



REPUBLIC OF THE PHILIPPINES

Sandiganbayan
QUEZON CITY

Sixth Division

PEOPLE OF THE PHILIPPINES,

Plaintiff,

- versus -

**MIGUEL DRACULAN ESCOBAR,
JUANITO HERMINIA PURISIMA,
AMELIA CARMELA CONSTANTINO ZOLETA,
SUZETTE OCAYA CLERIGO,
ALEXIS JUDE KIAMCO DELA CRUZ,
VELSIE BANZON**

Accused.

CRIM. CASE NO. SB-11-CRM-0458

For: Violation of Section 3(e) of
Republic Act No. 3019, as
amended

CRIM. CASE NO. SB-11-CRM-0459

For: Malversation of Public Funds
Thru Falsification of Public
Documents

P R E S E N T :

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

Promulgated:

August 15, 2023

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DECISION

VIVERO, J.:

CHARGES

Accused **MIGUEL DRACULAN ESCOBAR, JUANITO HERMINIA PURISIMA, AMELIA CARMELA CONSTANTINO ZOLETA, SUZETTE OCAYA CLERIGO, ALEXIS JUDE KIAMCO DELA CRUZ, and VELSIE BANZON** are charged by the Office of the Ombudsman with violation of Section 3(e) of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, and the complex crime of Malversation of Public Funds through Falsification of Public Documents defined and penalized under Article 217 in relation to Article 171, Paragraph 2 and Article 48 of the Revised Penal Code (RPC). The accusatory portion of the *Informations* read—

* In view of the inhibition of J. Miranda (per Administrative Order No. 307-A-2017 dated August 31, 2017).

SB-11-CRM-0458²

That on 29 May 2002, or shortly prior or subsequent thereto, in Sarangani, Philippines, and within the jurisdiction of this Honorable Court, accused Governor Miguel Draculan Escobar, Board Member Juanito Herminia Purisima, Executive Assistant to Vice Governor Felipe Katu Constantino, Amelia Carmela Constantino Zoleta, Accountant IV Suzette Ocaya Clerigo and Management Analyst Alexis Jude Dela Cruz, and then Vice Governor Felipe Katu Constantino and Board Member Margie Purisima Rudes, the latter two now both deceased, all of the Provincial Government of Sarangani, committing the offense in relation to the performance of their duties and functions, taking advantage of their respective official positions, through manifest partiality, evident bad faith or gross inexcusable negligence, conspiring and confederating with private individual Velsie Banzon, the alleged Treasurer of Malapatan Fishermen's Group of Poblacion, Malapatan, Sarangani, did then and there willfully, unlawfully and feloniously cause the disbursement of the amount of Four Hundred and Fifty Thousand Pesos (Php 450,000.00) under SARO No. D-97-01834 through Development Bank of the Philippines Check No. 282392 dated 29 May 2002 with VELSIE BANZON as payee thereof, by falsifying Disbursement Voucher No. 401-2002-5-64 dated 29 May 2002 and its supporting documents to make it appear that financial assistance was requested and given to the Malapatan Fishermen's Group, with MIGUEL DRACULAN ESCOBAR approving the fictitious request for financial assistance and certifying in the said Disbursement Voucher that the cash advance was necessary, lawful, and incurred under his direct supervision, and SUZETTE OCAYA CLERIGO certifying as to the completeness and propriety of the supporting documents despite non-compliance with COA Circular No. 96-003 providing for the documentary requirements in disbursements for financial assistance when in truth and in fact, neither was there a request for financial assistance nor was there financial assistance received by the Malapatan Fishermen's Group after the check was encashed, as herein accused, conspiring and confederating with each other, did then and there malverse, embezzle, misappropriate and convert to their own personal use and benefit the said amount of Php 450,000.00 thereby causing undue injury to the government in the aforesaid amount.

CONTRARY TO LAW.

SB-11-CRM-0459³

That on 29 May 2002, or immediately prior or subsequent thereto, in Sarangani, Philippines, and within the jurisdiction of this Honorable Court, accused Governor Miguel Draculan Escobar, being then the Governor of the Province of Sarangani who, by reason of

² *Rollo*, Volume I, pp. 1-4.

³ *Rollo*, Volume II, pp. 5-8.

his public position, is accountable for and has control of public funds entrusted and received by him during his incumbency as Governor of said province, Board Member Juanito Herminia Purisima, Executive Assistant Amelia Carmela Constantino Zoleta, Accountant IV Suzette Ocaya Clerigo and Management Analyst Alexis Jude Dela Cruz, with then Vice Governor Felipe Katu Constantino and Board Member Margie Purisima Rudes, now both deceased, all of the Provincial Government of Sarangani, committing the offense in relation to the performance of their duties and functions, taking advantage of their respective positions, conspiring and confederating with each other and with private individual Velsie Banzon, the alleged Treasurer of Malapatan Fishermen's Group of Poblacion, Malapatan, Sarangani, did then and there willfully, unlawfully and feloniously falsify or cause to be falsified Disbursement Voucher No. 401-2002-5-64 dated 29 May 2002 and its supporting documents, by making it appear that financial assistance in the amount of Four Hundred Fifty Thousand Pesos (Php 450,000.00) had been requested by Malapatan Fishermen's Group thru Kadir Andulcan, its alleged President, with MIGUEL DRACULAN ESCOBAR approving the fictitious request for financial assistance and the said Disbursement Voucher and certifying that the expense is necessary, lawful and incurred under his direct supervision, and SUZETTE OCAYA CLERIGO certifying as to the completeness and propriety of the supporting documents despite non-compliance with the Commission on Audit Circular No. 96-003 prescribing the requirements for disbursements of financial assistance and aids, thus facilitating the issuance, under SARO No. D-97-01834 of the Development Bank of the Philippines Check No. 282392 dated 29 May 2002 in the amount of Php 450,000.00 and with VELSIE BANZON, the alleged Treasurer of Malapatan Fishermen's Group as payee thereof, when in truth and in fact, neither was there a request for financial assistance by the Malapatan Fishermen's Group nor was there financial assistance received by the Malapatan Fishermen's Group after the check was encashed, as herein accused, conspiring and confederating with each other, did then and there malverse, embezzle, misappropriate and convert to their own personal use and benefit the said amount of Php 450,000.00 to the damage and prejudice of the government in the amount of Php 450,000.00.

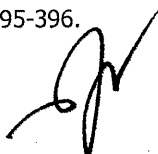
CONTRARY TO LAW.

THE ANTECEDENT FACTS

A Hold Departure Order was issued against all six accused barring them from leaving the country except upon approval of the Court.⁴ Thereafter, the Court found that sufficient grounds exist for issuing a warrant of arrest, and the Order of Arrest against all the accused was issued on 25 November 2011.⁵ Except for

⁴ *Rollo*, Volume I, pp. 392-393.

⁵ *Rollo*, Volume I, pp. 395-396.



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accused Clerigo and Banzon, the other accused voluntarily surrendered and posted cash bail bonds for their provisional liberty as evidenced by Official Receipts Number 9069930-A,⁶ 9069931-A,⁷ 9069938A,⁸ 9069937A,⁹ 9069935,¹⁰ 9069936,¹¹ 9069928,¹² and 9069929.¹³

Accused Escobar filed his Omnibus Motion (i) for Dismissal / Prohibition and (ii) for Quashal of Information / Reinvestigation dated 12 April 2012¹⁴ where he prayed for the dismissal of the cases on the ground of inordinate delay in the filing of the criminal informations infringing his rights to due process and to speedy disposition of the case against him. As for the motion to quash information or reinvestigation, accused Escobar claimed that the cases are a form of harassment considering that they arose from the same act merely split into various charges.

In denying the Omnibus Motion, the Court ruled that accused Escobar's right to speedy disposition of cases was not violated and the cases filed against him were not intended to harass nor humiliate him. Thus:

"Based on the records before Us, accused Escobar appears to have not asserted his right to speedy disposition of the instant case, and did not file any motion for early resolution of the investigation.
xxx

Considering that there was no showing of vindictive, capricious, vexatious and oppressive cause of delay, We cannot grant the dismissal of this case. Escobar knew that there could be cases filed against him, because of the preliminary investigation conducted by the Office of the Ombudsman in Mindanao. The 293-page Resolution of the Office of the Ombudsman in Mindanao dated August 11, 2004 already included the recommendation for filing of the instant cases. In that resolution, there was already a mention of the Malapatan Fishermen's Group of Poblacion, Malapatan, along with the involvement of the other groups and cooperatives that gave rise to the numerous cases already filed and pending against the accused. He cannot, therefore, claim that he could not have known that a case relative to the Malapatan cooperative will be filed. Though it may have taken some time before the Ombudsman actually filed the Informations, nevertheless, it was also incumbent upon the accused to assert his right to a speedy trial even prior to the filing of the Informations. Because of this, the accused may be considered to have slept on his right.

As to the argument that there should be a reinvestigation of the case or a quashal of the information because there is duplicity of

⁶ *Rollo*, Volume I, p. 405 (accused Escobar).

⁷ *Rollo*, Volume I, p. 406 (accused Escobar).

⁸ *Rollo*, Volume I, p. 408 (accused Purisima).

⁹ *Rollo*, Volume I, p. 409 (accused Purisima).

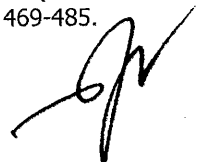
¹⁰ *Rollo*, Volume I, p. 410 (accused Dela Cruz).

¹¹ *Rollo*, Volume I, p. 410 (accused Dela Cruz).

¹² *Rollo*, Volume I, p. 411 (accused Zoleta).

¹³ *Rollo*, Volume I, p. 411 (accused Zoleta).

¹⁴ *Rollo*, Volume I, pp. 469-485.



cases springing from the same set of events, the same has no merit. xxx"¹⁵

Upon arraignment, accused Purisima,¹⁶ Escobar,¹⁷ and Dela Cruz¹⁸ pleaded not guilty to both charges. As for accused Zoleta, she failed to appear at the arraignment despite notice. Consequently, a warrant of arrest was issued against her and the bonds she posted for her provisional liberty were forfeited.¹⁹

During the preliminary conference, the prosecution and accused Escobar stipulated on the following:²⁰

Statement of Admitted Facts:

From the proposals for stipulation offered by the prosecution, accused Escobar stipulated that in 2002, he was the Governor, and that Mary Ann Gadian and Sheryl Desiree Jane Tangan were employees of the Province of Sarangani under the Office of the Vice Governor.²¹

Issues to be Resolved:

As proposed by the prosecution:

- 1) Whether or not accused are all guilty of the offenses charged.

As proposed by accused Escobar:

- 1) Whether or not he had foreknowledge of the plan to concoct the fictitious transaction;
- 2) Whether or not he falsified or caused the falsification of the disbursement voucher and its supporting documents;
- 3) Whether or not he participated in any way whatsoever in the conceptualization of the fictitious transaction, in the processing and routing of the request for fund assistance from one department to another, in the release of the Land Bank of the Philippines check, in the encashment of the check, and in the disposal of the proceeds of the check;
- 4) Whether or not he had foreknowledge of the alleged conversion, misappropriation, or malversation of the proceeds of the check or conspired with his co-accused in connection therewith;
- 5) Whether or not he received anything from the proceeds of the check and/or benefited in any way from the transaction;
- 6) Whether or not he has taken advantage of his position in any way and for any purpose;
- 7) Whether or not he was negligent, manifestly partial or in bad faith relative to the transaction; and

¹⁵ *Rollo*, Volume II, pp. 48-56.

¹⁶ *Rollo*, Volume I, p. 445.

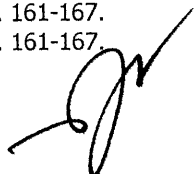
¹⁷ *Rollo*, Volume II, p. 306.

¹⁸ *Rollo*, Volume IV, p. 60.

¹⁹ *Rollo*, Volume II, p. 300.

²⁰ *Rollo*, Volume IV, pp. 161-167.

²¹ *Rollo*, Volume IV, pp. 161-167.



- 8) Whether or not his alleged signatures on the Disbursement Voucher makes him culpable.²²

On 20 November 2013, the Court issued a Supplemental Pre-Trial Order²³ in so far as the prosecution and accused Dela Cruz are concerned:

Facts:

Accused Dela Cruz admitted that he was a Management and Audit Analyst II of the Province of Sarangani under the Office of the Vice Governor.

The prosecution admitted that accused Dela Cruz was not originally a respondent in the complaint filed before the Office of the Ombudsman.

Issues:

As proposed by the parties:

Whether or not accused are all guilty of the offenses charged.

On 20 September 2016, the Court dismissed the case with respect to accused Purisima who passed away on 14 July 2014 pursuant to Article 89 of the RPC.²⁴

After pre-trial, trial commenced, where the prosecution presented Helen M. Cailing, Mary Ann G. Gadian, Sherryl Desiree N. Tangan, Imelda Esponilla Baldo, and Romeo B. Tumbaga as its witnesses.

EVIDENCE FOR THE PROSECUTION

1. Helen M. Cailing (Ms. Cailing), Director III of the Commission on Audit (COA).²⁵

Ms. Cailing joined the COA on 28 September 1979. In 2003, she held the position of State Auditor IV and was designated as the Audit Team Leader assigned at the Province of Sarangani.²⁶ As the audit team leader, her official duties and functions included auditing, examining and settling the account of the Province of Sarangani and post-auditing its financial transactions.²⁷

Pursuant to COA Local Government Sector for Mindanao Office Order No. 2003-032 dated 21 May 2003 (COA Office Order No. 2003-032),²⁸ Ms. Cailing and her team were ordered to conduct a special audit/investigation on the accounts of the Province of Sarangani particularly the grants, donations and due from non-government organizations (NGOs) and people's organizations (POs). The office order stemmed from a complaint filed with the Office of the Ombudsman-Mindanao reporting the alleged anomalous transactions facilitated by some of the

²² *Rollo*, Volume IV, pp. 161-167.

²³ *Rollo*, Volume IV, pp. 189-191.

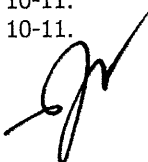
²⁴ *Rollo*, Volume V, p. 60.

²⁵ TSN dated 20 November 2013, p. 9.

²⁶ TSN dated 20 November 2013, p. 9.

²⁷ TSN dated 20 November 2013, pp. 10-11.

²⁸ TSN dated 20 November 2013, pp. 10-11.



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employees and officers of the Province of Sarangani in granting financial assistance to certain NGOs and POs.

In conducting the special audit, Ms. Cailing and her team analyzed disbursement vouchers and verified their compliance with COA Circular No. 96-003 dated 17 February 1996. Her team also sent confirmation letters to the intended NGO-PO beneficiaries and inspected the alleged projects financed by the province.²⁹ In the course of their investigation, they discovered irregularities committed by the provincial government in granting financial assistance to NGOs/POs in violation of the provisions of COA Circular No. 96-003. For this reason, copies of the Audit Observation Memorandum 2003-08, containing their special audit findings as well as their initial findings in the Annual Audit Report (AAR) of 2002, were sent to Provincial Governor Escobar, Provincial Accountant Maria D. Camanay and Provincial Treasurer Cesar M. Cagang for their justification/comment.³⁰

In his reply, Provincial Treasurer Cagang reasoned that the issuance of an official receipt by the NGO/PO was unnecessary since the financial assistance was treated as cash advance. As for the issuance of a check in the name of the treasurer of the association instead of the association itself, Mr. Cagang justified that they merely followed the payee named in the disbursement voucher. Meanwhile, Provincial Accountant Camanay stated that the team's findings were already noted and implemented since 27 January 2003. As for accused Escobar, no reply was issued by his office.³¹

Ms. Cailing testified that the financial assistance given to the Malapatan Fishermen's Group was one of the transactions included in their special audit wherein they found that: the letter request for financial assistance and the project design were undated and unsigned by the person who prepared it and also lacked the approval of accused Escobar. The approval of accused Escobar, as the Provincial Governor, was necessary for the validity of a project proposal since the project to be implemented should be included in the work and financial plan of the province.³²

Moreover, the audit team found that the supporting documents for the financial assistance to the Malapatan Fishermen's Group were incomplete. The following were not submitted in violation of COA Circular No. 96-003: Memorandum of Agreement, Articles of Incorporation, By-laws, Certificate of Good Standing with the Cooperative Development Authority, Certification that the association has been in operation for at least three (3) years, Financial Statement for at least three (3) years, and List of Projects Undertaken.³³

She recounted that they tried to inspect the alleged project of the association, however, they cannot locate the same.³⁴ It was also discovered that the signature of Velsie Banzon, the treasurer of the association, was forged considering that Velsie Banzon was a non-existent or fictitious person.³⁵ Consistently, Barangay

²⁹ TSN dated 20 November 2013, p. 11.

³⁰ TSN dated 20 November 2013, p. 11.

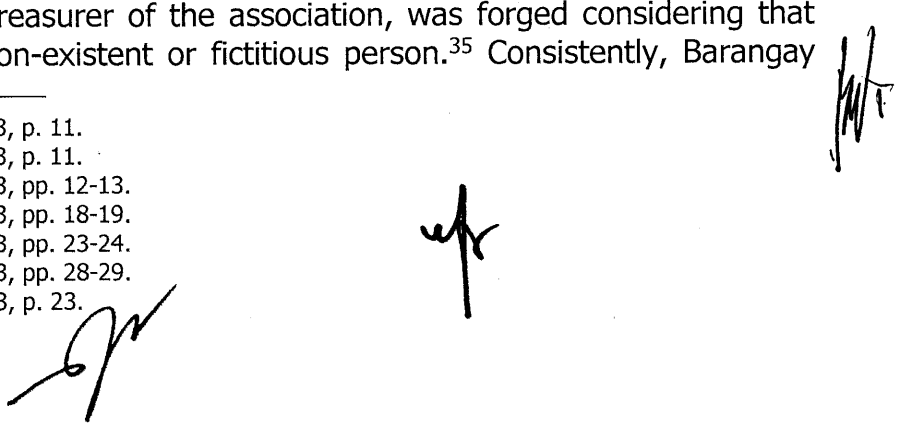
³¹ TSN dated 20 November 2013, pp. 12-13.

³² TSN dated 20 November 2013, pp. 18-19.

³³ TSN dated 20 November 2013, pp. 23-24.

³⁴ TSN dated 20 November 2013, pp. 28-29.

³⁵ TSN dated 20 November 2013, p. 23.

Handwritten signatures and initials are present at the bottom of the page. On the right side, there is a vertical signature. In the center, there are initials that appear to be 'ep'. At the bottom left, there is a large, stylized signature.

Captain Victor Tanamor of Poblacion, Malapatan, affirmed that the person named Velsie Banzon was not a resident of their barangay and that the Malapatan Fishermen's Group was a non-existent association.³⁶

On top of that, Mary Ann Gadian admitted to Ms. Cailing that accused Banzon was indeed a fictitious person.³⁷

During her testimony, Ms. Cailing discussed the roles of the provincial governor, accountant and treasurer with respect to the processing of disbursement vouchers. She stated that accused Escobar should have ensured that the expense was necessary and lawful and was incurred under his supervision prior to affixing his signature in the disbursement voucher. However, the audit investigation revealed that said measure was not undertaken considering that the Malapatan Fishermen's Group and its treasurer were non-existent and fictitious.³⁸

In like manner, before accused Clerigo signed for Provincial Accountant Camanay, she should have made sure that the supporting documents were complete and proper and that previous cash advances were liquidated.³⁹

As for the Office of the Treasurer, it should ensure that the check is released to the right person by requesting for a valid identification or resolution from the association authorizing the person who was to receive the check.⁴⁰ She underscored that the proceeds of the check should be deposited to the bank account of the association and not encashed. Ms. Cailing noted that in this transaction, there was no resolution from the association authorizing its treasurer-accused Banzon to receive the check.⁴¹

DISBURSEMENT VOUCHER		Form No. 401-2002-S-04
SARANGANI PROVINCE		Date: 5-29-09
LGU		
CLASSIFICATION OF DISBURSEMENT 18 0729 <input checked="" type="checkbox"/> Cash Advance <input type="checkbox"/> Reimbursement <input type="checkbox"/> Other Payment		
NAME OF CLAIMANT: VELSIE BANZON/Treasurer Malapatan Fishermen		ID No./TIN:
Address: Malapatan, Sarangani Province		Responsibility Center
Particulars PAGE 18 OF 18 PAGES FIRST DIVISION, SANDIGAN BAYAN Cash advance financing assistance for the purchase of a boat for fishing as per supporting papers herein attached.		Amount
Amount Due 2470,000.00		1829 730
CERTIFIED: Expenses/Cash advances necessary, lawful and incurred under my direct supervision. ATTY. MIGUEL D. ESCOBAR GOVERNOR HON. FELIPE K. CONSTANTINO Provincial Vice Governor Signature Over Printed Name/Position		
Completeness and propriety of supporting documents/previous cash advance liquidated: MARIA D. CAMANAY, CPA Provincial Accountant Signature Over Printed Name/Position		
Cash Available: CESOR M. CAGANG Provincial Treasurer Signature Over Printed Name/Position		
Approved For Payment: P ATTY. MIGUEL D. ESCOBAR GOVERNOR HON. FELIPE K. CONSTANTINO Provincial Vice Governor Signature Over Printed Name/Position		
Payment: Check No.: 282972 Bank Name: Date: 5-29-09		
PAYEE Signature Over Printed Name/Position		

36 TSN dated 20 November 2013, p. 23.
 37 TSN dated 2 February 2015, p. 37.
 38 TSN dated 20 November 2013, pp. 19-20.
 39 TSN dated 20 November 2013, pp. 20-21.
 40 TSN dated 20 November 2013, p. 22.
 41 TSN dated 20 November 2013, pp. 26-27.

Ms. Cailing emphasized that based on the journal entry voucher, the subject transaction was in the nature of a cash advance and therefore, subject to liquidation by the recipient NGO/PO after the project has been undertaken. Still, no liquidation was made by the Malapatan Fishermen's Group.⁴²

EXHIBIT F
 PAGE 1 OF 1

JOURNAL ENTRY VOUCHER SARANGANI PROVINCE LGU					
				No.:	
				Date: 5-7-02	
<input type="checkbox"/> Collection		<input checked="" type="checkbox"/> Check Disbursement		<input type="checkbox"/> Cash Disbursement	
				<input type="checkbox"/> Others	
ACCOUNTING ENTRIES					
Responsibility Center	Accounts and Explanation	Account Code	PR	AMOUNT	
				Debit	Credit
PLG		100		400,000	
		10			400,000
TOTAL				400,000	400,000
Prepared by: <u>KES/CP</u>			Approved By: <u>[Signature]</u>		

On cross-examination, she admitted that there was nothing irregular on the face of the undated letter request from Kadir Andulcan, President of the Malapatan Fishermen's Group, since a request for funding assistance may be in the form of a resolution or a letter request. Although, with the undated letter, the COA was unable to determine its exact date of issuance.⁴³

When asked about the order of the audits and issuance of AOMs, she explained that the AOM issued on January 2003 was a result of their regular audit. In doing the regular audit, they only had sampling transactions involving twelve vouchers on which their findings were based. During the regular audit, there was no complaint filed yet against the employees and officers of the province. The complaint was filed with the Office of the Ombudsman-Mindanao after the Annual Audit Report for 2002 was issued on February 2003.⁴⁴

Then, on 21 May 2003, she received COA Office Order No. 2003-032 instructing her and her team to conduct a special audit on the Province of Sarangani. Based on this office order, a detailed audit was conducted, after which, AOM No. 2003-08 dated 26 June 2003 was issued containing the findings of the special audit. Hence, when she received Office Order No. 2003-032, she already had initial findings with regard to the complained transactions.⁴⁵

She confirmed that accused Escobar did not receive a single centavo from the proceeds of the check for the Malapatan Fishermen's Group.⁴⁶

She identified COA LGS Mindanao Office Order No. 2003-032 marked as Exhibit "A"; Audit Observation Memorandum No. 2003-08 marked as Exhibit "J";

⁴² TSN dated 23 September 2014, pp. 14-15.
⁴³ TSN dated 21 January 2014, pp. 8-9.
⁴⁴ TSN dated 23 September 2014, p. 6.
⁴⁵ TSN dated 23 September 2014, p. 6.
⁴⁶ TSN dated 2 February 2015, p. 24.

[Signature]

[Signature]

Annual Audit Report for 2002 marked as Exhibit "B"; Letter dated 4 July 2003 of Provincial Treasurer Cesar M. Cagang marked as Exhibit "L"; Letter dated 10 July 2003 of Provincial Accountant Maria D. Camanay marked as Exhibit "K"; Letter dated 8 July 2003 addressed to Provincial Treasurer Cagang marked as Exhibit "N"; Fact-finding Investigation Report marked as Exhibit "Q-1"; Schedule 1 marked as Exhibit "C"; Joint Affidavit marked as Exhibit "Q"; disbursement voucher marked as Exhibit "D"; Letter request of Kadir Andulcan marked as Exhibit "I"; Project Design marked as Exhibit "G"; List of Beneficiaries marked as Exhibit "H"; DBP Check No. 282392 marked as Exhibit "E"; Confirmation Reply dated 25 July 2003 from Victor Tanamor marked as Exhibit "P"; and Journal Entry Voucher marked as Exhibit "F";

2. Mary Ann G. Gadian, (Ms. Gadian), former Computer Operator in the Office of Vice Governor Felipe Constantino of the Province of Sarangani.

In 2002, she was employed as a Computer Operator III in the Office of the Vice Governor of Sarangani Province Felipe Katu Constantino.⁴⁷ During her tenure, her immediate supervisor – Amelia Carmela Zoleta, Executive Assistant of Vice Governor Constantino, assigned her a special task to prepare fictitious documents. These documents included project proposals, letter requests, allotment obligations, disbursement vouchers and list of beneficiaries.⁴⁸

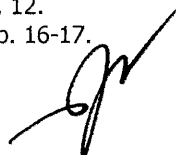
She recalled that accused Zoleta instructed her to prepare the project proposal, letter request and other documents needed for the grant of financial assistance to the Malapatan Fishermen's Group. The following day, she together with accused Zoleta, Dela Cruz, Ms. Tangan, Board Members Purisima and Rudes, prepared the project proposal, letter request, vouchers, allotment obligation and the list of beneficiaries for the grant of financial assistance to the Malapatan Fishermen's Group.⁴⁹

Ms. Gadian recounted that it was accused Zoleta who provided the fictitious name – Malapatan Fishermen's Group, which was used as the beneficiary of the financial assistance. She likewise provided the list of beneficiaries, and names to be used purportedly as the President, Secretary and Treasurer of said association. Following that, Ms. Gadian and the others prepared the fictitious documents and made it appear that Malapatan Fishermen's Group was a legitimate NGO.⁵⁰

She further revealed that it was accused Dela Cruz who signed above the name of Mr. Andulcan in the letter request and project design.⁵¹ Accused Dela Cruz also prepared the fake identification card of accused Banzon which was used to receive and to encash the check.⁵²

In preparing the fictitious documents such as proposals, letter requests, and Certificate from the Cooperative Development Authority, they already have a template saved for those documents. Ms. Gadian and the others merely changed the names and other entries in those templates to reflect the names of the

⁴⁷ TSN dated 27 April 2015, p. 8.
⁴⁸ TSN dated 22 September 2015, pp. 10-11.
⁴⁹ TSN dated 27 April 2015, p. 11.
⁵⁰ TSN dated 22 September 2015, pp. 37-39.
⁵¹ TSN dated 27 April 2015, p. 12.
⁵² TSN dated 27 April 2015, pp. 16-17.



purported NGO-beneficiary and its officers. With respect to the budget for the financial assistance, they were provided with the SARO of the pending CDF of Congressmen James and Edwin Chiongbian which were not used in the previous years.⁵³

She affirmed that the fictitious documents she prepared were the very same supporting documents attached to the disbursement voucher and to the check signed by accused Escobar.⁵⁴ Moreover, she testified that she saw accused Escobar affix his signature to the disbursement voucher, check, and all the supporting documents attached to the disbursement voucher involving the grant of financial assistance to the Malapatan Fishermen's Group.⁵⁵

In addition, she claimed that it was Carmen Janeo (Ms. Janeo), LTOO III, who signed for Mr. Cagang in Box C of the disbursement voucher.⁵⁶

After the check was signed by Ms. Janeo and accused Escobar, Ms. Gadian brought the check to the Accounting Office for the Accountant's Advice.⁵⁷ Thereafter, Ms. Tangan accompanied the person who posed as Banzon to the Treasurer's Office to receive the check and encash the same with the bank. After the check was encashed, the proceeds were given to her and were distributed as follows: accused Zoleta – PhP 30,000; Vice Governor Constantino – PhP 200,000; Board Member Rudes – PhP 100,000; accused Banzon – PhP 10,000; and Board Member Purisima – PhP 100,000. As for the Malapatan Fishermen's Group, they did not receive anything from the transaction.⁵⁸

Ms. Gadian admitted that she received a cash gift every time she prepared fictitious documents for a transaction. With respect to the Malapatan Fishermen's transaction, she received Ten Thousand Pesos (PhP 10,000).⁵⁹

When asked whether she told accused Escobar of the transaction, she answered that there was no need for her to tell him personally the activities happening inside the Office of Vice Governor Constantino because her superiors were the ones discussing together.⁶⁰

She further testified that accused Escobar did not receive money from the transaction despite knowledge of the same.⁶¹ Thus:

"Q: Likewise do you confirm that Governor Escobar is not a part of the Malapatan Fishermen's Group transaction given the distribution of money stated in your testimony on April 27, 2015?

A: He just did not receive, but he knows the transaction, Ma'am.

JUSTICE PONFERRADA:

⁵³ TSN dated 22 September 2015, pp. 37-39.

⁵⁴ TSN dated 22 September 2015, p. 22.

⁵⁵ TSN dated 27 April 2015, pp. 13-14 and 22 September 2015, p. 21.

⁵⁶ TSN dated 27 April 2015, pp. 13-14.

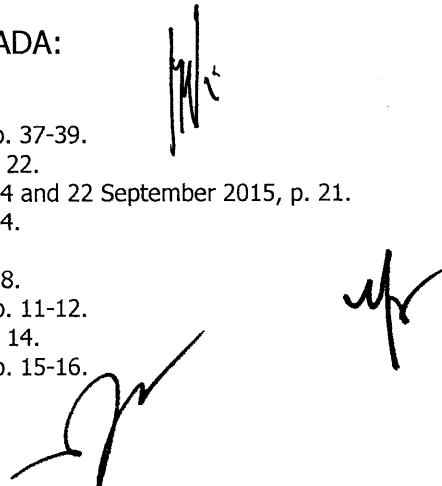
⁵⁷ TSN dated 27 April 2015, p. 16.

⁵⁸ TSN dated 27 April 2015, pp. 17-18.

⁵⁹ TSN dated 22 September 2015, pp. 11-12.

⁶⁰ TSN dated 22 September 2015, p. 14.

⁶¹ TSN dated 22 September 2015, pp. 15-16.



- Q: What is your basis for saying that the Governor knows?
A: I was in front of Juanito Purisima when he called the Governor, your Honor.
Q: You were in front of who?
A: Juanito H. Purisima, your Honor, the Board Member of Sarangani Province.

CHAIRPERSON:

- Q: When he called the Governor?
A: Yes, your Honor.

JUSTICE PONFERRADA:

- Q: How did he call the Governor?
A: Through telephone, your Honor.
Q: How were you certain that it was the Governor who was at the other side of the phone at that time?
A: He told me that he is going to call the Governor before I process the transaction because only the Governor can sign the transaction, you Honor.

CHAIRPERSON:

All right.

ATTY. MANDAGAN:

- Q: Follow up question Madame witness. Were you present when he called the Governor?
A: Inside the Office of the Vice Governor, Ma'am.
Q: Just answer my question to a yes or no Madame Witness. Were you present when he called the Governor?
A: Yes, Ma'am.
Q: Okay. How did you know that he called the Governor?
A: Because I was there in front, Ma'am.
Q: You were in front. Did you hear the voice of the Governor, Madame Witness?
A: No, Ma'am.

xxx

xxx

xxx⁶²

- Q: Earlier you were asked why you failed to inform Governor Escobar that the documents attached to the disbursement voucher were all fictitious. Now why did you not inform the accused, Governor Escobar, that the documents attached to the disbursement voucher, pertaining to the Malapatan Fishermen's Group which he signed were fictitious?
A: He was already told by Juanito Purisima that they need PhP 450,000.00 and I never explained to the Governor from the beginning about the scam.

xxx

xxx

xxx

⁶² TSN dated 22 September 2015, pp. 14-17.



Q: So Madame Witness do I get it right that you simply relied on the statement of Board Member Purisima that he told accused Governor Escobar about this project?

A: Ma'am *sa dami po ng transakyon naming* -----

ATTY. MANDAGAN:

Just answer with a yes or no Madame Witness, there is no explanation.

PROS. DELFIN-SANTOS:

That's her answer, your Honor.

CHAIRPERSON:

All right. Answer.

A: *Nasanay na po ako ganon na pag sinabi po na papirmahan ko, sila na po ang nakikiusap hindi na po ako, you Honor.*
(Interpretation) I got used to the way we conduct the operation that I do not need to explain, they were the ones who discuss it between themselves, your Honor.

PROS. DELFIN-SANTOS:

Your Honors please ---

CHAIRPERSON:

Sila na nag-uusap. Just quote it.

PROS. DELFIN-SANTOS:

Yes, that's what I want to manifest, your Honors.

JUSTICE PONFERRADA:

Just quote it. *Sila na lang nag-uusap, hindi na ako kasama.*⁶³

She identified the following documents: Letter-request from Kadir Abdulcan marked as Exhibit "I"; Project Design marked as Exhibit "G"; List of beneficiaries marked as Exhibit "H"; and DBP Check No. 282392 marked as Exhibit "E".

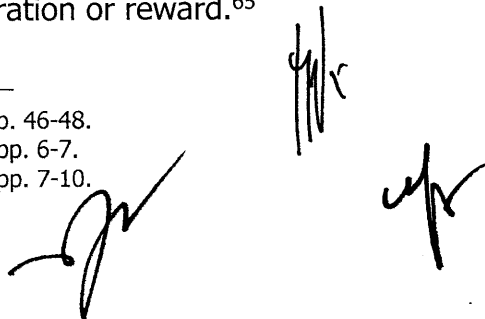
3. Sherryl Desiree Jane N. Tangan (Ms. Tangan), Teacher I at the Department of Education, Province of Sarangani.

In 2002, she was employed as a Local Legislative Staff in the Office of Vice Governor Constantino of the Province of Sarangani.⁶⁴ As such, she was tasked to process the payment for fuel consumption in their office and receive communications and vouchers for signature of the Vice Governor. Aside from that, she was instructed by accused Zoleta to assist Ms. Gadian in the processing of fictitious transactions subject matter of these cases. Her role in these transactions was to encash the check. In return, she received Five Hundred Pesos (PhP 500) for "*merienda*" as remuneration or reward.⁶⁵

⁶³ TSN dated 22 September 2015, p. 46-48.

⁶⁴ TSN dated 23 September 2015, pp. 6-7.

⁶⁵ TSN dated 23 September 2015, pp. 7-10.



Ms. Tangan corroborated Ms. Gadian's testimony and narrated that in 2002, accused Zoleta introduced her to a certain person who would pose as accused Banzon.⁶⁶ She denied knowing the person who posed as accused Banzon prior to their meeting and knowing the latter's real name.⁶⁷ During her testimony, she recounted her meeting with the person who posed as accused Banzon, *viz*:

- "Q: When you say you assisted the person who will pose as treasurer, what do you mean by that?
A: *Yong fake treasurer, ma'am. Yong gawa-gawa lang namin yong mga treasurer na pangalan. Hindi totoo yong mga pangalan na ginagamit namin.*
Q: And why was there a need to use a fake treasurer?
A: *Para makapagnakaw kami ng pera, ma'am.*
Q: Now, who instructed you to accompany this fake treasurer?
A: Amelia Carmela Zoleta, ma'am.
Q: And who was this person that you accompanied to pose as treasurer?
A: The alleged Velsie Banzon, ma'am.
Q: And who is this alleged Velsie Banzon?
A: *Hindi ko kilala, ma'am. Gawa-Gawa lang kasi namin yong mga pangalan.*
Q: And who introduced you to her?
A: Amelia Carmela Zoleta, ma'am.
Q: By the way, would you know who procured the services of this particular lady?
A: The late Board Member Rudes, ma'am."⁶⁸

Accused Zoleta directed her to accompany the dummy or the person who posed as Velsie Banzon to the Treasurer's Office to receive the check for the Malapatan Fishermen's Group. In order to receive the check, the person who represented herself as accused Banzon presented her fake identification card and signed the voucher. The ID she presented was made by accused Dela Cruz under the instruction of accused Zoleta. After the check was released, Ms. Tangan and that certain Banzon went to the Development Bank of the Philippines General Santos City Branch where she (Banzon) presented her ID and received the proceeds of the check amounting to Four Hundred Fifty Thousand Pesos (PhP 450,000).⁶⁹

Subsequently, they returned to Vice Governor Constantino's office. In line with the instructions of accused Zoleta, Ms. Tangan gave that certain Banzon her share amounting to Ten Thousand Pesos (PhP 10,000). When she arrived at the office, Ms. Gadian, accused Zoleta, Vice Governor Constantino, Board Members Purisima and Rudes were also there. Then, the proceeds of the check were distributed as follows: Vice Governor Constantino – PhP 200,000; Board Member Rudes – PhP 100,000; Board Member Purisima – PhP 100,000; accused Zoleta – PhP 30,000; accused Banzon – PhP 10,000; Ms. Gadian – PhP 10,000.⁷⁰ Ms.

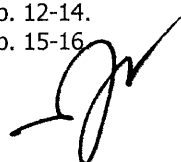
⁶⁶ TSN dated 23 September 2015, pp. 10-12.

⁶⁷ TSN dated 25 November 2015, pp. 25-27.

⁶⁸ TSN dated 23 September 2015, pp. 11-12.

⁶⁹ TSN dated 23 September 2015, pp. 12-14.

⁷⁰ TSN dated 23 September 2015, pp. 15-16.



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Tangan received a tip of Five Hundred Pesos (Php 500) while accused Dela Cruz did not receive anything from said transaction.⁷¹

On cross examination, she denied that Ms. Gadian was the mastermind and that Ms. Tangan was a forger. Rather, she insisted that they were merely instructed to steal money for the benefit of the other officials.⁷² She claimed that all of them received instructions from accused Zoleta and none of them dared to disobey her orders.⁷³

Aside from the Malapatan Fishermen's Group, the Office of the Vice Governor, accused Zoleta, Ms. Gadian and her prepared fictitious documents for other cooperatives and associations in order to steal money from the government. In her words, "*gawa-gawa lang namin yun lahat para makapagnakaw sa funds ng government.*"⁷⁴

4. **Imelda Esponilla Baldo**, OIC-Chief of the Registration Division of the Cooperative Development Authority (CDA).⁷⁵

She has been connected with the CDA since 1990. As OIC-Chief of the Registration Division, she implemented policies regarding the registration of cooperatives. She evaluated applications for registration of cooperatives and responds to queries from different agencies regarding the registered cooperatives in their office.⁷⁶

Pursuant to a subpoena issued by the Office of the Ombudsman, she issued a list of registered cooperatives in the Province of Sarangani from 1990 to 2003. The list was based on their database and report from their Kidapawan Extension Office.⁷⁷

Based on their records, the Malapatan Fishermen's Group was not a registered cooperative in the Municipality of Malapatan nor was it registered in other municipalities in the Province of Sarangani.⁷⁸

She identified the list of registered cooperatives marked as Exhibit "Z".

5. **Romeo B. Tumbaga (Mr. Tumbaga)**, Records Officer III at the Commission on Elections (COMELEC), Intramuros, Manila.⁷⁹

As records officer, he is in charge of safe keeping the registration records of all the registered voters.

He recalled that they received a subpoena from the Office of the Ombudsman ordering them to issue a certification whether or not a certain Velsie Banzon was

⁷¹ TSN dated 25 November 2015, pp. 31-32.

⁷² TSN dated 25 November 2015, p. 6, 8.

⁷³ TSN dated 25 November 2015, p. 29.

⁷⁴ TSN dated 25 November 2015, pp. 14-15.

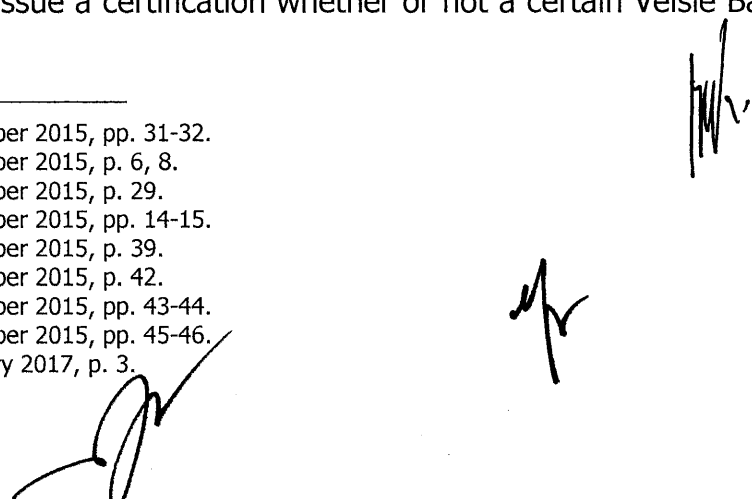
⁷⁵ TSN dated 25 November 2015, p. 39.

⁷⁶ TSN dated 25 November 2015, p. 42.

⁷⁷ TSN dated 25 November 2015, pp. 43-44.

⁷⁸ TSN dated 25 November 2015, pp. 45-46.

⁷⁹ TSN dated 20 February 2017, p. 3.

The bottom of the page contains several handwritten signatures and initials. On the left, there is a large, stylized signature. To its right, there are two smaller, more distinct signatures. Further to the right, there are some vertical scribbles or initials. The handwriting is in black ink on a white background.

a registered voter of Brgy. Poblacion, Malapatan, Sarangani Province.⁸⁰ Upon receipt of the same, they checked their database and found that Banzon was not included in the list of registered voters of Brgy. Poblacion, Malapatan, Province of Sarangani.⁸¹

Mr. Tumbaga confirmed that in searching for Banzon, the search was limited to Brgy. Poblacion, Malapatan. They did not check the other municipalities of the province. Hence, there was a possibility that she could be a registered voter of another municipality and not of Malapatan, Sarangani.⁸²

During his testimony, he identified the Certification of Non-Availability of Registration Records dated 25 August 2016 marked as Exhibit "W".

On 10 March 2017, the prosecution filed its Formal Offer of Exhibit,⁸³ to wit:

EXHIBIT	DESCRIPTION
"A"	COA LGS Mindanao Office Order No. 2003-032
"B"	Finding Nos. 4 and 5 of the 2002 Annual Budget Report consisting of 9 pages
"C", "C-1"	Schedule 1 List of Non-Government Organization NGOs and Peoples Organization (POs) approved by Governor Miguel Escobar consisting of 9 pages
"Q"	Joint Affidavit of the Audit Team consisting of 2 pages
"Q-1"	Fact Finding Investigation Report on the Alleged Anomalies committed by the Sarangani Province on Financial Assistance granted to other local government units and Non-Government organizations/people's organization consisting of 18 pages
"S"	Fact Sheet consisting of 2 pages
"D"	Disbursement Voucher No. 401-2002-5-64
"E"	DBP Check No. 282392
"F"	Journal Entry Voucher
"G"	Project Design consisting of 2 pages
"H"	List of beneficiaries
"I"	Letter Request
"J"	Audit Observation Memorandum consisting of 2 pages
"K"	Letter of Explanation of the Provincial Accountant
"L"	Letter of Explanation of the Provincial Treasurer
"M"	Memorandum addressed to Governor Escobar from Auditor Cailing
"N"	Rejoinder/Letter dated 8 July 2003 addressed to Provincial Treasurer Cagang from Auditor Cailing
"O"	Confirmation Letter
"P"	Confirmation Reply
"W"	Certification of Non-Availability of Registration Records from the COMELEC
"Z"	List of Registered Cooperatives in the Province of Sarangani

⁸⁰ TSN dated 20 February 2017, p. 5.

⁸¹ TSN dated 20 February 2017, pp. 5-6.

⁸² TSN dated 20 February 2017, pp. 8-9.

⁸³ *Rollo*, Volume V, pp. 104-108.

Handwritten signatures and initials are present at the bottom of the page, including a large signature on the left and several smaller initials on the right.

On 24 August 2017, accused Dela Cruz filed his Comment on the Formal Offer of Exhibits,⁸⁴ while accused Escobar filed his Comment and Opposition to Prosecution's Formal Offer of Evidence on 15 May 2019.⁸⁵

The Court resolved the prosecution's Formal Offer of Evidence⁸⁶ as follows:

"TO **ADMIT** the following exhibits offered by the prosecution, to wit: Exhibits: "A", "B", "C", "C-1", "D", "E", "F", "G", "H", "I", "J", "K", "L", "M", "N", "O", "P", "Q", "Q-1", "W", and "Z", the existence of which is admitted by accused Escobar, over the objection of accused Dela Cruz and Escobar to the purposes for which they are offered, considering that the objections of the accused refer more to the probative value than their admissibility"

In its Resolution dated 18 July 2019, the Court denied accused Escobar's Motion for Leave of Court to file Demurrer to Evidence⁸⁷ and ruled that *if unrebutted, the documentary and testimonial evidence presented by the prosecution is prima facie sufficient to support a verdict of guilt against accused Escobar.*⁸⁸

EVIDENCE FOR THE DEFENSE

During trial, the defense presented accused Dela Cruz and Escobar as its witnesses:

1. **Alexis Jude K. Dela Cruz (accused Dela Cruz)**, former Management Audit Analyst II, Office of Vice Governor Felipe Katu Constantino of the Province of Sarangani.⁸⁹

On October 1999, he was employed as a Management Audit Analyst II in the Office of the Vice Governor until December 2005.⁹⁰ As such, he was tasked to certify that funds were available for the projects requested by the Office of the Vice Governor.⁹¹ He ensured that there was sufficient budget for the office of the Vice Governor with regard to grants and aids.⁹²

He claimed that since the complaint was filed before the Office of the Ombudsman or for a period of thirteen years, he was never notified that a complaint was filed against him nor was he required to submit a counter-affidavit before the Office of the Ombudsman. He stressed that he was not afforded the right to preliminary investigation before the Informations were filed with the Sandiganbayan in 2011. He only learned that he was one of the accused in these cases when a warrant of arrest was issued against him in 2015.⁹³

⁸⁴ Rollo, Volume V, pp. 233-234.

⁸⁵ Rollo, Volume V, pp. 366-367.

⁸⁶ Rollo, Volume V, pp. 369-370.

⁸⁷ Rollo, Volume V, pp. 366-367.

⁸⁸ Rollo, Volume V, pp. 387-389.

⁸⁹ TSN dated 8 October 2019, p. 11.

⁹⁰ TSN dated 8 October 2019, p. 11.

⁹¹ Rollo, Volume V, pp. 423-424.

⁹² TSN dated 11 January 2022, p. 9.

⁹³ Rollo, Volume V, pp. 424-425.

Handwritten signatures and initials are present at the bottom of the page. On the right side, there is a vertical signature that appears to be 'M.L.'. Below it, there is another signature that looks like 'C.P.'. On the left side, there is a large, stylized signature that is difficult to decipher but appears to be 'J.K.D.C.'.

When asked, accused Dela Cruz denied any involvement in the preparation of the fictitious documents for the grant of financial assistance to the Malapatan Fishermen's Group.⁹⁴

He clarified that he was not the one who issued the Certificate of Availability of Funds with respect to the Malapatan Fishermen's Group transaction since the funds used therein did not come from the Office of the Vice Governor. Rather, the funds used for the project came from the congressional funds of Congressman Chiongbian.⁹⁵

He identified his Judicial Affidavit marked as Exhibit "2" and his appointment papers as Management and Audit Analyst marked as Exhibit "1".

2. **Miguel Draculan Escobar (accused Escobar)**, former Governor, Province of Sarangani

He explained that he signed the letter request from Kadir Andulcan, President of the Malapatan Fishermen's Group, to signify his approval after finding their request for assistance to be legitimate and lawful. There was nothing on its face that triggered his suspicion that their request was irregular. Moreover, before he approved it, the letter request was reviewed by the Provincial Administrator and concurrent Provincial Planning and Development Officer Ms. Perla Maglinte (Ms. Maglinte) as shown by the latter's signature below accused Escobar's name on the letter request.⁹⁶ Maglinte's signature signified that she reviewed the request and found it to be in order, legitimate, valid and consistent with the development thrusts of Sarangani. Ms. Maglinte's signature further signified that accused Escobar can approve and sign the same.⁹⁷

With respect to the disbursement voucher, he explained that he signed it as part of his function and duty as Provincial Governor. Accused Escobar further claimed that the approval of the disbursement voucher became ministerial considering that he initially signed or approved the letter request and the accounting office certified that the supporting documents of the disbursement voucher were complete and proper and the treasurer's office certified that funds were available. Aside from that, Ms. Maglinte signed her initials below accused Escobar's name on the voucher which indicated that she reviewed the voucher and its supporting documents and found them to be in order. Ms. Maglinte's initials also indicated that he can sign or approve the voucher.⁹⁸

As for the check, accused Escobar asserted that his approval of the same was ministerial since he already approved the voucher.⁹⁹

He denied that he was negligent considering that he had no foreknowledge or actual knowledge of the evil plan of some of his co-accused to defraud the

⁹⁴ TSN dated 9 November 2021, p. 19.

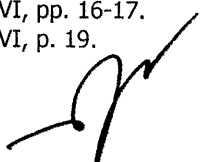
⁹⁵ TSN dated 9 November 2021, pp. 28-29 and 11 January 2022, pp. 11-12.

⁹⁶ *Rollo*, Volume VI, p. 17.

⁹⁷ *Rollo*, Volume VI, p. 17.

⁹⁸ *Rollo*, Volume VI, pp. 16-17.

⁹⁹ *Rollo*, Volume VI, p. 19.



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province through fictitious financial transactions.¹⁰⁰ He only learned that the supporting documents were falsified because of Ms. Gadian's testimony.¹⁰¹

On 13 April 2022, accused Dela Cruz filed his Formal Offer of Exhibits:¹⁰²

EXHIBIT	DESCRIPTION
"1", "1-a", "1-b", "1-c"	Appointment of Alexis Jude K. Dela Cruz as Management and Audit Analysis II
"2", "2-a", "2-b", "2-c", "2-d", "2-e"	Judicial Affidavit of Alexis Jude K. Dela Cruz
"2-f"	Signature of the accused in the Judicial Affidavit

Accused Escobar, on the other hand, filed his Formal Offer of Exhibits as follows:¹⁰³

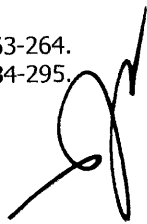
EXHIBIT	DESCRIPTION
"1"	Fact Sheet prepared by state witness Mary Ann Gadian
"2", "2-a", "2-b"	Disbursement Voucher No. 401-2002-5-64
"8", "8-a"	Letter Request
"9"	Audit Observation Memorandum No. 2003-008 dated June 26, 2003
"10"	TSN of Provincial Auditor Helen Cailing dated 7 June 2006 in Criminal Case No. 28293 before the Sandiganbayan First Division
"11", "11-a", "11-b"	Ombudsman Resolution dated 11 August 2004
"12", "13", "14"	Decisions in Criminal Case Nos. 28329, 28331 and 28334 the subject matters of which are also transactions covered by the August 11, 2004 Ombudsman Resolution
"15", "15-a", "16" and "16-a"	Informations filed in the instant case
"17"	Decision of the Supreme Court in G.R. 228349, 228353 which dismissed Crim Case No. SB-12-CRM-0129 and SB-12-CRM-0130
"18"	Resolution dated 23 August 2012 in Crim Case Nos. SB-11-CRM-0452 and SB-11-CRM-0453
"19"	Resolution dated 15 May 2017 in Crim Case Nos. SB-12-CRM-0004 and SB-12-CRM-0005, <i>People v. Abiso, et al.</i>
"20"	Resolution dated 2 February 2018 in SB-11-CRM-0454 and 0455
"21"	TSN of Mary Ann Gadian in Crim Case No. 28334
"22"	Page 2 of Exhibit "C" of the Prosecution

¹⁰⁰ *Rollo*, Volume VI, p. 19.

¹⁰¹ *Rollo*, Volume VI, p. 18.

¹⁰² *Rollo*, Volume VI, pp. 263-264.

¹⁰³ *Rollo*, Volume VI, pp. 284-295.



"23"	Letter of Provincial Accountant Maria Camanay to Provincial Auditor Helen M. Cailing stating that item No. 2-b to 2-g in AOM 2003-08 dated 26 June 2003 were already noted and implemented by the province after they received AOM 2003-01 dated 15 January 2003
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Thereafter, the prosecution filed their Consolidated Comment and/or Opposition on 31 May 2022.¹⁰⁴

On 4 July 2022, the Court resolved the accused's Formal Offer of Evidence¹⁰⁵ as follows:

1. To ADMIT the following exhibits offered by accused Dela Cruz: Exhibits 1, 1-a, 1-b, 1-c, the existence, due execution and purposes for which they are offered were admitted by the prosecution;
2. To simply NOTE the Judicial Affidavit dated October 4, 2019 of accused Dela Cruz, which are being offered as Exhibits 2, 2-a, 2-b, 2-c, 2-c, 2-d, and 2-e, since the same already forms part of the records of these cases;
3. To ADMIT the following exhibits offered by accused Escobar: Exhibits 1 (also Exh. S), 10, 12, 13, 14, 17, 18, 19, 20, and 21, over the objection of the prosecution to the purposes for which they are offered considering that the objections of the prosecution refer more to the probative value than their admissibility;
4. To ADMIT the following exhibits offered by accused Escobar: Exhibits 2 (also Exh. D), 8 to 8-a (also Exh. I), 9 (also Exh. J), 11 to 11-b, 22 (also Exh. C), and 23 (also Exh. K), the existence and due execution of which are admitted by the prosecution, and over its objection to the purposes for which are they are offered, considering that the objections of the prosecution refer more to the probative value than their admissibility; and,
5. To simply NOTE the Informations in the instant cases which are being offered by accused Escobar as Exhibits 15, 15-a, 16, and 16-a since they already form part of the records of these cases.


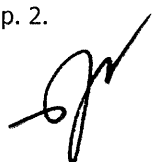
RULING:

These cases stemmed from the complaint filed before the Office of the Ombudsman – Mindanao alleging that accused Zoleta, Ms. Tangan and Ms. Gadian, all from the Office of Vice Governor Felipe Katu Constantino of the Province of Sarangani, committed graft and corrupt practices in the release of grants and aids using barangay officials and cooperatives as dummies; and through falsification of documents.¹⁰⁶

¹⁰⁴ *Rollo*, Volume VI, pp. 346-355.

¹⁰⁵ *Rollo*, Volume VI, pp. 394-395.

¹⁰⁶ Exhibit "Q-1", p. 2.



Prior to the filing of the complaint, the COA through Ms. Cailing's team had reported in the 2002 Annual Audit Report (AAR) their initial audit findings related to the alleged anomalous transactions mentioned in the complaint.¹⁰⁷ The AAR provides:

"4. Deficiencies and irregularities in granting of fund assistance to Non-Government Organization (NGOs) – PhP 46,993,720.83

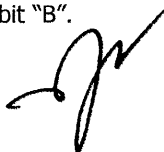
Non-adherence of the concerned officials and employees of the province to the guidelines on the release of fund-assistance to non-government organizations / people's organizations (NGOs/POs) as provided in COA Circular No. 96-003 resulted in various deficiencies and irregularities thus validity of the financial assistance to NGOs/POs amounting to PhP 46,993,720.83 were considered doubtful.

Section 3.0 of COA Circular No. 96-003 dated February 27, 1996 provides thus:

The following are the general guidelines in the extension of the fund assistance to the NGO/PO:

- 3.1 The project shall be included in the Work and Financial Plan (WFP) and budget of the Government Office (GO). If the fund assistance will be charged to savings or trust receipts received for the purpose, such utilization shall be approved by proper authorities.
- 3.2 The NGO/PO shall be accredited by the GO. In the case of non-regularly-funded GOs which generate their funds out of donations and shares from other GOs like the Presidential Management Staff with respect to the President's Social Fund, the implementing GOs shall set the minimum requirements/criteria for the selection of the NGO/PO project partners as stipulated in each program guideline.
- 3.3 The following shall be the requirements for the NGO/PO accreditation:
 - 3.3.1 Certificate of Registration with the Securities and Exchange Commission (SEC), and/or with either the Cooperatives Development Authority (CDA) or the Department of Labor and Employment (DOLE), as the case may be, depending on the nature of the service required or to be rendered. This is to ensure that the NGO/PO has a legal personality, has officers who are responsible and accountable for its operations, and is based in the community where the project shall be implemented.
 - 3.3.2 Financial statements for at least three (3) years operation to ensure that :

¹⁰⁷ Exhibit "B".



- it has a stable financial condition so that the fund assistance shall not be its sole source of funds; and
 - it has proven experience in fund management so that the grant shall be managed efficiently and economically.
- 3.3.3 For NGO/PO which has been in operation for less than 3 years, proof that it had previously implemented similar projects and a certificate from LGU concerned attesting to the credibility and capability of the officers and staff of the NGO/PO shall be submitted in lieu of financial statements.
- 3.3.4 List of projects it has previously undertaken to show its experience and expertise in implementing the project to be funded.
- 3.4 The GO and the NGO/PO shall enter into a Memorandum of Agreement (MOA) or similar document, incorporating the following requirements:
- 3.4.1 Project statement including identification of beneficiaries;
 - 3.4.2 Standards for project implementation by the NGO/PO and acceptance by the GO to include completion date;
 - 3.4.3 Systems and procedures for project implementation such as but not limited to, the procurement of goods and services by the NGO/PO and the schedule of release of the fund assistance by the GO. In the development of the system and procedures, the GO and the NGO/PO shall be guided by generally accepted management principles for economical, efficient and effective operations;
 - 3.4.4 Project cost estimates and time schedules; and
 - 3.4.5 Reporting, monitoring and inspection requirements.
- 3.5 In the course of implementation, and as the need demands, amendment(s) of the MOA shall be made for any change(s) in the provisions.
- 3.6 During the effectivity of the MOA, the NGO/PO shall not use the funds for money market placement, time deposit and other forms of investments not related to the project.
- 3.7 For infrastructure projects, the NGO/PO shall post a performance security in the form of a surety bond callable on demand, issued by the Government Service Insurance System (GSIS) or any insurance company duly accredited by the Office of the Insurance Commission equivalent to 30% of the total fund assistance. If the project is not completed within 90 days after the prescribed completion date, the bond shall be forfeited.
- 3.8 The fund assistance shall be released as follows:



3.8.1 If the project is for implementation within a period of three (3) months, the assistance shall be released as follows:

3.8.1.1 For projects of P300,000 or less, assistance may be released in full.

3.8.1.2 For projects of more than P300,000, release may be made in three tranches:

- 15% upon approval and signing of the MOA;
- 35% after 50% project completion;
- 50% upon completion of the project, subject to the favorable evaluation/inspection by the GO of the results of the previous release(s).

3.8.2 If the project is to be implemented for more than 3 months, the first release shall cover two (2) months operation but not to exceed 30% of the total assistance, subject to the release of the remaining balance upon submission of accomplishment reports evidenced by pictures of the accomplishments and/or report of inspection by the GO and certifications of receipt by beneficiaries/payrolls/invoices, etc.

3.9 The NGO/PO shall keep and maintain financial and accounting records for the funds in accordance with generally accepted accounting principles. They shall be subject to the visitorial audit and examination of the GO and the Commission on Audit (COA).

3.10 Within 60 days after completion of a project, the NGO/PO shall submit financial statements, certificate of project completion and acceptance of project by the beneficiaries or funding agencies. For projects amounting to P100,000.00 and more, the statements shall be certified to by an independent Certified Public Accountant or verified by the internal auditor of the funding agency.

3.11 The NGO/PO shall return any amount not utilized to the funding GO or shall request authority to use the savings for activities allied to the project, e.g., purchase of additional medicines for medical services, books for manpower development, desks and chairs for school buildings, etc.

Post-audit of disbursement vouchers on a test basis corresponding to the financial assistance granted by the Province to NGOs & POs for the year 2002 amounting to PhP 46,993,720.83, which was recorded in the book as Due from NGOs/POs amounting to PhP 25,551,319.15 and Grants and Aid amounting to PhP 21,442,401.68 revealed that the **guidelines cited above were not strictly adhered to by concerned officials which resulted in various deficiencies and irregularities leading to wastage**



and misuse of government resources as enumerated in detail in Annex "E" of this report and summarized as follows:

1. Lack of supporting documents such as:
 - a. Memorandum of Agreement;
 - b. Business Permit and Licenses;
 - c. Financial Statement;
 - d. Certificate of Good Standing from Cooperative Development Authority (CDA);
 - e. Certificate as accredited Non-Governmental Organizations/Peoples Organization of the Province;
 - f. Allotment and Obligation Slip; and
 - g. Official Receipts
2. No liquidation reports were submitted to close the Due from NGOs/POs (133) account which was debited at the time the financial assistance was granted. The outstanding balance of the account as of December 31, 2002 was PhP 25,551,319.15.
3. Most of the checks paid to the Cooperative were encashed by somebody without an authority from concerned officials of the Cooperative. The check should be deposited to the coop's bank account and disbursed through approved vouchers.
4. No monitoring and inspection report made by concerned officials of the Province.
5. Some of the project designs of the cooperatives were undated and had no approval. They were not aligned to the Work and Financial Plan of the Province.
6. A certain Rebecca Escobar is both a member of Binuyugan MPC at Maitum and Maharlika Fishing Cooperative of Kiamba.
7. Broquinto Multi-Purpose Cooperative submitted a xerox copy of their CDA Certificate No. RN-5997-DVO but CDA record showed that it was registered in the name of Consolacion Farmers Multi-Purpose Cooperative (CONFAMCO)
8. Financial assistance was granted to a cooperative considered non-operating per CDA report.
9. There were Articles of Cooperation which were not notarized thus considered null and void.
10. The cooperatives granted with financial assistance were not among the accredited NGOs and POs of the Province.

The above findings were brought to the attention of the Provincial Management per our Audit Observation Memorandum (AOM) No. 2003-01 dated January 15, 2003.

Actual verification and inspection of the projects were conducted on January 20-24, 2003 to confirm its existence and more irregularities were uncovered, viz:

1. Some of the cooperatives and NGOs were mostly inexistent or no longer operating.

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Non-liquidation of the financial assistance granted to NGOs/POs resulted in an understatement of Grants and Donations expense account (889) and an overstatement of Due from NGOs/POs (133) asset account by PhP 21,553,224.65 as of year end. In addition, the objective of the government on nation building was not attained.

The Provincial Governor admitted their laxity in the exercise of control; hence, he issued an Executive Order providing for the guidelines in the grant of financial assistance to non-government organizations and people's organizations." (Emphasis Supplied)

After the filing of the complaint, the audit team, pursuant to Office Order No. 2003-032, conducted a special audit investigation on the grants of financial assistance to NGOs/POs made by the Province of Sarangani. During their investigation, the team examined the disbursement vouchers paid by the province for financial assistance to various LGUs and cooperatives/associations particularly those that remained unliquidated as of 31 December 2002.¹⁰⁸ They also evaluated the completeness of the supporting documents and their compliance with the COA circular. Confirmation letters were sent to various LGUs, cooperatives and associations that were granted aids/assistance for the implementation of their respective projects which includes the Malapatan Fishermen's Group. Ocular inspection of the alleged project was also conducted, however, the audit team failed to locate the project.

Crim Case No. SB-11-CRM-0458

All of the accused were charged with violation of Section 3(e) of R.A. 3019 for causing the disbursement of the amount of Four Hundred Fifty Thousand Pesos (PhP 450,000) under SARO No. D-97-01834 through DBP Check No. 282392 by falsifying Disbursement Voucher No. 401-2002-5-64 dated 29 May 2002 and its supporting documents to make it appear that financial assistance was requested by and given to the Malapatan Fishermen's Group. The ruling herein focuses on accused Escobar and Dela Cruz's liability considering that accused Zoleta, Clerigo and Banzon remain at large while the case against accused Purisima was dismissed following his death.¹⁰⁹

The prosecution sufficiently proved the existence of all the essential elements of Section 3 (e) of R.A. 3019.

Section 3(e) of 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:

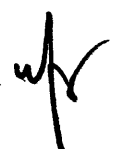
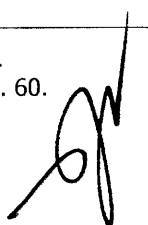
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¹⁰⁸ Exhibit "Q-1", p. 2.

¹⁰⁹ *Rollo*, Volume V, p. 60.



(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.

In order to hold a person liable under Section 3(e) of R.A. No. 3019, the following elements must be proven beyond reasonable doubt:

1. The accused must be a public officer discharging administrative, judicial, or official functions;
2. He must have acted with manifest partiality, or evident bad faith, or gross inexcusable negligence; and
3. His action caused undue injury to any party, including the Government, or gave any private party unwarranted benefits, advantage, or preference in the discharge of his functions.¹¹⁰

First Element

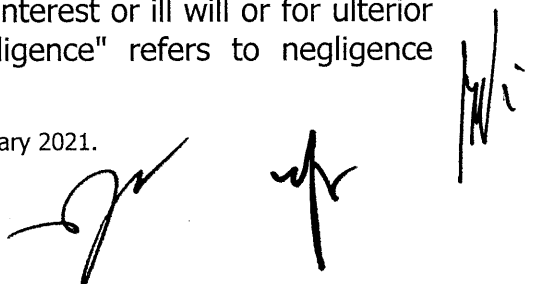
The presence of the first element is not disputed. Records show that accused Escobar and Dela Cruz were public officers at the time material to this case. Accused Escobar was the Governor of the Province of Sarangani while accused Dela Cruz was a Management and Audit Analyst II in the office of Vice Governor Constantino. In addition, the acts complained of were done in the discharge of their official functions.

Second Element

On the second element, a violation of Section 3 (e) may be committed through manifest partiality, evident bad faith or gross inexcusable negligence. These modes are not separate offenses, and proof of the existence of any of these three in connection with the prohibited acts committed is sufficient, *viz.*

The crime may be committed through "manifest partiality," "evident bad faith," or "gross inexcusable negligence." As already held by this Court, 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. "Evident bad faith" 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

¹¹⁰ *Martel, et al., v. People*, G.R. Nos. 224720-23, 02 February 2021.



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.¹¹¹

Evident bad faith and manifest partiality are acts committed through *dolo*, while gross inexcusable negligence is committed by means of *culpa*. In *Martel, et al. v. People*,¹¹² the three modes were differentiated in this manner:

"The commission of Section 3(e) of R.A. 3019 through gross inexcusable negligence requires more than simple negligence. The negligence committed must be both gross and inexcusable, characterized by the want of even slight care, wherein the accused was consciously indifferent as to the compliance with his or her duty as a public officer. More than committing a breach of a legal duty, it is necessary that in committing the said breach, the public officer was inattentive, thoughtless, and careless.

It must be stressed that gross inexcusable negligence varies from evident bad faith and manifest partiality. Evident bad faith and manifest partiality are acts committed through *dolo*, while gross inexcusable negligence is committed by means of *culpa*.

Felonies committed by means of *dolo* or deceit are those performed with deliberate intent. On the other hand, felonies committed by means of *culpa* are those performed with imprudence, negligence, lack of foresight, or lack of skill. In intentional felonies, the act or omission of the offender is malicious. However, in culpable felonies, the act or omission of the offender need not be malicious. The wrongful act results from imprudence, negligence, lack of foresight or lack of skill.

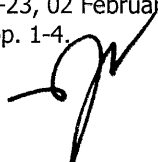
Gross inexcusable negligence under Section 3(e) of R.A. 3019, a culpable felony, does not require fraudulent intent or ill-will. A public officer is guilty of gross inexcusable negligence when there is a breach of duty that is committed flagrantly, palpably, and with willful indifference. Hence, a public officer who seriously breaches his or her duty in a blatant and extremely careless manner is guilty of gross inexcusable negligence under Section 3(e) regardless of whether such breach of duty was done with malicious intent."

The prosecution claims that accused took advantage of their respective official positions, through manifest partiality, evident bad faith or gross inexcusable negligence, and caused the disbursement of the amount of Four Hundred Fifty Thousand Pesos (Php 450,000.00) to the Malapatan Fishermen's Group.¹¹³ In its Memorandum, the prosecution maintains that accused Escobar disregarded the guidelines prescribed in COA Circular No. 96-003 for the extension of fund

¹¹¹ *Villarosa v. People*, G.R. Nos. 233155-63, 23 June 2020.

¹¹² G.R. Nos. 224720-23, 02 February 2021.

¹¹³ *Rollo*, Volume I, pp. 1-4.



assistance to NGO/PO and approved the financial request despite lack of supporting documents:¹¹⁴

“Considering the abovementioned testimonial and pieces of documentary evidence, there is no doubt that the grant of PhP 450,000 to MFG is considered illegal for being violative of COA Circular No. 96-003 that prescribed the requirements for the valid disbursements of financial assistance and aids to NGOs/POs under the said COA Circular, one of the requirement for an NGO or PO to become a recipient of financial assistance from government organization is its accreditation by a government organization and the submission of documents in support of the financial assistance sought for. In this case, it is clear that accused Escobar completely disregarded such requirement. Aside from the glaring lack of proof of MFG’s accreditation, it appears that no effort on his part was made to ascertain the existence and legal personality of MFG as a valid recipient of financial assistance, before he approved the request and release of the funds given to the fictitious organization.

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Given the doubtful existence of the letter request and the Project Design which accused Escobar claimed as his basis in approving MFG’s financial request, there is no question that said **accused failed to exercise the due diligence required of him as a public officer to see to it that the grant of financial assistance to NGOs/POs is in accordance with COA Circular No. 96-003.** Accused’s supposed reliance on Maglinte’s alleged review and approval of the request and Project Design should not be taken hook and line sinker for want of any evidence in support thereof. Such bare assertion only gives credence to Gadian and Tangan’s admission regarding the falsity of said documents considering the absence of any sign that both documents were officially received by accused’s office or Maglinte’s office. Such bare allegation of accused is self-serving and has no probative value.

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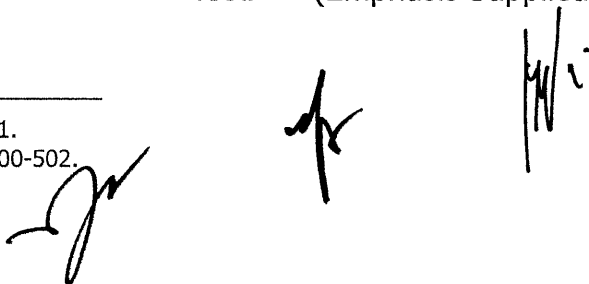
As regards the liability of accused Dela Cruz, the straightforward testimonies of Gadian and Tangan that he was the one who signed above the name of Kadir Andulcan appearing in the letter request and the Project Design, and was also the one who prepared the ID used by the person posing as Velsie Banzon in receiving the PhP 450,000 from Sarangani province, is a clear badge of the conspirational act to complete the anomalous granting of financial assistance to MFG.

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¹¹⁴ *Rollo*, Volume VI, p. 491.

¹¹⁵ *Rollo*, Volume VI, pp. 500-502.

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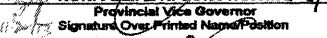




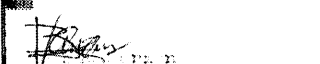
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For his part, accused Escobar denied having knowledge of the crime.¹¹⁶ He insisted that he acted in good faith in signing the disbursement voucher and the letter-request. Moreover, he stressed that he relied on Ms. Maglinte's review and signature as well as the certifications made by accused Clerigo and Ms. Janeo as seen in Boxes B and C of the disbursement voucher. He justified his act of signing the check as ministerial considering that he had approved the disbursement voucher.¹¹⁷

Certified: <i>Expenses/Cash advances necessary, lawful and incurred under my direct supervision.</i>  ATTY. MIGUEL D. ESCOBAR GOVERNOR  HON. FELIPE K. CONSTANTINO 12/24 Provincial Vice Governor Signature Over Printed Name/Position	Completeness and propriety of supporting documents/previous cash advance liquidated:  MARIA D. CAMANAY, CPA Provincial Accountant Signature Over Printed Name/Position	Cash Available:  CESAR M. CAGANG Provincial Treasurer Signature Over Printed Name/Position
Approved For Payment:  ATTY. MIGUEL D. ESCOBAR GOVERNOR  HON. FELIPE K. CONSTANTINO 12/24 Provincial Vice Governor Signature Over Printed Name/Position	Payment: Check No.: 282597 Bank Name: J. 79... BV Date:	 PAYEE Signature Over Printed Name/Position

As for accused Dela Cruz, he denied any involvement in the preparation of the fictitious documents. He further claimed that he had no reason to conspire with the other accused considering that he did not receive a single centavo from said transaction.¹¹⁸

We agree with the prosecution.

The prosecution established that accused Escobar acted with gross inexcusable negligence when he signed and approved the disbursement voucher and check despite the lack of supporting documents in violation of the guidelines on the release of fund assistance to NGOs/POs as prescribed in COA Circular No. 96-003. By signing the disbursement voucher, accused Escobar certified that the expense was necessary, lawful, and incurred under his direct supervision.

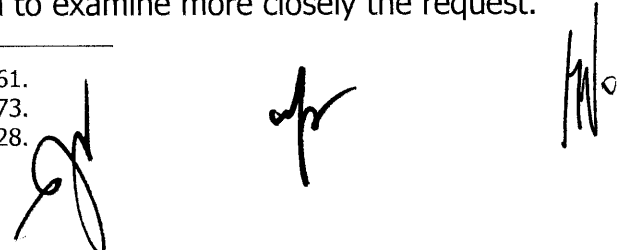
Based on paragraph 3.2 of the COA Circular, the NGO/PO should be accredited by the concerned government office. In order to be accredited, the NGO/PO should submit a Certificate of Registration with the Securities and Exchange Commission (SEC), and/or with either the Cooperatives Development Authority (CDA) or the Department of Labor and Employment (DOLE), as the case may be, depending on the nature of the service required or to be rendered. In addition, their financial statements for at least three (3) years should be submitted. Meanwhile, for an NGO/PO which was in operation for less than three (3) years, proof that it had previously implemented similar projects and a certificate from LGU concerned attesting to the credibility and capability of the officers and staff of the NGO/PO should be submitted in lieu of financial statements.

Here, accused Escobar miserably failed to verify such basic and elemental information such as the legal personality of the Malapatan Fishermen's Group before he made his certification. The absence of supporting documents such as certifications from the SEC, CDA or DOLE to prove its legitimacy as an NGO should have prompted him to examine more closely the request.

¹¹⁶ Rollo, Volume VI, p. 461.

¹¹⁷ Rollo, Volume VI, p. 473.

¹¹⁸ Rollo, Volume VI, p. 428.



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Aside from the accreditation, a Memorandum of Agreement or any similar document was also necessary before a financial assistance shall be approved. However, no Memorandum of Agreement or similar document was presented nor was claimed to be executed between the province and the concerned NGO. To recall, except for the letter request, project design, and list of beneficiaries, no other supporting document was submitted. Again, this irregularity should have prompted accused Escobar to verify the completeness of the supporting documents before signing the disbursement voucher and check.

As the Provincial Governor whose duties include approving/disapproving disbursement vouchers for financial assistance on a regular basis, accused Escobar is presumed to be fully informed of the requirements prescribed under COA Circular No. 96-003. He should have been accustomed to the different documents/certifications attached to a request for financial assistance. Unfortunately, accused Escobar still approved the disbursement voucher and certified that the expense was necessary and lawful despite the glaring lack of supporting documents.

Too, it would appear that the anomalous transaction as above described and narrated was not an isolated case. The Fact Finding Investigation Report¹¹⁹ prepared by Ms. Cailing's team, showed that the province committed several irregularities in the release and liquidation of grants and aids in violation of COA Circular No. 96-003 and other laws and regulations. The audit revealed among others that supporting documents of disbursement vouchers were mostly falsified; most of the cooperatives/associations which were awarded grants and aids were fictitious, non-operating or already inactive; some officials and members of the associations were fictitious thus unknown in the community; signatures appearing in the documents were mostly forged; and disbursement vouchers were processed, pre-audited and approved even without the required supporting documents.

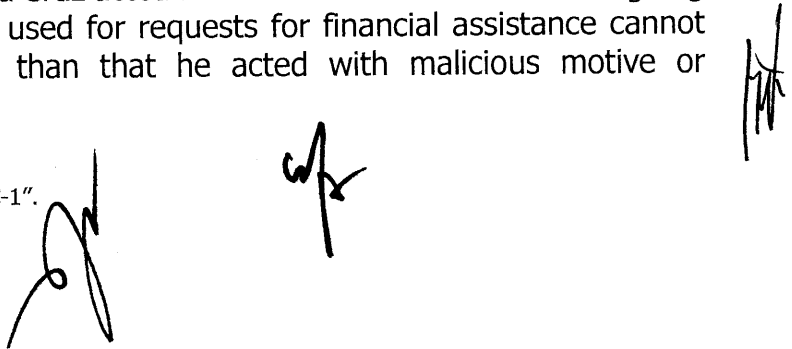
The audit team also confirmed that Malapatan Fishermen's Group was among the NGOs/POs used as dummies of the key officials of Sarangani Province.¹²⁰

Meanwhile, accused Dela Cruz, as will be further discussed hereunder, was positively identified as the one who signed above the name of Kadir Andulcan in the letter request and project design. These documents were submitted to accused Escobar for his approval and which he claimed were his bases for approving the Malapatan Fishermen's Group's request for financial assistance. Accused Dela Cruz was also identified as the one who prepared the ID of the person who posed as Banzon which enabled the latter to encash the check and receive the proceeds thereof.

The claim of accused Dela Cruz that he had no involvement in the preparation of the fictitious documents was belied by the testimonies of Ms. Gadian and Ms. Tangan who both testified that he signed as Kadir Andulcan. All these taken together prove that accused Dela Cruz acted in evident bad faith. His act of signing as someone else in documents used for requests for financial assistance cannot have any other interpretation than that he acted with malicious motive or

¹¹⁹ Exhibit "Q-1".

¹²⁰ Exhibit "Q-1", pp. 2-4 and Exhibit "C, C-1".

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fraudulent intent. Undoubtedly, Dela Cruz's actuations constitute deliberate intent to do wrong or cause damage to the province.

**Accused Escobar failed to prove
by competent evidence his
defense of good faith**

In *Arias v. Sandiganbayan*,¹²¹ the Supreme Court ruled that all heads of offices have to rely to a reasonable extent on their subordinates and there has to be some added reason why he should examine each voucher in such detail before he can be held liable. There should be other grounds than the mere signature or approval appearing on a voucher to sustain a conspiracy charge and conviction. The *Arias* doctrine is commonly invoked by heads of offices to refute alleged negligence for having relied in good faith that their subordinates performed their duties and functions according to the law. However, it must be stressed that the *Arias* doctrine is not absolute. The head of office cannot escape liability by simply invoking the *Arias* doctrine where there were peculiar circumstances, or "red flags", that should have prompted them to exercise more diligence and to examine a particular transaction in detail. Thus:

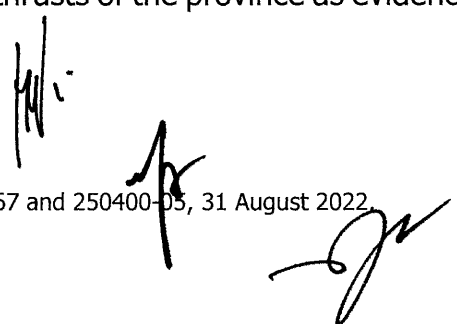
"[I]t must be emphasized that the *Arias* doctrine is not an absolute rule. It is not a magic cloak that can be used as a cover by a public officer to conceal himself in the shadows of his subordinates and necessarily escape liability. Thus, this ruling cannot be applied to exculpate Caballes and his co-accused in view of the peculiar circumstances in this case which should have prompted them, as heads of offices, to exercise a higher degree of circumspection and, necessarily, go beyond what their subordinates had prepared.

Here, Caballes failed to prove that the *Arias* case is applicable to him. Unlike in *Arias*, there exists in the instant case several circumstances which should have alerted Caballes to be on guard and examine the several supporting documents sent to his office with some degree of circumspection before signing the RIVs, POs, and/or DVs. To restate, Caballes' role in the procurement/purchases is evident from the fact that he signed different documents at different stages, from the RIV, to the PO, to the DV, and even until the final stage of receiving the items delivered, as shown in the Certificates of Acceptance which he also signed. Therefore, the Court cannot extend the protection afforded by the *Arias* doctrine to Caballes."¹²²

Here, accused Escobar claimed that he relied in good faith that Provincial Administrator Maglinte reviewed the letter request and supporting documents for the financial assistance to the Malapatan Fishermen's Group. And after such review, she found that the proposed project to be funded was legitimate, lawful and in line with the development thrusts of the province as evidenced by her initials in the disbursement voucher.

¹²¹ G.R. No. 81563, 19 December 1989.

¹²² *People v. Legaspi, et al.*, G.R. Nos. 250367 and 250400-05, 31 August 2022.



However, accused Escobar cannot simply invoke the *Arias* doctrine to absolve him from liability by reason of his negligence. There were noticeable if not palpable deficiencies/irregularities in the letter request and disbursement voucher which should have alerted him to verify the request. The lack of accreditation and MOA should have prompted him to exercise higher degree of diligence and to make his own review of the voucher and documents before making his certification. Accused Escobar's inaction amounted to a breach of legal duty to ensure that financial assistance to NGOs and POs were made in accordance with the COA Circular and other laws. Accused Escobar, as the final reviewer of the disbursement vouchers, acted without even the slightest care and with indifference resulting in the disbursement of public funds to a fictitious person and association. Thus, the *Arias* doctrine is not applicable.

Third Element

The third element, i.e. causing undue injury to any party including the Government or giving any private party unwarranted benefits advantage, or preference in the discharge of his functions, refers to two (2) separate acts that qualify as a violation of Section 3(e) of R.A. No. 3019. An accused may be charged with the commission of either or both. The use of the disjunctive term "or" connotes that either act qualifies as a violation of Section 3(e) of R.A. No. 3019.

The first punishable act is that the accused is said to have caused undue injury to the government or any party when the latter sustains actual loss or damage, which must exist as a fact and cannot be based on speculations or conjectures. The loss or damage need not be proven with actual certainty. However, there must be some reasonable basis by which the court, can measure it. Aside from this, the loss or damage must be substantial. It must be more than necessary, excessive, improper or illegal.¹²³

The second punishable act is that the accused is said to have given unwarranted benefits, advantage, or preference to a private party. Proof of the extent or quantum of damage is not essential. It is sufficient that the accused has given unjustified favor or benefit to another.¹²⁴

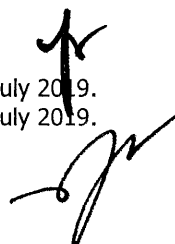
The release of Four Hundred Fifty Thousand Pesos (PhP 450,000) to the person who represented herself as accused Banzon caused undue injury to the government considering that the CDF of Congressman Chiongbian was not used for the purpose for which it was originally intended. The injury to the government was incurred from the time the funds were drawn out from the accounts of the province and went straight to the pockets of some of its officials and employees. The acts of accused Escobar and Dela Cruz deprived Congressman Chiongbian's constituents of the funds that could have been used for their legitimate projects and needs.

As mentioned earlier, the amount of Four Hundred Fifty Thousand Pesos (PhP 450,000) was distributed to only a handful of officials of the Province of Sarangani, namely:



¹²³ *Cabrera, et al. v. People*, G.R. Nos. 191611-14, 29 July 2019.

¹²⁴ *Cabrera, et al. v. People*, G.R. Nos. 191611-14, 29 July 2019.



Vice Governor Constantino	200,000
Board Member Margie Rudes	100,000
Board Member Juanito Purisima	100,000
Amelia Constantino Zoleta	30,000
Mary Ann Gadian	10,000
and accused Velsie Banzon	10,000

Crim Case No. SB-11-CRM-0459

All accused were charged with the complex crime of Malversation through Falsification of Public Document for the same Disbursement Voucher No. 401-2002-5-64 wherein the Province of Sarangani released the amount of Four Hundred Fifty Thousand Pesos (PhP 450,000) supposedly to the Malapatan Fishermen's Group which allegedly was inexistent and fictitious.

Malversation is defined and penalized under Article 217 of the Revised Penal Code, which reads:

"Art. 217. Malversation of public funds or property — Presumption of Malversation. — Any public officer who, by reason of the duties of his office, is accountable for public funds or property, shall appropriate the same, or shall take or misappropriate or shall consent, or through abandonment or negligence, shall permit any other person to take such public funds or property, wholly or partially, or shall, otherwise, be guilty of the misappropriation or malversation of such funds or property, shall suffer:

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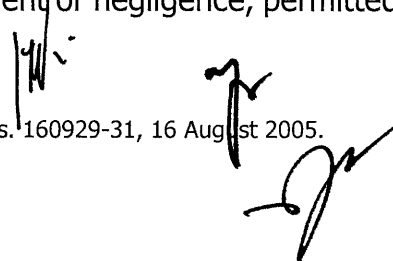
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The failure of a public officer to have duly forthcoming any public funds or property with which he is chargeable, upon demand by any duly authorized officer, shall be *prima facie* evidence that he has put such missing funds or property to personal uses."

The essential elements common to all acts of Malversation under Article 217 are the following:

- (a) That the offender be a public officer;
- (b) That he had the custody or control of funds or property by reason of the duties of his office;
- (c) That those funds or property were public funds or property for which he was accountable; and
- (d) That he appropriated, took, misappropriated or consented or, through abandonment or negligence, permitted another person to take them.¹²⁵

¹²⁵ *Pondevida v. Sandiganbayan*, G.R. Nos. 160929-31, 16 August 2005.



A public officer may be liable for malversation even if he does not use public property or funds under his custody for his personal benefit, but consents to the taking thereof by another person, or, through abandonment or negligence, permitted such taking.¹²⁶

Falsification by a public officer, on the other hand, is punishable under Article 171 of the same law:

Article 171. Falsification by public officer, employee or notary or ecclesiastic minister. - The penalty of *prision mayor* and a fine not to exceed 5,000 pesos shall be imposed upon any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts:

1. xxx
2. Causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate;

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The crime of Falsification of Public Documents has the following elements:

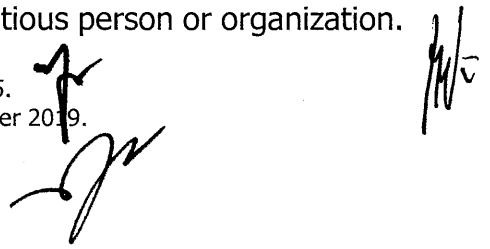
- 1) The offender is a public officer, employee, or notary public;
- 2) He takes advantage of his official position; and
- 3) He falsifies a document by committing any of the acts enumerated in Article 171 of the Revised Penal Code.

In Falsification of Public Documents, the offender is considered to have taken advantage of his official position in making the falsification when (1) he has the duty to make or prepare or, otherwise, to intervene in the preparation of a document; or (2) he has the official custody of the document which he falsifies. By "legal obligation," it means that there is a law requiring the disclosure of the truth of the facts narrated. In falsification of public or official documents, it is not necessary that there be present the idea of gain or the intent to injure a third person because in the falsification of a public document, what is punished is the violation of the public faith and the destruction of the truth as therein solemnly proclaimed.¹²⁷

The prosecution claimed that accused Dela Cruz took advantage of his official position when he falsified the letter request and project design by signing above the name of Kadir Andulcan which were used as basis in the approval of the financial assistance requested by Malapatan Fishermen's Group. Aside from signing the documents, Dela Cruz also prepared the ID of the person who, as the evidence tend to show, posed as Velsie Banzon. The act of falsifying the letter request, project design, list of beneficiaries, and voucher was the means employed by the accused for the disbursement of public funds to a fictitious person or organization.

¹²⁶ *Pondevida v. Sandiganbayan*, G.R. Nos. 160929-31, 16 August 2005.

¹²⁷ *Office of the Ombudsman v. Santidad*, G.R. No.207154, 05 December 2019.



Accused Escobar and Dela Cruz, on the other hand, denied having any participation in the alleged preparation of the fictitious documents used for the Malapatan Fishermen's Group transaction.

First Element

It is undisputed that accused Escobar and Dela Cruz were public officers. Under Article 203 of the RPC, as amended, a public officer is any person who, by direct provision of the law, popular election or appointment by competent authority, shall take part in the performance of public functions in the Government of the Philippine Islands, or shall perform in said Government or in any of its branches public duties as an employee, agent or subordinate official, of any rank or class. At the time material to this case, accused Escobar was the duly elected Provincial Governor of the Province of Sarangani while accused Dela Cruz was employed as a Management Audit Analyst II of the said local government unit.

Second Element

Accused Escobar was an accountable officer insofar as the funds subject of these cases are concerned. An accountable officer is an officer of any government agency whose duties permit or require the possession or custody of government funds or property. He shall be accountable therefor and for the safekeeping thereof in conformity with law.¹²⁸ The head of any agency of the government is immediately and primarily responsible for all government funds and property pertaining to his agency.¹²⁹

The Local Government Code of the Philippines expanded the coverage of who may be called as accountable officers, *viz.*

"SEC. 340. Persons Accountable for Local Government Funds. - Any officer of the local government unit whose duty permits or requires the possession or custody of local government funds shall be accountable and responsible for the safekeeping thereof in conformity with the provisions of this Title. Other local officers who, though not accountable by the nature of their duties, may likewise be similarly held accountable and responsible for local government funds through their participation in the use or application thereof."

Thus, local government officials become accountable public officers either (1) because of the nature of their functions; or (2) on account of their participation in the use or application of public funds.¹³⁰

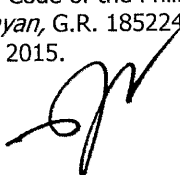
In the earlier case of *Zoleta v. Sandiganbayan*,¹³¹ the Supreme Court found Vice Governor Constantino and Camanay as accountable officers after a finding that "[a]s a required standard procedure, the signatures of, among others, the Vice-Governor and the Provincial Accountant are needed before any disbursement of public funds can be made. No checks can be prepared and no payment can be

¹²⁸ Government Auditing Code of the Philippines, Section 101.

¹²⁹ Government Auditing Code of the Philippines, Section 102.

¹³⁰ *Zoleta v. Sandiganbayan*, G.R. 185224, 29 July 2015.

¹³¹ G.R. 185224, 29 July 2015.



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effected without their signatures on a disbursement voucher and the corresponding check. In other words, any disbursement and release of public funds require their approval. Thus, Constantino and Camanay, in their capacities as Vice-Governor and Provincial Accountant, had control and responsibility over the subject funds."

Similarly, the signature of accused Escobar in the subject disbursement voucher was required before public funds were released to accused Banzon. As an approving and certifying officer, he had participation in the use or application of public funds. Moreover, as the head of the LGU, he was responsible for all government funds pertaining to the Province of Sarangani.

Third Element

The funds misappropriated were public in nature withdrawn from the account of the Province of Sarangani and sourced from the CDF of Congressman Chiongbian.

Fourth Element

Accused Escobar, through his negligence, permitted another person to take the public funds. By signing the disbursement voucher, he certified that the expense was necessary, lawful and incurred under his direct supervision. However, through his failure to ensure that the supporting documents mandated by COA Circular No. 96-003 were attached, he effectively permitted a fictitious person to take and receive public funds supposedly for the people of the Province of Sarangani. His failure to observe vigilance before certifying that the expense was necessary and lawful make him liable for misappropriation by negligence.

As for accused Dela Cruz, it is true that he cannot be considered as an accountable officer. His duties as a Management Audit Analyst II did not permit or require the possession or custody of government funds or property nor did he participate in the use or application of public funds. This notwithstanding, he could still be held criminally and civilly liable if it is established that he acted in conspiracy with the other accused. Therefore, the existence of conspiracy is essential in determining his liability.

Falsification was a necessary means to commit malversation

Witnesses Gadian and Tangan, as participants in the falsification of documents, narrated in detail the manner and procedure employed in the commission of the crime. Ms. Gadian admitted that she together with accused Zoleta, Dela Cruz, Ms. Tangan, and Board Members Purisima and Rudes, prepared the project proposal, letter request, disbursement vouchers, allotment obligation and the list of beneficiaries for the grant of financial assistance to the Malapatan Fishermen's Group.

Accused Zoleta furnished the fictitious names of the association, President, Secretary and Treasurer, to be used in preparing the spurious documents and to make it appear that Malapatan Fishermen's Group was a legitimate NGO.



In addition, Ms. Gadian testified that accused Dela Cruz prepared the fake identification card of the association's treasurer which was later used to receive and encash the check. Ms. Gadian identified accused Dela Cruz as the one who signed above the name of Kadir Andulcan in the letter request and project design considering the latter was a non-existent fictitious person.

Meanwhile, Ms. Tangan testified that she was instructed by accused Zoleta to accompany the person who posed as accused Banzon to receive the check from the Treasurer's Office where the latter signed in the disbursement voucher upon receipt of the check.

The bare denial of accused Dela Cruz, on its own, cannot overcome the positive identification and sworn declaration of prosecution witnesses Gadian and Tangan. Unsubstantiated denials are self-serving and cannot be given greater evidentiary value than that given to the testimonies of the witnesses.

Denial is an inherently weak defense. Absent any clear and convincing evidence, bare denial will not outweigh an affirmative testimony from a credible witness. Without any showing of ill motive on the part of the eyewitness testifying on the matter, a categorical, consistent and positive identification of the accused prevails over denial and alibi.¹³²

Clearly, accused took advantage of their official positions to perpetuate the falsification of documents, including the vouchers and check, which led to the misappropriation of public funds.

The prosecution proved the existence of conspiracy.

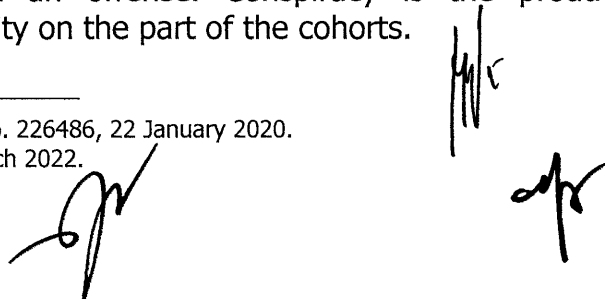
In *People v. Cerezo, et al.*,¹³³ the Supreme Court extensively discussed conspiracy, viz:

'In *Bahilidad v. People*, this Court summarized the basic principles in determining whether there exists conspiracy or not, to wit:

There is conspiracy "when two or more persons come to an agreement concerning the commission of a felony and decide to commit it." Conspiracy is not presumed. Like the physical acts constituting the crime itself, the elements of conspiracy must be proven beyond reasonable doubt. While conspiracy need not be established by direct, evidence, for it may be inferred from the conduct of the accused before, during and after the commission of the crime, all taken together, however, the evidence must be strong enough to show the community of criminal design. For conspiracy to exist, it is essential that there must be a conscious design to commit an offense. Conspiracy is the product of intentionality on the part of the cohorts.

¹³² *People v. Pitulan*, G.R. No. 226486, 22 January 2020.

¹³³ G.R. No. 252173, 15 March 2022.



It is necessary that a conspirator should have performed some overt act as a direct or indirect contribution to the execution of the crime committed. The overt act may consist of active participation in the actual commission of the crime itself, or it may consist of moral assistance to his co-conspirators by being present at the commission of the crime or by exerting moral ascendancy over the other co-conspirators. Hence, the mere presence of an accused at the discussion of a conspiracy, even approval of it, without any active participation in the same, is not enough for purposes of conviction.

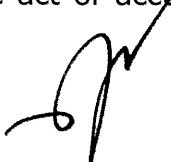
In *Macapagal-Arroyo v. People*, this Court discussed how conspiracy, express or implied, is proven, *viz.*

In terms of proving its existence, conspiracy takes two forms. The first is the express form, which requires proof of an actual agreement among all the co-conspirators to commit the crime. However, conspiracies are not always shown to have been expressly agreed upon. Thus, we have the second form, the implied conspiracy. **An implied conspiracy exists when two or more persons are shown to have aimed by their acts towards the accomplishment of the same unlawful object, each doing a part so that their combined acts, though apparently independent, were in fact connected and cooperative, indicating closeness of personal association and a concurrence of sentiment.** Implied conspiracy is proved through the mode and manner of the commission of the offense, or from the acts of the accused before, during and after the commission of the crime indubitably pointing to a joint purpose, a concert of action and a community of interest.

Also, in *Sistoza v. Desierto*, this Court held that for implied conspiracy or a conspiracy of silence and inaction to exist, there must be conscious criminal design evinced by circumstances where the silence of the accused is tantamount to tacit approval of the crime.

[F]or conspiracy of silence and inaction to exist it is essential that there must be patent and conscious criminal design, not merely inadvertence, under circumstances that would have pricked curiosity and prompted inquiries into the transaction because of obvious and definite defects in its execution and substance.' (Emphasis Supplied)

In following the instructions of accused Zoleta to prepare the fictitious documents and to accompany the dummy treasurer to receive and encash the check, Ms. Gadian and Ms. Tangan indubitably conspired in the commission of the crimes. Likewise, the act of accused Dela Cruz in preparing the fake ID of the



person who posed as Velsie Banzon and signing above the name of Kadir Andulcan in the letter request and project proposal, proved his role as a conspirator. Each of them performed their own part/role for the attainment of the same object which is to misappropriate funds of the province.

As for accused Escobar, although no direct evidence was shown to prove his participation in the falsification of documents, records show that he was informed of the transaction by Board Member Purisima. As earlier pointed out in this *ponencia*, in Ms. Gadian's testimony she narrated that:

Q: Likewise do you confirm that Governor Escobar is not a part of the Malapatan Fishermen's Group transaction given the distribution of money stated in your testimony on April 27, 2015?

A: He just did not receive, but he knows the transaction, Ma'am.

JUSTICE PONFERRADA:

Q: What is your basis for saying that the Governor knows?

A: I was in front of Juanito Purisima when he called the Governor, your Honor.

Q: You were in front of who?

A: Juanito H. Purisima, your Honor the Board Member of Sarangani Province.

CHAIRPERSON:

Q: When he called the Governor?

A: Yes, your Honor.

JUSTICE PONFERRADA:

Q: How did he call the Governor?

A: Through telephone, your Honor.

Q: How were you certain that it was the Governor who was at the other side of the phone at that time?

A: He told me that he is going to call the Governor before I process the transaction because only the Governor can sign the transaction, your Honor.

CHAIRPERSON:

All right.

ATTY. MANDAGAN:

Q: Follow up question Madame witness. Were you present when he called the Governor?

A: Inside the Office of the Vice Governor, Ma'am.

Q: Just answer my question to (sic) a yes or no Madame Witness. Were you present when he called the Governor?

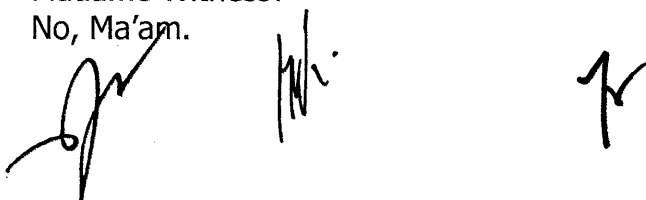
A: Yes, Ma'am.

Q: Okay. How did you know that he called the Governor?

A: Because I was there in front, Ma'am.

Q: You were in front. Did you hear the voice of the Governor, Madame Witness?

A: No, Ma'am.



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Q: Earlier you were asked why you failed to inform Governor Escobar that the documents attached to the disbursement voucher were all fictitious. Now why did you not inform the accused, Gov. Escobar, that the documents attached to the disbursement voucher, pertaining to the Malapatan Fishermen's Group which he signed were fictitious?

A: He was already told by Juanito Purisima that they need PHP 450,000.00 and I never explained to the Governor from the beginning about the scam.

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Q: So Madame Witness do I get it right that you simply relied on the statement of Board Member Purisima that he told accused Governor Escobar about this project?

A: Ma'am *sa dami po ng transakyon naming* -----

ATTY. MANDAGAN:

Just answer with a yes or no Madame Witness, there is no explanation.

PROS. DELFIN-SANTOS:

That's her answer, your Honor.

CHAIRPERSON:

All right. Answer.

A: *Nasanay na po ako ganon na pag sinabi po na papirmahan ko, sila na po ang nakikiusap hindi na po ako, you Honor.* I got used to the way we conduct the operation that I do not need to explain, they were the ones who discuss it between themselves, your Honor.

PROS. DELFIN-SANTOS:

Your Honors please ---

CHAIRPERSON:

Sila na nag-uusap. Just quote it.

PROS. DELFIN-SANTOS:

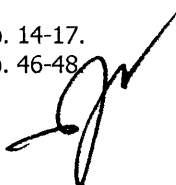
Yes, that's what I want to manifest, your Honors.

JUSTICE PONFERRADA:

Just quote it. *Sila na lang nag-uusap, hindi na ako kasama.*¹³⁵

¹³⁴ TSN dated 22 September 2015, pp. 14-17.

¹³⁵ TSN dated 22 September 2015, pp. 46-48.



Accused Escobar's silence or inaction despite knowledge of the anomalous transaction by other officials of the province was tantamount to his approval. Moreover, his conduct of approving the disbursement voucher despite the lack of supporting documents which resulted in the encashment of Four Hundred Fifty Thousand Pesos (PhP 450,000) by the person who posed as accused Banzon speaks most eloquently of his participation in the conspiracy.

[T]he moment conspiracy is established in the commission of the felony, collective liability of the accused conspirators attaches by reason of the conspiracy, and the court shall not speculate nor even investigate as to the actual degree of participation of each of the perpetrators present at the scene of the crime. All told, the convergence of the wills of the conspirators in the scheming and execution of the crime amply justifies the imputation to all of them the act of any one of them. It is in this light that conspiracy is generally viewed not as a separate indictable offense, but a rule for collectivizing criminal liability.¹³⁶

The mitigating circumstance of voluntary surrender is present in these cases

Voluntary surrender is a circumstance that reduces the penalty for the offense. Its requisites as a mitigating circumstance are that: (1) the accused has not been actually arrested; (2) the accused surrenders himself to a person in authority or the latter's agent; and (3) the surrender is voluntary.¹³⁷

The presence of the foregoing requisites are present in these cases. Records show that Warrants of Arrest were issued against all accused on 25 November 2011 but before the same could be served on them, Escobar and Dela Cruz voluntarily surrendered and posted cash bail bonds for their provisional liberty. Certainly, these circumstances show the voluntariness of the surrender. Thus, accused Escobar and Dela Cruz would have been entitled to the mitigating circumstance of voluntary surrender.

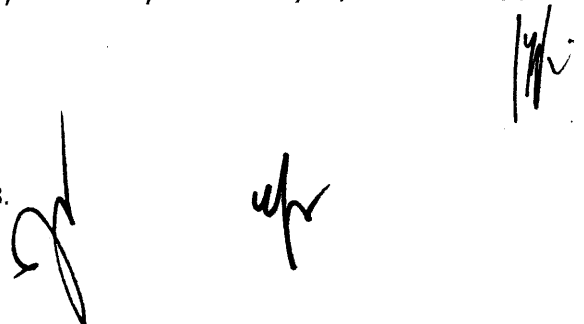
However, for reason set forth hereunder, the aforesaid mitigating circumstance shall not be considered in the ultimate determination of the proper penalty imposable.

Proper penalty for the crime of Malversation Through Falsification of Public Document

Based on the foregoing discussion, the Court holds that the accused are guilty of Malversation through Falsification of Public Document. Under Article 48 of the RPC, in cases of complex crimes, the penalty for the most serious crime shall be imposed in its maximum period. Under Article 171 of the RPC, Falsification is the more serious crime. Thus, applying Article 48 of the RPC, the penalty for Falsification under Article 171 of the RPC, which is *prision mayor*, must be applied

¹³⁶ *People v. Go*, G.R. No. 168539, 25 March 2014.

¹³⁷ *People v. Placer*, G.R. No. 181753, 9 October 2013.

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in its maximum period. In addition, a fine should likewise be imposed, in an amount not to exceed Five Thousand Pesos (PhP 5,000).¹³⁸

Although the Court appreciates the mitigating circumstance of voluntary surrender, the penalty shall still be applied in its maximum period because complex crimes under Article 48 of the RPC are considered special aggravating circumstance which cannot be offset by an ordinary mitigating circumstance.¹³⁹

Applying the Indeterminate Sentence Law, the maximum term of the sentence shall be ten (10) years and one (1) day to twelve (12) years of *prision mayor*, and the minimum term, or the penalty next lower in degree, shall be six (6) months and one (1) day to six (6) years of *prision correccional*.

WHEREFORE, in light of the foregoing, judgment is hereby rendered:

A. CRIMINAL LIABILITY:

1. Criminal Case No. SB-11-CR-0458:

Accused **MIGUEL DRACULAN ESCOBAR** and **ALEXIS JUDE KIAMCO DELA CRUZ** are each found **GUILTY** beyond reasonable doubt for violation of Section 3(e) of Republic Act No. 3019 and are each sentenced to suffer the indeterminate penalty of imprisonment of **SIX (6) YEARS AND ONE (1) MONTH**, as minimum, to **TEN (10) YEARS**, as maximum, with **PERPETUAL DISQUALIFICATION** to hold public office.

2. Criminal Case No. SB-11-CR-0459:

Accused **MIGUEL DRACULAN ESCOBAR** and **ALEXIS JUDE KIAMCO DELA CRUZ** are each found **GUILTY** beyond reasonable doubt of the complex crime of Malversation through Falsification of Public Documents and are each sentenced to suffer an indeterminate penalty of **SIX (6) YEARS** of *prision correccional*, as minimum, to **TEN (10) YEARS and ONE (1) DAY** of *prision mayor*, as maximum, with **PERPETUAL SPECIAL DISQUALIFICATION** to hold public office.

In addition, each accused is ordered to pay a fine of Five Thousand Pesos (PhP 5,000).

B. CIVIL LIABILITY:

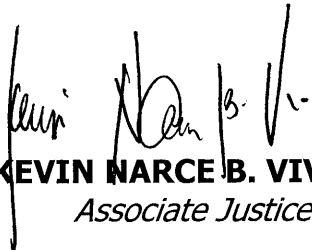
The Court finds accused **MIGUEL DRACULAN ESCOBAR** and **ALEXIS JUDE KIAMCO DELA CRUZ** civilly liable in **Criminal Cases No. SB-11-CR-0458 and 0459**. Hence, they must refund jointly and severally to the Bureau of the Treasury, the amount of Four Hundred Fifty Thousand Pesos (PhP 450,000) with legal interest of six percent (6%) per *annum* reckoned from the finality of the decision until full satisfaction, unless they can present proof that they have previously reimbursed said amount.

¹³⁸ *Desmoparan v. People*, G.R. No. 233598, 27 March 2019.

¹³⁹ *Palaganas v. People*, G.R. No. 165483, 12 September 2006.


In the meantime, as to accused **AMELIA CARMELA CONSTANTINO ZOLETA, SUZETTE OCAYA CLERIGO AND VELSIE BANZON**, who remain at large and have yet to be arraigned, send the records of these cases to the **ARCHIVES** subject to revival upon their arrest or voluntary surrender. Let Alias Warrants of Arrest be issued against accused **ZOLETA, CLERIGO** and **BANZON**.

SO ORDERED.


KEVIN NARCE B. VIVERO
Associate Justice


WE CONCUR:


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson


MICHAEL FREDERICK L. MUSNGI
Associate Justice

ATTESTATION

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


SARAH JANE T. FERNANDEZ
Chairperson, 6th Division

CERTIFICATION

Pursuant to Article VIII, Section 13, of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above *Decision* were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


EFREN N. DE LA CRUZ
Acting Presiding Justice