and Presiding Officer of the Sangguniang Panlungsod of the same City, and co-accused DIEGO E. SANTIAGO, JOSE CHUBASCO B. CARDENAS, ALDIN L. AVILA, EDGAR D. ESTAMPADOR, ROBERTO F. BOLO, MAMERTO S. BERMIL, JR., ERIC M. SUGANOB, AMADO S. DELOS REYES, HERNANI L. BLANCO, PEDRO C. MONTERO, WAGNER BEKIM Y. CARDENAS, Members of the Sangguniang Panlungsod, same City in

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[4] Approved on August 17, 1960.

[5] Sandiganbayan *rollo* (Criminal Case No. SB-09-CRM-0180), Volume 1, pp. 1-4; Sandiganbayan *rollo* (Criminal Case No. SB-09-CRM-0181), pp. 1-3.

such capacity and committing the offense in relation to office, conniving and confederating together and mutually helping one another, with deliberate intent, and with intent to gain and to defraud, did then and there willfully, unlawfully and feloniously enter, on behalf of the City Government of Canlaon, into a contract of loan with the Development Bank of the Philippines (DBP), San Carlos, Negros Oriental in the amount of SIXTY MILLION PESOS (Php60,000,000.00), Philippine Currency, subject to the condition that the said loan shall be secured by a holdout on Canlaon City's Special Savings Deposits with DBP, with a continuing assignment of the Internal Revenue Allotment (IRA) of Canlaon City, which sum and all interest income accruing thereon shall thereby under the full control of the DBP until the loan will have been fully paid, and shall be automatically applied as payment of loan in case the same, its interest and other charges are not paid upon maturity, which contract or transaction is manifestly and grossly disadvantageous to the government, particularly the City Government of Canlaon, as the latter is thereupon compelled to utilize public funds consisting of the aforesaid Special Savings Deposits and IRA, without need of an appropriation, law or other specific statutory authority.

CONTRARY TO LAW.[6]

Criminal Case No. SB-09-CRM-0181

That on or about the 13th day of December 2005, or sometime prior or subsequent thereto, at the City of San Carlos, Province of Negros Occidental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused JUDITH B. CARDENAS, a high-ranking public official, being the City Mayor of Canlaon City, in such capacity and committing the offense in relation to office, with deliberate intent, and with intent to gain and to defraud, did then and there willfully, unlawfully and feloniously enter, on behalf of the City Government of Canlaon, into an agreement with the Canlaon City Employees Multi-Purpose Cooperative (CCGEMCO), for the re-lending to CCGEMCO members of the amount of SIXTY MILLION PESOS (Php60,000,000.00), Philippine Currency, that Canlaon City obtained by way of loan from the Development Bank of the Philippines (DBP) and for which the City of Canlaon is obligated to pay the principal amount

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[6] Sandiganbayan *rollo* (Criminal Case No. SB-09-CRM-0180), Volume 1, pp. 2-3.

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of ₱60,000,000.00 plus interest and other charges, which contract or agreement is manifestly and grossly disadvantageous to the government, particularly the City Government of Canlaon, for being subject to the condition that all the interests, charges and other fees earned in the course of the re-lending shall accrue to the exclusive account of the CCGEMCO and not Canlaon City.

CONTRARY TO LAW.[7]

Another Information[8] docketed as Criminal Case No. SB-09-CRM-0182 was filed against Judith and Luza for Malversation under Article 217 of the Revised Penal Code in connection with the relending of the ₱60,000,000.00 loan obtained by the LGU of Canlaon City from the Development Bank of the Philippines (DBP) to the Canlaon City Government Employees Multi-Purpose Cooperative (CCGEMCO).[9] However, the Sandiganbayan subsequently dismissed[10] the case upon petitioners' filing of a Joint Demurrer to Evidence (With Leave of Court).[11]

When arraigned, petitioners entered their respective pleas of not guilty to the offenses charged.[12]

During the pre-trial, the parties entered into the following stipulation of facts, among others:

x x x x

2. That at all times relevant to the above-entitled case/s, the following accused were public officers of Canlaon City:

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[7] Sandiganbayan *rollo* (Criminal Case No. SB-09-CRM-0181), pp. 1-2.

[8] Sandiganbayan *rollo* (Criminal Case No. SB-09-CRM-0180-0182), Volume 2, pp. 8-10.

[9] *Id.* at 8-9.

[10] See Resolution dated March 12, 2013 of the Sandiganbayan penned by Presiding Justice Francisco H. Villaruz, Jr. with Associate Justices Samuel R. Martires and Alex L. Quiroz, concurring; *id.* at 384.

[11] *Id.* at 286-315.

[12] Sandiganbayan *rollo* (Criminal Case No. SB-09-CRM-0180), Volume 1, pp. 284-285.

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Judith B. Cardenas	–	City Mayor
Jimmy L. Clerigo	–	City Vice-Mayor
Diego E. Santiago	–	City Councilor
Jose Chubasco B. Cardenas	–	City Councilor
Alvin L. Avila	–	City Councilor
Edgar D. Estampador	–	City Councilor
Roberto F. Bolo	–	City Councilor
Mamerto S. Bermil, Jr.	–	City Council
Eric M. Suganob (deceased)	–	City Councilor
Amado E. Delos Reyes	–	City Councilor
Hernani L. Blanco (deceased)	–	City Councilor
Pedro C. Montero	–	City Councilor
Wagner Bekim Y. Cardenas	–	City Councilor
Ma. Luisa L. Luza	–	City Treasurer

2. That accused City Vice-Mayor and all City Councilors of Canlaon City unanimously approved SP Resolution No. 247, Series of 2005 authorizing co-accused City Mayor Cardenas to secure a loan from the Development Bank of the Philippines (DBP), San Carlos City Branch, San Carlos City, Negros Occidental, in the amount of ₱60M for the Livelihood Projects of the officials and employees of Canlaon City LGU payable within 42 months, taking into account the LGU-Canlaon City as guarantor, and further authorizing accused City Mayor Cardenas and City Treasurer Luza as signatories thereto;

3. That accused City Mayor Cardenas and City Treasurer Luza, for and in behalf of Canlaon City LGU and by authority of SP Resolution No. 247, Series of 2005, executed a promissory note unconditionally promising to pay DBP the loan amount of ₱60M;

4. That the loan of ₱60M obtained from the DBP was secured by (a) assignment of Special Savings Deposits of Canlaon City LGU with the DBP; and (b) continuing assignment of Canlaon City LGU's Internal Revenue Allotment (IRA) in favor of the DBP[;]

5. That accused City Mayor Cardenas, for and in behalf of Canlaon City LGU, entered into Memorandum of Agreement with Canlaon City Government Employees Multi-Purpose Cooperative (CCGEMCO) whereby Canlaon City LGU shall allow CCGEMCO to administer the ₱60M loan obtained from the DBP for the purpose of re-lending the same

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to the city officials and regular employees, members and non-members of the cooperative.[13]

During the trial, the prosecution called to the stand nine witnesses:

(1) Corazon Gaspar Javier, private complainant, who testified on the complaint-affidavit that she executed together with co-complainant Guia Advincula wherein they questioned the loan between the LGU of Canlaon City and DBP;[14]

(2) Olympia A. Salde, Secretary of CCGEMCO, who testified that a Memorandum of Agreement[15] (MOA) was executed between the LGU of Canlaon City and CCGEMCO;[16]

(3) Tobias B. Culinar, former Branch Head of DBP, San Carlos City Branch, who brought with him the documents relative to the ₱60,000,000.00 loan between DBP and the LGU of Canlaon City;[17]

(4) Samuel B. Eleccion, Secretary of the *Sangguniang Panlungsod* of Canlaon City, who identified *Sangguniang Panlungsod* Resolution No. 247, Series of 2005 (SP Resolution No. 247) and the Minutes of the Regular Session of the *Sangguniang Panlungsod* of Canlaon approving said Resolution;[18]

(5) Maria Luisa Locsin, a retired employee of DBP, who testified on the execution of the loan documents between DBP and the LGU of Canlaon City;[19]

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[13] Sandiganbayan *rollo* (Criminal Case No. SB-09-CRM-0180-0182), Volume 2, pp. 49-52.

[14] *Rollo*, p. 40.

[15] Sandiganbayan *rollo* (Criminal Case No. SB-09-CRM-0180), Volume 1, pp. 73-75.

[16] *Rollo*, p. 40.

[17] *Rollo*, pp. 40-41.

[18] *Id.* at 41.

[19] *Id.*

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(6) Orlando Bautista, Assistant City Assessor of Canlaon City, who testified on the execution of the loan agreement, denominated as the MOA, between the LGU of Canlaon City and CCGEMCO;[20]

(7) Juliano C. Montero, City Accountant of Canlaon City, who testified that the ₱60,000,000.00 loan between DBP and the LGU of Canlaon City was not reflected in the accounting records and financial statements of the LGU of Canlaon City for the years 2005 and 2006;[21]

(8) Rowena F. Oralde, Assistant City Accountant of Canlaon City, likewise testified that the ₱60,000,000.00 loan was not reflected in the accounting records and financial statements of the LGU of Canlaon City;[22] and

(9) Tobias V. Colina,[23] Branch Head of DBP San Carlos City Branch, who presented the DBP manager's check in the amount of ₱60,000,000.00 representing the LGU of Canlaon City's loan with DBP.[24]

After the prosecution presented its testimonial and documentary evidence, petitioners filed on August 22, 2012, a Joint Demurrer for Leave to File and Admit Attached Demurrer to Evidence[25] anchored on the ground that the MOA between DBP and the LGU of Canlaon City and the MOA between the LGU of Canlaon City and CCGEMCO are not manifestly and grossly disadvantageous to the government. Further, they argued that there is no malversation of public funds committed by Judith.

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[20] *Id.*

[21] *Id.*

[22] *Id.*

[23] "Culinar" in the *rollo* and Sandiganbayan *rollo* and *rollo*. See also TSN, May 15, 2012.

[24] *Rollo*, p. 42.

[25] Sandiganbayan *rollo* (Criminal Case No. SB-09-CRM-0180-0182), Volume 2, pp. 282-315.

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In a Resolution[26] dated March 12, 2013, the Sandiganbayan decreed as follows:

> WHEREFORE, premises considered, the accused's "JOINT DEMURRER TO EVIDENCE (With Leave of Court)" is hereby DENIED in so far as SB-09-CRM-0180 and SB-09-CRM-0181 are concerned. However, this Court GRANTS the same in so far as SB-09-CRM-0182 is concerned.
>
> Accordingly, let the presentation of evidence for the defense in SB-09-CRM-0180 and SB-09-CRM-0181 be set.
>
> In SB-09-CRM-0182, accused Mayor JUDITH B. CARDENAS and MA. LUISA L. LUZA are hereby ACQUITTED for the offense charged. The cash bonds which they respectively deposited for their provisional liberties in this instant case are hereby ordered cancelled and returned to them after the usual auditing and accounting procedures. The Hold Departure Order issued against them in this instant case is likewise hereby ordered cancelled. Let a copy of this Resolution be furnished the Bureau of Immigration and Deportation for its proper guidance and information.
>
> SO ORDERED.[27]

Because of the denial of their demurrer in the subject cases, petitioners proceeded with the presentation of their testimonial and documentary evidence.

Petitioners countered that they cannot be held liable for the questioned transactions because the loan was not manifestly and grossly disadvantageous to the government.

Judith, although admitting the acquisition of the loan on behalf of the LGU of Canlaon City, asserted that she received letter requests from the officials and employees of the various departments of the LGU of Canlaon City which expressed their desperate need for financial assistance. Coincidentally, according to Judith, DBP San Carlos City Branch made an offer to the LGU of Canlaon

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[26] *Id.* at 368-384.

[27] *Id.* at 384.

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City to finance its development or environmental projects. This prompted her to request for authorization from the *Sangguniang Panlungsod* comprised of Clerigo, and petitioners-Sanggunian members along with Suganob and Blanco to enter into a loan agreement with DBP.[28]

Petitioners-Sanggunian members asserted that they cannot be held liable for violation of Section 3 (g) of RA 3019 because they merely fulfilled their duty as members of the *Sangguniang Panlungsod* when they enacted SP Resolution No. 247 which authorized: 1) Judith to secure a loan of ₱60,000,000.00 from DBP; and 2) Judith and Luza to act as signatories thereof, for the livelihood projects of the officials and employees of the LGU of Canlaon City and in line therewith, made the LGU of Canlaon City as a guarantor.

With respect to the relending of the loan to CCGEMCO, Judith asserted that pursuant to the purpose of the ₱60,000,000.00 loan, she extended the amount, for and on behalf of the LGU of Canlaon City, to CCGEMCO. As evidence thereof, a MOA was executed which authorized CCGEMCO to administer the ₱60,000,000.00 loan for the purpose of relending the amount to the city officials and regular employees, members, and non-members of the cooperative.[29]

Ruling of the Sandiganbayan

In the assailed Decision[30] dated November 29, 2016, the Sandiganbayan found petitioners guilty of violation of Section 3(g) of RA 3019. The Sandiganbayan particularly found that the subject contracts, *i.e.*, the MOA between DBP and of the LGU of Canlaon City (Criminal Case No. SB-09-CRM-0180) and the MOA between the LGU of Canlaon City and CCGEMCO

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[28] *Rollo*, pp. 6-7. See also Resolution No. 247, Series of 2005, *id.* at 79-80.

[29] *Id.* at 6-8.

[30] *Id.* at 36-55.

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(Criminal Case No. SB-09-CRM-0181), are manifestly and grossly disadvantageous to the LGU of Canlaon City.[31]

In arriving at such conclusion, the Sandiganbayan found that as to the MOA between DBP and the LGU of Canlaon City: (1) the special savings deposit and internal revenue allotment (IRA) shares of Canlaon City are public funds and thus, can only be disbursed upon proper appropriation or specific statutory authority; (2) the conditions in the MOA were tantamount to holding hostage by the DBP the City's special savings deposit as well as its IRA to cover up the payment of the loan without the requisite appropriation law or ordinance for the purpose; (3) considering that the IRA of Canlaon City is already compromised, the priority projects of Canlaon City are already jeopardized; (4) the situation is tantamount to assigning the full control of the City's coffers to an entity that has nothing to do with the administration and management of the City; and (5) the ₱60,000,000.00 loan proceeds, which is a public fund, was not even entered in the financial statements of the City.[32]

Further, the Sandiganbayan found that as to the MOA between the LGU of Canlaon City and CCGEMCO: (1) there is no appropriation law, ordinance or specific statutory authority that was duly passed by the authorities concerned for the disbursement of the ₱60,000,000.00 public fund to any person, entity or organization much less to CCGEMCO; (2) all the interests, charges and other fees earned in the course of the relending agreement would accrue exclusively to CCGEMCO while the City will have nothing to earn and instead, is even obliged to pay DBP the principal amount of ₱60,000,000.00 plus interests and other charges thereon; (3) the ₱60,000,000.00 loan was obtained to suit the few and selected individual borrower's preferred financial needs which are not in line with a valid and subsisting public program; (4) the loan was clearly for the private ends of the City employees at the expense of Canlaon City which was not duty-bound to do so under the circumstances; (5) the City afforded

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[31] *Id.* at 47.

[32] *Id.* at 47-48.

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CCGEMCO a wide latitude of discretion in administering the relending of the ₱60,000,000.00 public fund; this was tantamount to a financial assistance extended by the LGU to a non-government organization or people's organization and did not directly benefit the LGU or serve its general/public pursuits; and (5) there was no preference of mortgages or collaterals and the borrowers are simply made to earmark future salaries as security thereof.[33]

The Sandiganbayan disposed of the case in the following manner:

> WHEREFORE, in Criminal Case No. SB-09-CRM-0180, accused JUDITH B. CARDENAS, JIMMY L. [CLERIGO], DIEGO E. SANTIAGO, JOSE CHUBASCO B. CARDENAS, ALDIN L. AVILA, EDGAR D. ESTAMPADOR, ROBERTO F. BOLO, MAMERTO S. BERMIL, JR., AMADO E. DELOS REYES, PEDRO C. MONTERO, WAGNER BEKIM Y. CARDENAS and MA. LUISA L. LUZA, are found guilty beyond reasonable doubt of having violated Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, for which they are hereby sentenced, each of said accused, to suffer the indeterminate penalty of six (6) years and one (1) month as minimum and nine (9) years as maximum, with the accessory penalty of perpetual disqualification from public office.
>
> In Criminal Case No. SB-09-CRM-0181, accused JUDITH B. CARDENAS is also found guilty beyond reasonable doubt of having violated Sec. 3(g) of Republic Act No. 3019, and is hereby sentenced to suffer the same principal and accessory penalties as above-described.
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> SO ORDERED.[34]

Petitioners moved for a reconsideration of the above Decision but the Sandiganbayan denied it in a Resolution[35] dated April 19, 2017.

Hence, the petition before the Court raising the following assignment of errors:

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[33] *Id.* at 49-50.

[34] *Id.* at 53-54.

[35] *Id.* at 58-67.

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I

THE SANDIGANBAYAN ERRED IN FINDING THAT THE PETITIONERS ARE GUILTY BEYOND REASONABLE DOUBT OF HAVING VIOLATED SECTION 3(G) OF REPUBLIC ACT NO. 3019[;]

II

THE SANDIGANBAYAN MADE ERRONEOUS RATIOCINATIONS THAT CANNOT JUSTIFY THE CONVICTION OF THE PETITIONERS FOR VIOLATING REPUBLIC ACT NO. 3019[;]

III

THE SANDIGANBAYAN MADE ERRONEOUS FINDINGS WHEN IT RULED THAT THERE WAS CONSPIRACY AMONG THE PETITIONERS.

IV.

ASSUMING WITHOUT CONCEDING THAT PETITIONERS VIOLATED SECTION 3(G) OF REPUBLIC ACT NO. 3019, THE PENALTY IMPOSED BY THE SANDIGANBAYAN IS TOO HARSH CONSIDERING THAT THERE IS NO LOSS OR PREJUDICE PROVEN BY THE PROSECUTION.[36]

Petitioners essentially argue that the prosecution failed to establish the third element of the offense charged, that is, that the contract or transaction was grossly and manifestly disadvantageous to the government. They contend that the finding that the subject MOAs were grossly disadvantageous to the LGU of Canlaon City was based on mere speculations.[37]

With regard to Criminal Case No. SB-09-CRM-0180 concerning the loan between DBP and the LGU of Canlaon City, petitioners aver, among others, that: (1) the finding that the LGU of Canlaon City would stand to lose its deposit with DBP is refuted by the fact that the loan with DBP has been fully paid; (2) such payment shows that there was neither damage nor disadvantage to the local government by reason of the loan; (3) the Special Savings Deposits of the LGU of Canlaon City with DBP and the IRA for

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[36] *Id.* at 11-12.

[37] *Id.* at 12-15.

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the LGU of Canlaon City were only collaterals to the loan with DBP and at no time where they held hostage for the payment of the loan; (4) there was neither appropriation nor assignment of public funds that took place as the said Special Savings Deposits and IRA were merely made as security for the loan; and (5) the public purpose of the loan was not destroyed by the presence of a few private persons who benefitted therefrom.[38]

For Criminal Case No. SB-09-CRM-0181 which involves the loan between the LGU of Canlaon City and CCGEMCO, Judith reiterates petitioners' above contention that no appropriation took place and that the benefits obtained by private persons from the loan did not destroy the public purpose thereof.[39]

Petitioners-Sanggunian members further deny the existence of conspiracy among them. They posit that when the *Sangguniang Panlungsod* issued SP Resolution No. 247 authorizing Judith to obtain a loan from DBP, the *Sangguniang Panlungsod* merely acted on Judith's request which they could not refuse considering that one of their duties include the granting of authority to the mayor to enter into contracts in behalf of the LGU. As such, their act cannot be taken against them nor can it be considered as an act of conspiracy.[40]

Lastly, petitioners contend that the penalty imposed against them was too harsh considering that there was no loss or prejudice caused to the LGU of Canlaon City as the loan from DBP has already been paid.[41]

The Court's Ruling

Preliminarily, the Court was informed that Luza and Estampador died during the pendency of the case. Per Notice of Death[42] dated

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[38] *Id.* at 12-13.

[39] *Id.* at 13-14.

[40] *Id.* at 24-25.

[41] *Id.* at 25-26.

[42] *Id.* at 211-216.

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June 25, 2018, Estampador died on May 23, 2015;[43] while Luza died on August 16, 2020 as stated in the Notice of Death dated September 27, 2020.[44]

The death of Luza and Estampador extinguished their criminal liability.[45] Accordingly, their death resulted in the dismissal of the criminal case against them. Hence, the Decision of the Court will now solely focus on the criminal liability of the other petitioners.

The petition is meritorious.

A question of fact calls upon the Court to review the truthfulness or falsity of the allegations of the parties.[46] The review includes an assessment of the probative value of the evidence presented which necessarily involves the correctness of the lower courts' appreciation of the evidence presented by the parties.[47] Only questions of law should be raised in petitions filed under Rule 45 of the Rules of Court for the Court is not a trier of facts.[48] It will not entertain questions of fact as the factual findings of the Sandiganbayan are generally conclusive upon this Court, especially so if they are supported by substantial evidence.[49]

However, the rule is not absolute. The rule admits of exceptions: (1) the conclusion is a finding grounded entirely on speculation, surmise, and conjectures; (2) the inference made is manifestly mistaken; (3) there is grave abuse of discretion; (4) the judgment

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[43] See Certificate of Death, *id.* at 219.

[44] See Resolution dated February 10, 2021, *id.* at 274-276.

[45] Article 89 of the Revised Penal Code; See also *Cruz v. People*, G.R. Nos. 197142 & 197153, October 9, 2019; *People v. Bayotas*, 306 Phil. 266 (1994).

[46] *Lee v. Sandiganbayan, First Division*, G.R. Nos. 234664-67, January 12, 2021, citing *Republic v. Ortigas and Company Limited Partnership*, 728 Phil. 277, 287-288 (2014) and *Cirtek Employees Labor Union-Federation of Free Workers v. Cirtek Electronics, Inc.*, 665 Phil. 784, 788 (2011).

[47] *Id.*, *Pascual v. Burgos, et al.*, 776 Phil. 167, 183 (2016).

[48] *Canlas v. Bongolan, et al.*, 832 Phil. 293, 332 (2018), citing *Pascual v. Burgos*, 776 Phil. 167, 181 (2016).

[49] *Lee v. Sandiganbayan, First Division*, *supra* note 46.

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is based on misapprehension of facts; and (5) the findings of fact of the Sandiganbayan are premised on a want of evidence and are contradicted by the evidence on record.[50]

Considering the totality of circumstances in the case, the Court finds that the Sandiganbayan erred in finding petitioners guilty beyond reasonable doubt of violation of Section 3(g) of RA 3019 in Criminal Case Nos. SB-09-CRM-0180 and SB-09-CRM-0181. The finding of guilt on the part of petitioners is anchored on a misappreciation of facts and want of evidence. Thus, the Court finds that a review of the factual antecedents and evidence is warranted.

Section 3(g) of RA 3019 is quoted below:

> SEC. 3. *Corrupt practices of public officers*. — In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:
>
> x x x x
>
> (g) Entering, on behalf of the Government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby.

The elements of the above provision are the following:

(1) that the accused is a public officer;

(2) that he entered into a contract or transaction on behalf of the government; and

(3) that such contract or transaction is grossly and manifestly disadvantageous to the government.[51]

In the case, the charges filed against Judith and other petitioners arose from the acquisition by the City of Canlaon of the ₱60,000,000.00 loan from DBP which was authorized by the *Sangguniang Panlungsod*. This loan was secured by the City

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[50] *Id.*, citing *Agullo v. Sandiganbayan*, 414 Phil. 86, 99 (2001).

[51] *Go v. The Fifth Division, Sandiganbayan*, 549 Phil. 782, 795 (2007).

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of Canlaon's Special Savings Deposit and continuing assignment of IRA. The LGU of Canlaon City then entered into a MOA with CCGEMCO allowing the latter to administer the DBP loan proceeds for the purpose of re-lending the same to the city officials and regular employees, members and non-members of the cooperative.

SP Resolution No. 247[52] provides:

"AUTHORIZING THE CITY MAYOR OF CANLAON CITY TO SECURE FOR A NEW LOAN WITH THE DEVELOPMENT BANK OF THE PHILIPPINES (DBP), SAN CARLOS CITY BRANCH, SAN CARLOS CITY, NEGROS OCCIDENTAL, IN THE AMOUNT OF SIXTY MILLION PESOS ONLY (PHP60,000,000.00) FOR THE LIVELIHOOD PROJECTS OF ITS OFFICIALS AND EMPLOYEES PAYABLE WITHIN FORTY TWO (42) MONTHS, TAKING INTO ACCOUNT THAT LGU-CANLAON CITY AS A GUARANTOR, AND FURTHER AUTHORIZE THE CITY MAYOR AND THE CITY TREASURER AS SIGNATORIES THEREOF."

WHEREAS, presented to the august body for consideration is the letter-request from the City Mayor of 12 October 2005, for the passage of a Resolution - "Authorizing Her to Enter into a Loan Agreement by and Between the Local Government Unit of Canlaon City and the Development Bank of the Philippines (DBP); San Carlos City Branch, San Carlos City, Negros Occidental, and duly supported with the letter from Ms. Doris Y. Flores, City Administrator and Chairperson of the Local Credit Committee, dated 25 October 2005, which was noted by the City Mayor herself, conveying to the august body on the loan proposal of the aforementioned bank;

WHEREAS, in order to uplift the economic well-being of its officials and employees, the city intents to secure a new loan with the Development Bank of the Philippines (DBP), San Carlos City Branch, San Carlos City, Negros Occidental, in the amount of Php60,000,000.00 under the new terms and conditions which is advantageous to the City Government of Canlaon as a whole;

WHEREAS, in the sense that this has only an interest rate of 8% — inclusive of gross receipts tax, having an authorization schedule of forty two (42) months whose mode of payment of its principal and interest

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[52] *Rollo*, pp. 79-80.

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monthly to commence one month from release with the collateral of deed of assignment of CASA of LGU is equivalent to 100% of the loanable amount, taking into account that the multiple drawdowns, every partial payment made, and partial release of collateral are allowed;

WHEREAS, it is hereby emphasized that the availment of the said new loan shall not affect the Infrastructure Projects of the city;

WHEREAS, in view of the foregoing premises, the august body has arrived into a consensus to give due course to the request of the City Mayor;

NOW, THEREFORE:

On motion of Honorable Avila and duly seconded by Honorable Delos Reyes, the body -

RESOLVED, as it hereby RESOLVES to authorize the City Mayor of Canlaon City to secure for a new loan with the Development Bank of the Philippines (DBP), San Carlos City Branch, San Carlos City, Negros Occidental, in the Amount of ₱60,000,000.00 only for the livelihood projects of its officials and employees payable within forty two (42) months, taking into account that the LGU-Canlaon City as a guarantor, and further authorize the City Mayor and the City Treasurer as signatories thereof;

RESOLVED, FURTHER, that copy of this Resolution be furnished to the Manager, Development Bank of the Philippines, San Carlos City Branch, San Carlos City, Negros Occidental, for their Information and guidance, and reference;

ADOPTED by the Sangguniang Panlungsod of Canlaon City, this 3rd day of November, 2005.

"UNANIMOUSLY APPROVED."[53] (Italics supplied.)

It is not novel for LGUs to obtain loans or credit accommodations in line with their powers as a corporation.[54] Under Section 296 of RA 7160 otherwise known as the "Local Government Code of 1991" (LGC), "any local government unit may create indebtedness, and avail of credit facilities to finance local infrastructure and

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[53] *Id.*

[54] Section 22 of Republic Act No. 7160.

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other socio-economic development projects in accordance with the approved local development plan and public investment program."

Further, a local government unit may contract loans, credits, and other forms of indebtedness with any government or domestic private bank and other lending institutions for the purposes mentioned under Section 297 of the LGC. Section 297 provides:

> Section 297. *Loans, Credits, and Other Norms of Indebtedness of Local Government Units*. — (a) A local government unit may contract loans, credits, and other forms of indebtedness with any government or domestic private bank and other lending institutions to finance the construction, installation, improvement, expansion, operation, or maintenance of public facilities, infrastructure facilities, housing projects, the acquisition of real property, and the implementation of other capital investment projects, subject to such terms and conditions as may be agreed upon by the local government unit and the lender. The proceeds from such transactions shall accrue directly to the local government unit concerned.
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> *(b) A local government unit may likewise secure from any government bank and lending institution short-, medium- and long-term loans and advances* ***against security of real estate or other acceptable assets*** *for the establishment, development, or expansion of agricultural, industrial, commercial, house financing and livelihood projects, and other economic enterprises*.
>
> (c) Government financial and other lending institutions are hereby authorized to grant loans, credits, and other forms of indebtedness out of their loanable funds to local government units for purposes specified above. (Italics and emphasis supplied.)

There is no dispute as to the existence of the first two elements of Section 3(g) of RA 3019. That petitioners were public officers at the time material to this case is settled. There is also no issue as to the fact that the MOA between DBP and the LGU of Canlaon City as well as the MOA between the LGU of Canlaon City and CCGEMCO were entered into on behalf of the LGU of Canlaon City. Thus, the two elements exist in the case at bar.

However, the Court finds the third element lacking in Criminal Case Nos. SB-09-CRM-0180 and SB-09-CRM-0181. The

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prosecution has failed to establish beyond reasonable doubt that the loan agreement between DBP and the LGU of Canlaon City as well as the MOA between the LGU of Canlaon City and CCGEMCO are grossly and manifestly disadvantageous to the LGU of Canlaon City.

On the nature of Section 3(g) of RA 3019, the Court has held:

> Section 3(g) of R.A. No. 3019 is intended to be flexible in order to give judges some latitude in determining whether the disadvantage to the government, occasioned by the act of a public officer in entering into a particular contract is, indeed, gross and manifest. Otherwise stated, *there is no hard and fast rule against which the disadvantageous acts complained of should be calibrated. The determination of whether the disadvantage caused was gross and manifest, as contemplated by Section 3 (g), should be done on a case-to-case basis*.[55] (Italics supplied.)

"Manifest" connotes something that is evident to the senses, open, obvious, notorious, unmistakable, etc.[56] "Gross" is defined as "flagrant, shameful, such conduct as is not to be excused."[57] While "disadvantageous" is something that is unfavorable, prejudicial.[58]

The totality of circumstances in the case belies a finding of manifest or gross disadvantage to the government particularly the LGU of Canlaon City.

Section 297(b) of the LGC expressly allows LGUs to use as security *real estate or other acceptable assets* in contracting loans for the establishment, development, or expansion of agricultural, industrial, commercial, house financing projects, livelihood projects, and other economic enterprises. There is nothing under the LGC which prohibits the use of the liquid assets of the LGU such as bank accounts as well as IRAs as security for a loan.

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[55] *Castillo-Co v. Sandiganbayan, et al.*, 838 Phil. 664, 674 (2018), citing *Dans, Jr. v. People*, 349 Phil. 434, 463 (1998).

[56] *Miranda v. Sandiganbayan, et al.*, 815 Phil. 123, 153 (2017), citing *Sajul v. Sandiganbayan*, 398 Phil. 1082, 1105 (2000).

[57] *Id.*, citing *Morales v. People of the Philippines*, 434 Phil. 471, 488 (2002).

[58] *Id.*, citing *Webster's Third New International Dictionary*, 1983.

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In fact, the Court takes judicial notice that banks such as DBP and Land Bank of the Philippines (LBP) include IRAs as among the accepted collaterals in various types of loans that they extend to LGUs. As for example, LBP, in its "RISE UP LGUs Lending Program," allows borrowing LGUs to set up as loan collateral a deed of assignment of the LGU's IRA equivalent to the loan of the LGU but not to exceed 20% of the IRA.[59] On the other hand, DBP, in its "Energy Efficiency Savings Financing Program," allows LGUs among other eligible borrowers to secure a loan with the following acceptable collaterals: real estate mortgage, assignment of investments and other money market placements, chattel mortgage on the equipment to be procured, guarantees, any other collateral acceptable to DBP, and assignment of IRA for LGUs.[60] Further, in its "ASENSO for LGUs Financing Program," DBP allows LGUs to obtain a loan with hold out on deposits/ revenues covered by a Hold-out Agreement or Continuing Deed of Assignment.[61]

The testimony of Mr. Ruggero Carlo J. Pango, Branch Head of DBP in his Judicial Affidavit[62] is categorical that DBP allows LGUs to use their special savings deposits and IRAs as security for the loan. Mr. Pango testified:

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[59] See *"Rise UP LGUs,"* Land Bank of the Philippines, <https://www.landbank.com/images/inner_template/1595988190_RISE%20UP%20LGU%20-%20A4%20Brochure%20FINAL.pdf> (last accessed November 4, 2021).

[60] See *Energy Efficiency Savings Financing Program*, Development Bank of the Philippines, <https://www.dbp.ph/wp-content/uploads/2021/01/E2SAVE.pdf> (last accessed November 4, 2021).

[61] Available at <https://www.dbp.ph/developmental-banking/social-services-community-development/assistance-for-economic-and-social-development-asenso-for-local-government-units-lgus-financing-program/> (last accessed on November 4, 2021).

[62] Sandiganbayan *rollo* (Criminal Case No. SB-09-CRM-0180-0181), Volume 3, pp. 222-233.

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18. Q: You mentioned that DBP allows to collateralize special savings deposit and the Internal Revenue Allotment of LGUs. What do you mean by it?

A: I meant that for LGU loan transactions entered into by DBP, the most common collateral being required by the bank are the Assignment of IRA and special savings deposits.

19. Q: Why do you usually opt to secure the IRA and special savings deposits as collateral to the LGU loans?

A: As I have said, it has very minimal risks and advantageous for both the DBP and the LGU concerned. Minimal risks because if Deed of Assignment has hold-out provision, payment of the loan is guaranteed in the event of default as the Bank can readily debit the loan payment from the bank accounts of borrower LGU. In addition, the LGU deposits being made as collateral earns a handful of interest income that benefits the LGU.[63]

As in the case, SP Resolution No. 247 expressly provided that the deed of assignment of the current and savings account (CASA) of the LGU equivalent to 100% of the loanable amount shall serve as collateral. Notably, SP Resolution No. 247 did not specify what constitutes the CASA. Nevertheless, in determining what constitutes the CASA of an LGU, the Court is aware that the IRAs of LGUs are deposited in their respective depository accounts with the depository bank.[64] In fact, as stated in the Deed of Assignment with Holdout on Special Savings Deposits and Continuing Assignment of IRA executed by DBP and the LGU of the City of Canlaon, the latter's IRA is remitted to its account carried at the DBP Dumaguete Branch.[65]

Moreover, prior to the enactment of SP Resolution No. 247, DBP sent its loan proposal to Judith as to the ₱60,000,000.00

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[63] *Id.* at 226.

[64] See Treasury Circular No. 01-2017 dated December 28, 2016 of the Bureau of Treasury (last accessed November 4, 2021) and Joint Circular No. 2013-1 dated September 16, 2013 (last accessed November 4, 2021).

[65] Exhibit "F," Exhibit Folder.

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loan. Specifically, the Letter[66] dated September 1, 2005 of the then Branch Head Ma. Luisa M. Locsin of DBP to Judith contained several financing programs that the City of Canlaon can choose from for its multipurpose loan of ₱60,000,000.00. It explained what the CASA of Canlaon City comprised. One of the options provided therein is stated in this wise:

2. Under DBP Funding – hold-out on CASA deposits equivalent to 100% of the loan balance

Amount of Loan	₱60M
Purpose of Loan	To finance LGU's livelihood, development or environmental projects
Security	*Holdout on deposits equivalent to 100% of loan balance with continuing assignment of IRA*.
Term of Loan	Up to 15 years inclusive of 2-3 years grace period on principal amortizations depending on type of project & cash flow. Principal payable in equal monthly or quarterly amortizations to start 30 or 90 days from end of grace period until full payment.
Interest	Presently @ 7% p.a., reviewable & payable monthly
Availability	1-2 years from date of notice of approval inclusive of documentation period.
Others	1. Multiple drawdowns allowed 2. Interest earnings on deposits subject of holdout withdrawable provided the account is maintained up-to-date.

Considering the circumstances, it must be understood that the CASA deposits with DBP which shall serve as security for the DBP loan per SP Resolution No. 247 included deposits equivalent to 100% of loan balance with continuing assignment of IRA, as security for the loan. Specifically, the MOA between DBP and the LGU of Canlaon City provides that the latter shall assign

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[66] Sandiganbayan *rollo* (Criminal Case No. SB-09-CRM-0180-0182), Volume 2, pp. 209-210.

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₱60,000,000.00 only of its several Special Savings Deposits with the DBP San Carlos Branch and shall continue to assign its IRA carried at the DBP Dumaguete Branch while the loan remained outstanding.[67]

Further, the Court takes exception to the conclusion of the Sandiganbayan that the loan was designed to promote the interests of a few selected private persons. Notably, private complainants Corazon Javier and Guia Advincula averred in their joint Complaint-Affidavit[68] that the same officials who approved SP Resolution No. 247 received by way of loan from the City Government of Canlaon unconscionable amounts thereby benefitting and profiting from their own acts and taking advantage of their official positions. However, a perusal of the records shows that the averment of private complainants Corazon Javier and Guia Advincula does not provide a complete picture of how the entirety of the loan was granted. Private complainants admitted in their Reply-Affidavit[69] filed before the Office of the Ombudsman that there were 273 other employees who were beneficiaries of the loan from CCGEMCO.[70] While private complainants countered

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[67] See Memorandum of Agreement, *rollo*, pp. 79-80.

[68] Sandiganbayan *rollo* (Criminal Case No. SB-09-CRM-0180-0182), Volume 2, pp. 229-237.

[69] Sandiganbayan *rollo* (Criminal Case No. SB-09-CRM-0180), Volume 1, pp. 87-92.

[70] Sandiganbayan *rollo* (Criminal Case No. SB-09-CRM-0180), Volume 1, p. 87. Private complainants averred:

1. On March 13, 2006, Complainants received Respondents' Counter-Affidavit. In the said Counter-Affidavit, Respondents have raised the convenient excuse that the complaint is politically motivated. Yet, they failed to disclose that three of the respondents Sangguniang Panlungsod members do not belong to the party of Mayor Judith Cardenas. Respondent Sangguniang Panlungsod Member Diego Santiago ran and won as an independent while Respondent Sangguniang Panlungsod Members Filomena Bascones and Amado delos Reyes ran and won as opposition candidates. That the other 273 employees were not included as respondents is no excuse for the respondents to evade liability under the anti-graft statutes. The other 273 employees are just incidental beneficiaries of the illegitimate transaction. The respondents who are included in the complaint are the brains and principal authors of the criminal transaction which eventually benefited them.

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that these 273 other employees are merely incidental beneficiaries, the Court finds this argument unsubstantiated. There is no showing that the City of Canlaon LGU availed itself of the DBP Loan with the clear intent of benefitting a few selected private persons without regard to the real purpose of the loan, *i.e.*, for the livelihood projects of its officials and employees.

Further, it must be emphasized that the relending program by the CCGEMCO to the qualified officials and employees of the City of Canlaon is primarily to implement the LGU of Canlaon City's Livelihood Incentive Support Program. This is shown by the hierarchy of preference in the grant of loan application by the City officials and employees as expressly provided in the MOA between the City of Canlaon and CCGEMCO.

The MOA between the City of Canlaon and CCGEMCO provides for the rules on the administration of the DBP loan proceeds, as follows:

> 1. The LGU, as part of her continuing mandate for the development of cooperative, pursuant to law, hereby allows the CCGEMCO to administer the said loan of ₱60,000,000.00 for re-lending to the qualified officials and employees of Canlaon City, strictly in accordance with the LGU's LIVELIHOOD INCENTIVE SUPPORT PROGRAM as determined by the Sangguniang Panlungsod of Canlaon City;
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> x x x x
>
> 5. The CCGEMCO, in order to fulfill its tasks and the challenges placed upon itself by the LGU, has established the following rules in the administration of said funds, as follows:
>
> 5.1 The said funds shall be used in its livelihood, lending and redemption programs;
>
> 5.2 City officials and employees with viable and acceptable livelihood project proposals are given the first priority to avail of the LIVELIHOOD INCENTIVE SUPPORT PROGRAM; second in priority are those with viable and acceptable livelihood project proposals but have outstanding loan obligations with other financial institutions charging higher rate of interests and who wish to be redeemed from such financial institutions; last in priority are those with outstanding loan obligations with

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other financial institutions charging higher rate of interests and who wish to be redeemed from such financial institutions;

x x x x[71]

To the mind of the Court, whether CCGEMCO granted loans to the City officials and employees without regard to the abovestated provisions of the MOA as would amount to a manifest and gross disadvantage to the Government is a matter that should have been established by the prosecution. Regrettably, there is none in the case.

Equally important, the Court finds that a perusal of the MOA between the LGU of Canlaon City and CCGEMCO belies any assertion that the LGU of Canlaon City was left on its own to pay the debt it obtained from DBP together with the interest thereon. The MOA between the City Government of Canlaon and CCGEMCO expressly provides that CCGEMCO shall pay the principal of the loan as well as the interests and charges to DBP. The MOA provides in part:

4. The CCGEMCO undertakes to pay the principal amount including the interests and charges to the DBP in accordance with said loan package.

x x x x

5. The CCGEMCO, in order to fulfill its tasks and the challenges placed upon itself by the LGU, has established the following rules in the administration of said fund, as follows:

x x x x

5.10 CCGEMCO undertakes to remit to DBP premium payments not later than 12th day of the month.[72]

Admittedly, CCGEMCO is not a party to the loan agreement between the LGU of Canlaon City and DBP such that DBP cannot

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[71] Sandiganbayan *rollo* (Criminal Case No. SB-09-CRM-0180-0182), Volume 2, pp. 226-227.

[72] Sandiganbayan *rollo* (Criminal Case No. SB-09-CRM-0180-0182), Volume 2, pp. 227-228.

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directly make CCGEMCO liable to pay the loan. However, this express provision in the MOA shows that the LGU of Canlaon City exerted earnest efforts in ensuring that the DBP loan will be paid without having the special savings account and the IRA to answer for the DBP loan.

Lastly, the DBP loan has already been paid on time as made evident by the DBP Certification[73] dated May 19, 2010. It provides:

CERTIFICATION

This is to certify that the Php60 Million 1:1 Loan, which was granted to the City of Canlaon (LGU) last December 12, 2005 was fully paid on June 10, 2009 per OR No. 4338. The account matured on June 12, 2009.

This is to certify further that during the term of the loan, amortizations were paid promptly, and the account was satisfactorily handled by the City.

This certification is issued upon the request of Hon. Judith B. Cardenas, City Mayor of Canlaon (LGU), for whatever purpose it may serve best.[74]

Undoubtedly, the special savings deposit account and the IRA of the LGU of Canlaon City have been left untouched considering that there is no default in the payment of the loan. Ultimately, the LGU of Canlaon City did not suffer any injury.

The Court notes the Sandiganbayan's finding that the proceeds of the ₱60,000,000.00 loan are in the nature of a public fund which was not entered in the financial statements of the LGU of Canlaon City, a matter not denied by petitioners, and indeed borne by the records. Petitioners likewise never denied the Sandiganbayan's finding that there was no appropriation law, ordinance or statutory authority for the disbursement of the ₱60,000,000.00 loan proceeds to any person, entity or organization.

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[73] Sandiganbayan *rollo* (Criminal Case No. SB-09-CRM-0180-0181), Volume 3, p. 220.

[74] *Id.*

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Indeed, the LGU of Canlaon City obtained the ₱60,000,000.00 loan from DBP pursuant to SP Resolution No. 247. Undoubtedly, the loan proceeds are public funds. Under Section 305 (a) of the LGC, "[n]o money shall be paid out of the local treasury except in pursuance of an appropriations ordinance or law." Thus, before releasing the loan proceeds to CCGEMCO, the LGU of Canlaon City should have enacted an appropriation ordinance for the purpose.

Nevertheless, the lack of an appropriation ordinance authorizing the release of the loan proceeds to CCGEMCO does not make the questioned transactions grossly and manifestly disadvantageous to the LGU of Canlaon City as to render petitioners liable for violation of Section 3(g) of RA 3019. Moreover, as discussed above, the circumstances in this case do not support a finding of manifest or gross disadvantage to the LGU of Canlaon City. Still, it is an irregularity violative of the LGC which may render petitioners liable for some other offense.

All told, the Court must take into consideration the totality of circumstances in determining whether the transaction entered into by the accused is manifestly and grossly disadvantageous to the Government and the Court's finding of guilt must be beyond reasonable doubt. In the case, the Court finds that the gross and manifest disadvantage to the government was not sufficiently proven. Thus, the acquittal of petitioners for both charges in Criminal Case Nos. SB-09-CRM-0180 and SB-09-CRM-0181 is warranted.

WHEREFORE, the petition is **GRANTED**. The Decision dated November 29, 2016 and the Resolution dated April 19, 2017 of the Sandiganbayan in Criminal Case No. SB-09-CRM-0180 and Criminal Case No. SB-09-CRM-0181 are **REVERSED** and **SET ASIDE**. Petitioners Judith B. Cardenas, Jimmy L. Clerigo, Diego E. Santiago, Jose Chubasco B. Cardenas, Aldin L. Avila, Roberto F. Bolo, Mamerto S. Bermil, Jr., Amado E. Delos Reyes, Pedro C. Montero, and Wagner Bekim Y. Cardenas are **ACQUITTED** in Criminal Case Nos. SB-09-CRM-0180 and SB-09-CRM-0181.

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Insofar as Petitioners Ma. Luisa L. Luza and Edgar D. Estampador are concerned, the case is **DISMISSED** in view of their death.

SO ORDERED.

Perlas-Bernabe, S.A.J. (Chairperson) and *Hernando, JJ.*, concur.

Gaerlan and *Dimaampao, JJ.*, on official leave.

APPEARANCES OF COUNSEL

Romeo Q. Artazo, Jr. for petitioners Jose Chubasco Cardenas, Wagner Bekim Cardenas, Judith Cardenas, Mamerto S. Bermil, Jr., Aldrin Avila, Amado Delos Reyes, Maria Luisa Luza, Roberto Belo and Diego Santiago.

Office of the Special Prosecutor for public respondent.