



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

**CRIM. CASES NOS. SB-19-CRM-0138
and SB-19-CRM-0139**

For: Violation of Sec. 3 (e) of RA 3019

EDUARDO K. VELOSO,
ANTONIO YRIGON ORTIZ,
DENNIS LACSON CUNANAN,
FRANCISCO BALDOZA FIGURA,
MARIA ROSALINDA MASONGSONG
LACSAMANA and
MARIVIC VILLALUZ JOVER

Accused.

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PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

**CRIM. CASES NOS. SB-19-CRM-0140
and SB-19-CRM-0141**

For: Malversation (Art. 217, RPC)

EDUARDO K. VELOSO,
ANTONIO YRIGON ORTIZ,
DENNIS LACSON CUNANAN,
FRANCISCO BALDOZA FIGURA
MARIA ROSALINDA MASONGSONG
LACSAMANA and
MARIVIC VILLALUZ JOVER

Accused.

Present:

DE LA CRUZ, J., Chairperson
ECONG, J.
MALABAGUIO, J.*

Promulgated on:

9 January 2023

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* Sitting as Special-Member per Administrative Order No. 173-A-2022 dated August 2, 2022

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DE LA CRUZ, J.:

Accused Eduardo K. Veloso, Antonio Y. Ortiz, Dennis L. Cunanan, Francisco B. Figura, Maria Rosalinda M. Lacsamana, and Marivic V. Jover stand charged for two (2) counts of violation of Section 3(e) of Republic Act 3019, and two (2) counts of malversation of public funds, defined and penalized under Article 217 of the Revised Penal Code. The accusatory portions of the Amended Informations read as follows:

Criminal Case No. SB-19-CRM-0138

On 28 March 2007, or sometime prior or subsequent thereto, in Quezon City, Philippines, and within this Honorable Court's jurisdiction, accused public officers **EDUARDO K. VELOSO** (Veloso), Congressman of the 3rd District of Leyte, **ANTONIO Y. ORTIZ** (Ortiz), Director General, **DENNIS L. CUNANAN** (Cunanan), Deputy Director General, **MARIVIC V. JOVER** (Jover), Chief Accountant, **FRANCISCO B. FIGURA** (Figura), Group Manager, and **MARIA ROSALINDA M. LACSAMANA** (Lacsamana), Group Manager, all of the Technology Resource Center (TRC), formerly known as the Technology and Livelihood Resource Center (TLRC), while in the performance of their administrative and/or official functions and conspiring with one another and with deceased private individual **ALFREDO A. RONQUILLO** (Ronquillo) of Aaron Foundation Philippines, Inc. (AARON); acting with manifest partiality and/or evident bad faith; did then and there willfully, unlawfully and criminally cause undue injury to the government and/or give unwarranted benefits and advantage to said private individual in the amount of at least **FOURTEEN MILLION FOUR HUNDRED THOUSAND PESOS (PhP14,400,000.00)**, through a scheme described as follows:

- (a) Veloso, a public officer accountable for and exercising control over the Priority Development Assistance Fund (PDAF) allocated to him by the general appropriation law for the year 2007, unilaterally chose and indorsed AARON, a non-government organization operated and/or controlled by the aforementioned private individual, as "project partner" in the implementation of Veloso's various livelihood programs and projects in the 3rd District of Leyte, which were funded by Veloso's PDAF allocation covered by **Special Allotment Release Order (SARO) No. ROCS-07-03051** in disregard of the appropriation law and its implementing rules, and/or without the benefit of public bidding, as required under Republic Act No. 9184 and its implementing rules and

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regulations, and with AARON being unaccredited and unqualified to undertake the projects;

- (b) Congressman **Veloso, Ortiz** of TRC/TLRC and **Ronquillo** of AARON then entered into a Memorandum of Agreement (MOA) on the purported implementation of Veloso's PDAF-funded projects;
- (c) **Ortiz** also facilitated, processed, and approved the disbursement of the subject PDAF release by signing **Disbursement Voucher No. 012007030572** along with **Cunanan** who certified that the expenses and cash advance were necessary, lawful, and incurred under his direct supervision, and **Jover** who certified as to the availability of funds; signed the corresponding check together with **Figura**; and **Ronquillo** received Land Bank Check No. 850407 dated 28 March 2007, in the amount of PhP14,400,000.00, all of which were done without accused TRC officers and employees having carefully examined and verified the accreditation and qualification of AARON as well as the transaction's supporting documents;
- (d) **Lacsamana** drafted and signed the Memorandum recommending the release of Veloso's PDAF in the amount of PhP14,400,000.00 to AARON subject to the retention of PhP450,000.00 as service fee and PhP150,000.00 for the cost of livelihood materials;
- (e) By their above acts, Congressman **Veloso**, and **Ortiz, Cunanan, Jover, Figura**, and **Lacsamana** of TRC/TLRC, allowed **Ronquillo** of AARON to take possession and thus misappropriate PDAF-drawn public funds, instead of implementing the PDAF-funded projects, which turned out to be non-existent, while **Ronquillo** signed the MOA, issued official receipts, received the corresponding check, participated in the preparation and signing of the acceptance and delivery reports, disbursement reports, project proposals and other liquidation documents to conceal the fictitious nature of the transaction, to the damage and prejudice of the Republic of the Philippines.

CONTRARY TO LAW.

Criminal Case No. SB-19-CRM-0139

On 30 April 2007, or sometime prior or subsequent thereto, in Quezon City, Philippines, and within this Honorable Court's jurisdiction, accused public officers **EDUARDO K. VELOSO** (Veloso), Congressman of the 3rd District of Leyte, **ANTONIO Y. ORTIZ** (Ortiz), Director General, **DENNIS L. CUNANAN** (Cunanan), Deputy Director General, **MARIVIC V. JOVER** (Jover), Chief Accountant, **FRANCISCO B. FIGURA**

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(Figura), Group Manager, and **MARIA ROSALINDA M. LACSAMANA** (Lacsamana), Group Manager, all of the Technology Resource Center (TRC), formerly known as the Technology and Livelihood Resource Center (TLRC); while in the performance of their administrative and/or official functions and conspiring with one another and with deceased private individual **ALFREDO A. RONQUILLO** (Ronquillo) of Aaron Foundation Philippines, Inc. (AARON); acting with manifest partiality and/or evident bad faith, did then and there willfully, unlawfully and criminally cause undue injury to the government and/or give unwarranted benefits and advantage to said private individual in the amount of at least **NINE MILLION EIGHT HUNDRED THOUSAND PESOS (Php9,800,000.00)**, through a scheme described as follows:

- (a) Veloso, a public officer accountable for and exercising control over the Priority Development Assistance Fund (PDAF) allocated to him by the general appropriations law for the year 2007, unilaterally chose and indorsed AARON, a non-government organization operated and/or controlled by the aforementioned private individual, as "project partner" in the implementation of Veloso's various livelihood programs and projects in the 3rd District of Leyte, which were funded by Veloso's PDAF allocation covered by **Special Allotment Release Order (SARO) No. D-07-05540** in disregard of the appropriation law and its implementing rules, and/or without the benefit of public bidding, as required under Republic Act No. 9184 and its implementing rules and regulations, and with AARON being unaccredited and unqualified to undertake the projects;
- (b) Congressman **Veloso, Ortiz** of TRC/TLRC and **Ronquillo** of AARON then entered into a Memorandum of Agreement (MOA) on the purported implementation of Veloso's PDAF-funded projects;
- (c) **Ortiz** also facilitated, processed, and approved the disbursement of the subject PDAF release by signing **Disbursement Voucher No. 012007040794** along with **Cunanan** who certified that the expenses and cash advance were necessary, lawful, and incurred under his direct supervision, and **Jover** who certified as to the availability of funds; signed the corresponding check together with **Figura**; and **Ronquillo** received Land Bank Check No. 850488 dated 30 April 2007, in the amount of Php9,800,000.00, all of which were done without accused TRC officers and employees having carefully examined and verified the accreditation and qualification of AARON as well as the transaction's supporting documents;
- (d) **Lacsamana** drafted and signed the Memorandum recommending the release of Veloso's PDAF in the amount of

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Php9,800,000.00 to AARON subject to the retention of Php100,000.00 as service fee and Php100,000.00 for the cost of livelihood materials;

- (e) By their above acts, Congressman **Veloso**, and **Ortiz**, **Cunanan**, **Jover**, **Figura**, and **Lacsamana** of TRC/TLRC, allowed **Ronquillo** of AARON to take possession and thus misappropriate PDAF-drawn public funds, instead of implementing the PDAF-funded projects, which turned out to be non-existent, while **Ronquillo** signed the MOA, issued official receipts, received the corresponding check, participated in the preparation and signing of the acceptance and delivery reports, disbursement reports, project proposals and other liquidation documents to conceal the fictitious nature of the transaction, to the damage and prejudice of the Republic of the Philippines.

CONTRARY TO LAW.

Criminal Case No. SB-19-CRM-0140

On 28 March 2007, or sometime prior or subsequent thereto, in Quezon City, Philippines, and within this Honorable Court's jurisdiction, accused public officers **EDUARDO K. VELOSO** (Veloso), Congressman of the 3rd District of Leyte, **ANTONIO Y. ORTIZ** (Ortiz), Director General, **DENNIS L. CUNANAN** (Cunanan), Deputy Director General, **MARIVIC V. JOVER** (Jover), Chief Accountant, **FRANCISCO B. FIGURA** (Figura), Group Manager, and **MARIA ROSALINDA M. LACSAMANA** (Lacsamana), Group Manager, all of the Technology Resource Center (TRC) formerly known as Technology and Livelihood Resource Center (TLRC); all of whom are accountable officers by virtue of their positions and by reason of the duties of their office; while in the performance of their administrative and/or official functions and conspiring with one another and with deceased private individual **ALFREDO A. RONQUILLO** (Ronquillo) of Aaron Foundation Philippines, Inc. (AARON); did then and there wilfully, unlawfully and feloniously appropriate, take, misappropriate or consent or, through abandonment or negligence, allow herein private individual to take public funds amounting to at least **FOURTEEN MILLION FOUR HUNDRED THOUSAND PESOS (Php14,400,000.00)**, through a scheme described as follows:

- (a) Veloso, a public officer accountable for and exercising control over the Priority Development Assistance Fund (PDAF) allocated to him by the general appropriation law for the year 2007, unilaterally chose and indorsed AARON, a non-government organization operated and/or controlled by the aforementioned private individual, as "project partner" in the implementation of Veloso's various livelihood programs and projects in the 3rd District of Leyte, which were funded by

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Veloso's PDAF allocation covered by **Special Allotment Release Order (SARO) No. ROCS-07-03051** in disregard of the appropriation law and its implementing rules, and/or without the benefit of public bidding, as required under Republic Act No. 9184 and its implementing rules and regulations, and with AARON being unaccredited and unqualified to undertake the projects;

- (b) Congressman **Veloso, Ortiz** of TRC/TLRC and **Ronquillo** of AARON then entered into a Memorandum of Agreement (MOA) on the purported implementation of Veloso's PDAF-funded projects;
- (c) **Ortiz** also facilitated, processed, and approved the disbursement of the subject PDAF release by signing **Disbursement Voucher No. 012007030572** along with **Cunanan** who certified that the expenses and cash advance were necessary, lawful, and incurred under his direct supervision, **Baysa** who certified that the expenses and cash advance were within the budget, and **Jover** who certified as to the availability of funds, signed the corresponding check together with **Figura**; and **Ronquillo** received Land Bank Check No. 850407 dated 28 March 2007, in the amount of PhP14,400,000.00, all of which were done without accused TRC officers and employees having carefully examined and verified the accreditation and qualification of AARON as well as the transaction's supporting documents;
- (d) **Lacsamana** drafted and signed the Memorandum recommending the release of Veloso's PDAF in the amount of PhP14,400,000.00 to AARON subject to the retention of PhP450,000.00 as service fee and PhP150,000.00 for the cost of livelihood materials;
- (e) By their above acts, Congressman **Veloso**, and **Ortiz, Cunanan, Jover, Figura**, and **Lacsamana** of TRC/TLRC, and allowed **Ronquillo** of AARON to take possession and thus misappropriate PDAF-drawn public funds, instead of implementing the PDAF-funded projects, which turned out to be non-existent, while **Ronquillo** signed the MOA, issued official receipts, received the corresponding check, participated in the preparation and signing of the acceptance and delivery reports, disbursement reports, project proposals and other liquidation documents to conceal the fictitious nature of the transaction, to the damage and prejudice of the Republic of the Philippines.

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Criminal Case No. SB-19-CRM-0141

On 30 April 2007, or sometime prior or subsequent thereto, in Quezón City, Philippines, and within this Honorable Court's jurisdiction, accused public officers **EDUARDO K. VELOSO** (Veloso), Congressman of the 3rd District of Leyte, **ANTONIO Y. ORTIZ** (Ortiz), Director General, **DENNIS L. CUNANAN** (Cunanan), Deputy Director General, **MARIVIC V. JOVER** (Jover), Chief Accountant, **FRANCISCO B. FIGURA** (Figura), Group Manager, and **MARIA ROSALINDA M. LACSAMANA** (Lacsamana), Group Manager, all of the Technology Resource Center (TRC) formerly known as Technology and Livelihood Resource Center (TLRC); all of whom are accountable officers by virtue of their positions and by reason of the duties of their office; while in the performance of their administrative and/or official functions and conspiring with one another and with deceased private individual **ALFREDO A. RONQUILLO** (Ronquillo) of Aaron Foundation Philippines, Inc. (AARON); did then and there wilfully, unlawfully and feloniously appropriate, take, misappropriate or consent or, through abandonment or negligence, allow herein private individual to take public funds amounting to at least **NINE MILLION EIGHT HUNDRED THOUSAND PESOS (PhP9,800,000.00)**, through a scheme described as follows:

- (a) Veloso, a public officer accountable for and exercising control over the Priority Development Assistance Fund (PDAF) allocated to him by the general appropriation law for the year 2007, unilaterally chose and indorsed AARON, a non-government organization operated and/or controlled by the aforementioned private individual, as "project partner" in the implementation of Veloso's various livelihood programs and projects in the 3rd District of Leyte, which were funded by Veloso's PDAF allocation covered by **Special Allotment Release Order (SARO) No. D-07-05540** in disregard of the appropriation law and its implementing rules, and/or without the benefit of public bidding, as required under Republic Act No. 9184 and its implementing rules and regulations, and with AARON being unaccredited and unqualified to undertake the projects;
- (b) Congressman **Veloso, Ortiz** of TRC/TLRC and **Ronquillo** of AARON then entered into a Memorandum of Agreement (MOA) on the purported implementation of Veloso's PDAF-funded projects;
- (c) **Ortiz** also facilitated, processed, and approved the disbursement of the subject PDAF release by signing **Disbursement Voucher No. 012007040794** along with **Cunanan** who certified that the expenses and cash advance were necessary, lawful, and incurred under his direct supervision, and **Jover** who certified as to the availability of funds; signed the corresponding check together with **Figura**; and **Ronquillo** received Land Bank Check No. 850488 dated

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30 April 2007, in the amount of PhP9,800,000.00, all of which were done without accused TRC officers and employees having carefully examined and verified the accreditation and qualification of AARON as well as the transaction's supporting documents;

- (d) **Lacsamana** drafted and signed the Memorandum recommending the release of Veloso's PDAF in the amount of PhP9,800,000.00 to AARON subject to the retention of PhP100,000.00 as service fee and PhP100,000.00 for the cost of livelihood materials;
- (e) By their above acts, Congressman **Veloso** and **Ortiz, Cunanan, Jover, Figura, and Lacsamana** of TRC/TLRC, and allowed **Ronquillo** of AARON to take possession and thus misappropriate PDAF-drawn public funds, instead of implementing the PDAF-funded projects, which turned out to be non-existent, while **Ronquillo** signed the MOA, issued official receipts, received the corresponding check, participated in the preparation and signing of the acceptance and delivery reports, disbursement reports, project proposals and other liquidation documents to conceal the fictitious nature of the transaction, to the damage and prejudice of the Republic of the Philippines.

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THE PROCEDURAL ANTECEDENTS

On May 24, 2019, the Office of the Ombudsman (OMB) filed before the Sandiganbayan two (2) Informations for violation of Section 3(e) of RA 3019, and two (2) Informations for Malversation, against the above-named accused.

On June 3, 2019, accused Veloso filed omnibus motions for judicial determination of probable cause and to quash information due to inordinate delay, which the Court denied. Accused Veloso moved for reconsideration which was also denied by the Court.

On November 5, 2019, the prosecution moved to amend the Informations, which accused Figura, Cunanan, Jover and Lacsamana did not object to. Hence, in its Order, dated November 8, 2019, the Court admitted the said Amended Informations as to them. Accused Veloso moved to quash the Amended Informations, which the Court denied in its Resolution, promulgated on January 23, 2020.

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Upon arraignment,¹ accused Veloso, Cunanan, Jover, Figura, and Lacsamana, duly assisted by their respective counsels *de parte*, separately pleaded "Not Guilty" to the charges against them. To date, accused Ortiz remains at large and the alias warrant of arrest issued against him remain unserved.

On pre-trial, the parties made the following stipulations, as reflected in the Pre-Trial Order:²

1. The identity of accused Veloso, Cunanan, Figura, Lacsamana and Jover as the same persons charged in the instant cases;
2. At all times material and relevant to these cases, the accused were public officials occupying the following government positions opposite their names:
 - a. Accused Eduardo K. Veloso – elected representative of the Third District of Leyte;
 - b. Accused Antonio Yrigon Ortiz – Director General of the Technology Resource Center (TRC), which was formerly the Technology and Livelihood Resource Center (TLRC);³
 - c. Accused Dennis Lacson Cunanan – Deputy Director General of the TRC;
 - d. Accused Francisco Baldoza Figura – Group Manager of the TRC;
 - e. Accused Maria Rosalinda Masongsong Lacsamana – Group Manager of the TRC;
 - f. Accused Marivic Villaluz Jover – Chief Accountant of the TRC;
3. The existence of the Commission on Audit Special Audit Office (COA-SAO) Report No. 2012-03 marked as Exhibit Z for the prosecution, consisting of 462 pages, without admitting the truth of the contents thereof.

¹ Certificates of Arraignment, dated November 8, 2019 and January 24, 2020, Records, Vol. II, pp. 298-301 and p. 417.

² Records, Vol. II, pp. 476-497.

³ The acronyms TRC and TLRC are used interchangeably throughout this Decision. See also Executive Order, dated March 29, 2007.

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4. The authenticity and due execution of the Special Allotment Release Orders (SARO) No. ROCS-07-03051 and No. 07-05540, described as follows:
 - a. ROCS-07-03051 issued by the Department of Budget and Management (DBM) in favor of the Bureau of Treasury (BTr) covering Fifteen Million Pesos (Php15,000,000.00) (Exhibit B);
 - b. D-07-05540 issued by the DBM in favor of the BTr covering Ten Million Pesos (Php10,000,000.00) (Exhibit N).
5. The authenticity and due execution of the Disbursement Vouchers (DVs), checks and Notices of Cash Allocation (NCA) issued relative to the above-mentioned SAROs.
6. The authenticity and due execution of the documents from the Securities and Exchange Commission (SEC) (Exhibits X series).
7. The authenticity and due execution of the Memorandum of TLRC Group Manager Maria Rosalinda Lacsamana to Director General Antonio Ortiz, dated March 26, 2007 (Exhibit H).
8. The authenticity and due execution of the Memorandum of TLRC Group Manager Maria Rosalinda Lacsamana to Director General Ortiz, dated March 20, 2007 (Exhibit S).
9. The authenticity and due execution of the Complaint-Affidavit, without admitting the truth of the contents thereof.
10. The release of the PDAF amounts above-mentioned to the TLRC.
11. The release of the PDAF amounts from TLRC to Aaron Foundation Philippines, Inc. (AARON).
12. Accused Figura admitted that he signed the related DVs and checks where his signatures appear.

From the proposals for stipulation offered by accused Figura, the prosecution admitted the following facts:

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1. The office of Representative Eduardo K. Veloso (accused Veloso) endorsed AARON to TRC as implementor of his PDAF.
2. Then Director General Antonio Ortiz (accused Ortiz) of TRC issued Office Circular No. 000P0099, dated September 3, 2007, captioned "Implementing Guidelines on PDAF Accounts".
3. Accused Ortiz issued another Office Circular No. 000P0100, dated November 27, 2007, which revised the Implementing Guidelines on PDAF Accounts.
4. Accused Ortiz likewise issued Office Circular No. 00GE0098, dated January 19, 2007, captioned "Reiteration of Office Policies on Authorized Signatories for Official Documents."
5. Accused Figura co-signed the checks as part of his official function under Office Circular No. 00GE0098 and only after all the required documents, particularly, the DVs, are complete and duly signed and certified by the head of TRC's Internal Audit Division.
6. Accused Jover certified on the availability of funds in the DVs only if the required documents for processing of the DVs were attached and complete.
7. Accused Jover and Figura both belong to the support units of TRC such that they did not have a hand or participation whatsoever in the implementation of the PDAF projects.

From the proposals for stipulation offered by accused Lacsamana, the prosecution admitted the following facts as of the time material to the cases:

1. Accused Lacsamana is charged for two (2) counts of violation of Section 3(e) of RA 3019 for supposedly giving unwarranted benefit and undue advantage to accused private individual when she allegedly recommended to accused Ortiz the release of accused Veloso's PDAF to AARON.
2. Accused Lacsamana is also charged for two (2) counts of Malversation supposedly because she, together with the other

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accused public officials, allegedly allowed private individuals to take public funds.

3. In 2010, the COA conducted a government-wide performance audit of PDAF funds for the fiscal years 2007-2009. Among the findings made is that: (1) NGOs were not supposedly among the Implementing Agencies (IAs) of PDAF in the General Appropriations Act (GAA); (2) the IAs simply relied on the NGOs endorsed by the legislator when under GPPB Resolution No. 12-2007, NGOs should be selected through public bidding.
4. When accused Lacsamana was hired by TRC, the agency had long been implementing PDAF projects through the NGOs. This has been going on even before accused Lacsamana was employed by the TRC.
5. The implementation of the PDAF projects passes several processes and procedures, as follows:
 - a. The release of PDAF allocations starts with a senator or congressman making a request for the release of his or her allocation. The request is accompanied by a project list.
 - b. The request is sent to the Senate Finance Committee (in the case of a Senator), or the House Appropriations Committee (in the case of a House Member). The Committee Chairman endorses it to the Senate President or the Speaker, as the case may be, who then forwards it to the Department of Budget and Management (DBM).
 - c. The DBM, in turn, releases the funds to the IA identified by the lawmaker, who is furnished a copy of the release document known as SARO.
 - d. The lawmaker chooses the NGO that will receive their funds and implement their projects through a Memorandum of Agreement (MOA) among the legislator, the IA and the NGO.

These are the initial processes and procedures that would have to be complied with before the matter could reach the level of accused Lacsamana.

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6. Accused Lacsamana was not the head of the agency where she was employed.
7. Accused Lacsamana had no authority to enter into a MOA with the concerned legislators and the chosen NGOs for the release of funds and implementation of the projects. In fact, accused Lacsamana was not a signatory to the MOA, either as a representative or witness. Her duties and responsibilities were part of the standard operating procedures of the TRC.

From the proposals and stipulation offered by accused Veloso, the prosecution admitted the following facts as of the time material to the cases:

1. The last term of office of accused Veloso as representative of the Third District of Leyte ended on June 30, 2007.
2. From June 30, 2007, accused Veloso no longer had the capacity and authority to monitor the PDAF funds that had been disbursed for the intended projects covered by the questioned transactions.
3. Accused Veloso was not in any manner connected to AARON.
4. The principal office of AARON was at No. 2346 Juan Luna St., Gagalangin, Tondo, Manila.
5. Mr. Alfredo A. Ronquillo, the representative of AARON, died on January 27, 2009.
6. The questioned transactions relating to the disbursement of PDAF funds took place in 2007.
7. The Field Investigation Office (FIO) started its investigation on the questioned transactions in 2012 and filed the complaint only on September 3, 2015.
8. The PDAF funds covered by the questioned transactions were released from the DBM to the Bureau of Treasury (BTr), and from the BTr to the TRC which, in turn, released the same to AARON.

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9. TRC was one of the different government agencies listed in the GAA which will implement the PDAF of a Congressman.
10. It was the TRC which determined the qualifications for accreditation and the capabilities of AARON to implement the projects covered by the questioned transactions.

The issues to be resolved are as follows:

Issues common to the parties:

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- 1) Whether accused Veloso, in conspiracy with accused Ortiz, Cunanan, Figura, Lacsamana, Jover and Ronquillo, acted with manifest partiality and/or evident bad faith in disbursing public funds in the total amount of Twenty-Four Million Two Hundred Thousand Pesos (Php24,200,000.00) sourced from the PDAF of accused Veloso and paid to AARON, thereby giving unwarranted benefits and advantage to AARON and/or causing undue injury to the government, and

In Criminal Cases Nos. SB-19-CRM-0140 and -0141

- 2) Whether accused public officials, who are all accountable officials, while in the performance of their administrative and/or official functions and conspiring with one another and with deceased private individual Ronquillo of AARON, appropriated, took, misappropriated or consented or through abandonment or negligence, allowed herein private individual to take public funds amounting to Twenty-Four Million Two Hundred Thousand Pesos (Php24,200,000.00) sourced from PDAF of accused Veloso and paid to AARON.

Accused Veloso added more specific issues, as follows:

- 3) Whether the purported signatures of accused Veloso as appearing in the alleged copies of the MOAs with TRC and AARON, are genuine; and
- 4) Whether accused Veloso personally appeared before the notary public and participated in the notarization of the alleged copies of the MOAs.

On May 15, 2020, the prosecution moved and was granted cancellation of all hearings scheduled in May and June 2020, in view

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of the threats posed by the COVID-19 pandemic. The prosecution again moved to reset the hearings to January 2021 which was granted by the Court.

EVIDENCE FOR THE PROSECUTION

The testimonies of the witnesses for the prosecution are summarized below.

Katrina M. Agpoon-Abad, Licensing Officer II of the Bureau of Permits in the City of Manila.

In her Judicial Affidavit,⁴ Agpoon-Abad testified that she is the custodian of records of the Bureau of Permits which include, among others, duplicate copies of business permits, certifications, and similar documents. Pursuant to a subpoena from the Office of the Ombudsman, Agpoon-Abad conducted a verification of a Certification,⁵ dated March 21, 2011, which the Bureau of Permits issued to the Commission on Audit in connection with the conduct of an audit. Agpoon-Abad explained that based on her verification, she found that the certification was indeed issued by their office, and was signed by a retired employee. Agpoon-Abad also confirmed that upon checking their database, there was indeed no business permit issued to AARON as operator of a business in the City of Manila.

On cross-examination,⁶ Agpoon-Abad clarified that even if AARON is a non-stock, non-profit corporation registered with the SEC, or that its projects were implemented in the Visayas, it still needs to secure a business permit from the City of Manila because it is operating in the said city as shown by its office address. Agpoon-Abad agreed, however, that the issuance of the certification does not remove the possibility that AARON may have been issued a permit by other jurisdiction. As to the database of business permits in their office, Agpoon-Abad explained that the same was installed in 2004.

Marissa A. Santos, the Chief Administrative Officer at the Central Records Division (CRD) of the Department of Budget and Management.

In her Judicial Affidavit,⁷ Santos testified that as Chief Administrative Officer at the CRD, she supervises the day to day

⁴ Records, Vol. III, pp. 191-195

⁵ Exhibit "NN"

⁶ Transcript dated January 12, 2021

⁷ Records, Vol. III, pp. 228-240

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operations of the division. She is the official custodian of all DBM records which includes SAROs, Advice of SARO Issued, NCA and ANCAIs. Santos confirmed that sometime in September 2019 and January 2020, she received two (2) subpoenas from the OMB requesting for documents pertaining to SARO No. ROCS-07-03051, dated February 13, 2007, and SARO No. D-07-05540, dated March 22, 2007. She then submitted certified true copies of the following requested documents, which she identified in court:

- a. Advice of Notice of Cash Allocation Issued, dated March 8, 2007;⁸
- b. 1st Indorsement, dated February 1, 2007, from the House of Representatives to the DBM together with the list of PDAF Releases for the 1st Tranche FY 2007 dated February 1, 2007 which includes that of accused Eduardo Veloso (consisting of 2 pages);⁹
- c. Letter, dated January 29, 2007, from accused Veloso to House Speaker Jose De Venecia indorsing TLRC as project implementer of his PDAF-funded project amounting to P15Million;¹⁰
- d. Letter, dated February 16, 2007, from the DBM to Accused Veloso regarding the issuance of SARO No. ROCS-07-03051;¹¹
- e. Letter, dated March 20, 2007, of accused Veloso to DBM Secretary Andaya requesting for the allocation of P10,000,000.00 to finance various projects in the 3rd District of Leyte to be implemented by the TLRC;¹²
- f. Annex "A" of SARO No. D-07-05540, dated March 22, 2007;¹³
- g. Advice of SARO/Notice of Cash Allocation Issued.¹⁴

⁸ Exhibit C-1

⁹ Exhibit C-2

¹⁰ Exhibit C-3

¹¹ Exhibit F-1

¹² Exhibit M

¹³ Exhibit N-1

¹⁴ Exhibit N-3

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Cristina G. Batang,¹⁵ Rafael Muñoz,¹⁶ Rebecca M. Quinto,¹⁷ Alan Ang,¹⁸ Aida Q. Lactic,¹⁹ Bernard Jonathan M. Remandaban,²⁰ local chief executives of their respective barangays and municipalities in Leyte, from 2002 to 2007. In their separate *Sinumpaang Salaysay*,²¹ executed on various dates in November 2014, and Quinto's direct testimony,²² the witnesses testified that they are not familiar with AARON. They also denied that AARON provided free livelihood seminar or training, or distributed livelihood materials and video in their respective barangays or municipality in 2007.

Gloria De Guzman Silverio, Director III assigned as Officer-in-Charge of SAO-COA.

In her Judicial Affidavit,²³ Silverio testified that she has been with the SAO since 1984 to 1991, and from 1993 up to the present. In 2010, their office conducted special audits on the PDAF covering calendar years 2007-2009, pursuant to COA Office Order No. 2010-309, dated May 31, 2010, and subsequent office orders,²⁴ which she identified in court. As Over-all Team Leader of the special audit, she prepared the audit plan, participated in the conduct of the audit by closely supervising it, and assisting the team in the implementation of the audit plan and gathering and analysis of data. Silverio likewise revised and signed Notices of Disallowance relative to disallowed transactions of implementing agencies. Among the IAs selected as subject of the audit was TLRC/TRC, as it was one of the top two government-owned and controlled corporations (GOCCs) in terms of the materiality of amounts released to them using the National Expenditure Program.

Silverio explained that the special audit covered the PDAF allocation of some 202 senators and congressmen/representatives, including that of accused Veloso. As to the methodologies or procedures used in conducting the audit, the SAO was guided by the General Appropriations Act (GAA) for 2007, 2008 and 2009; the Government Procurement Act (RA 9184); pertinent provisions of the

¹⁵ Punong Barangay of Brgy. Baler, Leyte, Leyte, from 2002-2007

¹⁶ Punong Barangay of Brgy. Sambulawan, Leyte, Leyte, from 2002-2007

¹⁷ Punong Barangay of Brgy. Taglawigan, San Isidro, Leyte, from 2002-2007

¹⁸ Municipal Mayor of San Isidro, Leyte, from 2004-2013

¹⁹ Punong Barangay of Brgy. Petrolio, Calabian, Leyte, from 2002-2013

²⁰ Municipal Mayor of Tabango, Leyte, from 2001-2010

²¹ Exhibits Y-18, Y-3, Y-56

²² TSN dated June 15, 2021

²³ Records, Vol. IV, pp. 19-694

²⁴ Exhibits II to LL, inclusive

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Government Auditing Code (PD 1445); COA Circular 96-003; DBM National Budget Circular (NBC) No. 476; and Section 53(j) IRR-A of RA 9184, among others.

The audit team gathered SAROs, ANCAIs, DVs, their supporting documents, and other relevant documents. Silverio identified SARO No. ROCS-07-03051, dated February 13, 2007²⁵ and its related documents: DV No. 104-07-03-301,²⁶ dated March 19, 2007; OR No. 5296223H,²⁷ dated March 21, 2007; Letter,²⁸ dated March 12, 2007, from Veloso to TLRC Director General Ortiz indorsing AARON as the conduit for the livelihood programs for the 3rd District of Leyte; Memorandum of Agreement,²⁹ notarized on April 2, 2007, among Veloso, TLRC and AARON; Memorandum³⁰ from Dimaranan; Memorandum,³¹ dated March 26, 2007, of Lacsamana to Ortiz recommending release of PhP14,400,000.00 to AARON; Undated DV No. 012007030572³² from TLRC in the amount of PhP14,400,000.00 with AARON as payee; Check No. 850407,³³ dated March 28, 2007, in the amount of PhP14,400,000.00, issued by TLRC to AARON; Duplicate copy of Check No. 850407;³⁴ OR No. 0061³⁵ issued by AARON to TLRC; and Project Proposal with Work and Financial Plan³⁶ of AARON for the implementation of projects in the 3rd District of Leyte to be funded by the PDAF of accused Veloso under SARO No. ROCS-07-03051.

Silverio also identified SARO No. D-07-05540,³⁷ dated March 22, 2007, and supporting documents: DV No. 104-07-03-0318,³⁸ dated March 27, 2007; Annex A³⁹ of SARO No. D-07-05540; OR No. 5296535H,⁴⁰ dated March 30, 2007, issued by the TRC to the Bureau of Treasury; Letter,⁴¹ dated March 26, 2007, of accused Veloso to TLRC Director General Ortiz endorsing AARON as implementing NGO for his PhP10,000,000.00 PDAF allocation

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- ²⁵ Exhibit B
 - ²⁶ Exhibit D
 - ²⁷ Exhibit E
 - ²⁸ Exhibit F
 - ²⁹ Exhibit G
 - ³⁰ Exhibit G-1
 - ³¹ Exhibit H
 - ³² Exhibit I
 - ³³ Exhibit J
 - ³⁴ Exhibit J-1
 - ³⁵ Exhibit K
 - ³⁶ Exhibit L
 - ³⁷ Exhibit N
 - ³⁸ Exhibit O
 - ³⁹ Exhibit O-1
 - ⁴⁰ Exhibit P-1
 - ⁴¹ Exhibit Q

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under SARO No. D-07-05540; MOA,⁴² notarized on May 3, 2007, among TLRC, AARON and Veloso; Memo,⁴³ dated April 30, 2007, from Dimaranan; Checklist of Requirements⁴⁴; Memorandum,⁴⁵ dated March 20, 2007, from Lacsamana to Ortiz recommending release of PhP9,800,000.00 to AARON; Undated DV No. 012007040794⁴⁶ from TLRC in the amount of PhP9,800,000.00 with AARON as payee; Check No. 850488,⁴⁷ dated April 30, 2007, in the amount of PhP9,800,000.00; Duplicate copy⁴⁸ of Check No. 850488; OR No. 0073,⁴⁹ dated May 2, 2007, issued by AARON; and Project Proposal with Work and Financial Plan⁵⁰ of AARON for the implementation of projects in the 3rd District of Leyte to be funded by the PDAF of accused Veloso under SARO No. D-07-05540.

During the audit, the team also sent a letter⁵¹ to Veloso to confirm his purported signatures on the documents, but received no reply. Similarly, the team sent separate confirmation letters⁵² to AARON and the Bureau of Permits of Manila, and received no response from AARON. The Bureau of Permits replied through a Certification,⁵³ dated March 21, 2011, stating that no business permit was issued to AARON from CY 2004 up to the time of issuance of the certification. Silverio further testified that her team conducted an ocular inspection of AARON in its given address in Manila. Based on the pictures⁵⁴ submitted by a member of her team, it was found that said address is a vacant lot storing MWSI equipment and not an office of AARON.

Based on the audit, the team observed that the respective transactions under SARO No. ROCS-07-03051 and SARO No. D-07-05540 were not compliant to existing laws and regulations, particularly: (1) SAROs were released by the DBM to TLRC/TRC despite the absence of documents required to be submitted by the TLRC/TRC to DBM; (2) the amounts of PhP14,400,000 and PhP9,800,000.00, respectively, were merely transferred to AARON, despite the absence of any appropriation law for the purpose; (3) the

⁴² Exhibit R

⁴³ Exhibit R-1

⁴⁴ Exhibit R-2

⁴⁵ Exhibit S

⁴⁶ Exhibit T

⁴⁷ Exhibit U

⁴⁸ Exhibit U-1

⁴⁹ Exhibit V

⁵⁰ Exhibit W

⁵¹ Exhibit DD

⁵² Exhibits AA and MM

⁵³ Exhibit NN

⁵⁴ Exhibit BB

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selection of NGO did not observe the guidelines prescribed under existing laws and regulations; (4) the physical and legal existence of AARON turned out to be questionable; (5) the funds remained unliquidated as of audit; (6) the specifications and details of the projects to be implemented and the target beneficiaries were not indicated in the respective project proposals; (7) Veloso did not respond to the audit team's confirmation letter; and (8) the PhP600,000.00 and PhP200,000.00 retained by TLRC/TRC as management and service fees cannot be accounted for. The team consolidated all their observations/findings in SAO Report No. 2012-03.⁵⁵ Thereafter, they issued two (2) Notices of Disallowance⁵⁶ for the two SAROs involved.

The testimony of the FIO-Ombudsman was dispensed with, on account of the stipulations that: (1) the documents/annexes attached to his judicial affidavit were gathered by him during his investigation of accused Veloso and that he can identify these documents during trial; and (2) he has no personal knowledge of such documents except for those documents which bore his signature.

The prosecution filed its formal offer of evidence⁵⁷ and all the accused, except for Ortiz, filed their respective comment/oppositions thereto. The Court ruled to: (1) admit Exhibits "C," "C-1," "C-3," "D," "E," "J," "J-1," "K," "N," "N-1," "N-2," "N-3," "O," "O-1," "P-1," "V," "DD," "HH" series, "II," "JJ," "KK," "LL," "MM," and "OO," there being no comment or objection thereto; (2) admit Exhibits "A," "B," "H," "S," "X" to "X-6," and "Z," considering that these exhibits were already admitted in the Pre-Trial Order but not for the purposes for which they were offered; and (3) admit Exhibits "A-1," "A-2," "A-3," "A-4," "A-5," "A-6," "A-7," "A-8," "A-9," "A-10," "A-11," "A-12," "A-13," "A-14," pages 1 and 2," "A-15," "A-16," "A-17," "A-18," "A-19," "A-20," "A-21," "A-22," "A-23," "A-24," "A-25-132," "C-2," "F," "F-1," "G," "I," "L," "M," "Q," "R," "T," "U," "U-1," "W," "Y-3," "Y-18," "Y-33," "Y-56," "Y-68," "Y-74," "AA," "AA-1," "BB," "CC," "FF," "GG," "NN," and "PP" in the tenor that they were testified upon by the witnesses. The Court discarded Exhibits "E-1," "G-1," "O-2," "P," "R-1," "R-2," "EE" and "EE-1," which were submitted but not offered.

Accused Lacsamana and Veloso separately moved for leave to file demurrer to evidence, which the Court denied.

⁵⁵ Exhibit Z

⁵⁶ Exhibits FF and GG

⁵⁷ Records, Vol. V, pp. 481-804; to Vol. VI, pp. 17-2364

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EVIDENCE FOR THE DEFENSE

For accused Veloso, the respective testimonies of his witnesses are set forth below.

Eduardo K. Veloso, one of the accused, Representative of the 3rd District of Leyte from 1998-2007. In his Judicial Affidavit,⁵⁸ accused Veloso testified that as a former member of the House of Representatives, his official functions and duties include representation, legislation and constituent service. As such, he has been sponsoring various developmental and livelihood projects, funded through his PDAF allocations, for the benefit of his constituents in the 3rd District of Leyte.

As to the two subject transactions, Veloso explained that they transpired as follows:

On January 29, 2007, Veloso wrote a letter to the Speaker of the House of Representatives requesting for the release of a portion of Veloso's PDAF allocations amounting to PhP15,000,000 to implement his PDAF-funded livelihood projects. Veloso chose the TLRC as IA which is among the government agencies officially listed in the program menu which can implement PDAF-funded projects. The House of Representatives then issued an Indorsement Letter, dated February 1, 2007, to the DBM for the release of Veloso's PDAF allocation to the TLRC. Thereafter, Veloso received a letter, dated February 16, 2007, from then DBM Secretary Rolando Andaya, Jr. informing him of the release of his PDAF allocation amounting to PhP15,000,000 through the issuance of SARO No. ROCS-07-03051, dated February 13, 2007, and subsequently, the fund was released by the DBM directly to the TLRC.

On March 12, 2007, accused Veloso wrote a letter recommendation to the TLRC endorsing AARON as a conduit or NGO-partner of TLRC in the implementation of his PDAF-funded projects. Veloso maintains that he does not personally know anyone connected with AARON, and that it was the first time that he dealt with a foundation as NGO-partner. Before endorsing AARON, he already heard from his colleagues in Congress, and later verified by his secretary, that AARON has been dealing with Congress as an NGO-partner of government agencies chosen as implementing agencies, such as TLRC. Veloso then wrote a letter to TLRC recommending or endorsing AARON, and after which, his office

⁵⁸ Records, Vol. VII, pp. 327-344

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received a copy of the Tripartite Memorandum of Agreement, dated April 2, 2007, inclusive of all other documents, which were all pre-signed by the representatives of TLRC and AARON. Trusting that TLRC has already done due diligence in accrediting and qualifying the competence and financial capability of AARON, Veloso affixed his signature in the MOA. As to the second transaction involving his PDAF allocation amounting to Php10,000,000.00, covered by SARO No. D-07-05540, Veloso explained that it went through the same process as the first transaction. Accused Veloso further contends that he did not obtain any benefit, material or otherwise, in recommending or endorsing AARON to become the implementing partner of TLRC.

Accused Veloso further testified that he was not obligated and required by any law or by the two (2) Tripartite MOAs to monitor and supervise the project implementation, in particular, the disbursement of funds therefor. As explicitly provided in the MOAs, TLRC has the task of monitoring the status of the implementation of the program and the utilization of the fund during the project implementation. On the other hand, AARON has the obligation to submit to the TLRC a regular project implementation report.

Accused Veloso summarized the extent of his participation in the two transactions as follows: First, identifying the project and choosing TLRC as the implementing agency. Second, requesting the release of his PDAF allocation for specific amount directly to the TLRC to implement the identified project. Third, recommending or endorsing AARON which can act as implementing partner of TLRC, which recommendation or endorsement is subject to acceptance and approval of the TLRC whose obligation is to accredit and qualify the competence and financial capability of the NGO. Lastly, signing the tripartite MOAs together with TLRC as implementing agency and AARON as its implementing partner.

Ellen S. Zoleta, former Secretary of accused Veloso at the time material to the cases. In her Judicial Affidavit,³⁹ Zoleta testified that as former Secretary in the Office of Congressman Veloso, she was instructed by the latter sometime in December 2006 to verify if AARON had previous or existing transactions with Congress involving the implementation of PDAF-funded projects as NGO-partner of the implementing agency. Upon verifying with her colleagues who were working with some Congressmen, and upon looking into some official records, Zoleta learned that, indeed,

³⁹ Records, Vol. VII, pp. 443-456

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AARON has been dealing with some Congressmen as NGO-partner of their chosen IAs, such as TLRC.

Zoleta testified that sometime in March 2007, a representative of AARON came to the office of Veloso and requested that their foundation be endorsed by the congressman. Zoleta was then instructed to prepare and draft a letter addressed to TLRC recommending or endorsing AARON as NGO-partner of TLRC to implement his PDAF-funded projects. Afterwards, the AARON representative came back to Veloso's office and Zoleta gave her the recommendation letter signed by Veloso. The same representative went to Veloso's office again and gave documents for signing of Veloso, which the latter signed. The documents include the tripartite MOA with some attachments, which were already signed by the representatives of AARON and TLRC. Zoleta clarified that Veloso was not in the office when the representative of AARON went there. According to Zoleta, the second transaction occurred almost immediately after the first transaction and followed the same process as the first. She was also the one who prepared the recommendation letter for the second transaction and received the documents from AARON's representative. Zoleta claimed that Veloso signed the recommendation letters because AARON was already endorsed by TLRC as an accredited NGO-partner.

Dennis Cunanan, one of the accused, testified for himself. In his Judicial Affidavit,⁶⁰ Cunanan testified that he was the Deputy DDG of TLRC from December 2004 to December 2009. He then served as Director General of the TRC (renamed from TLRC) from January 2010 up to his resignation in March 2014. As Deputy Director General, he was co-signatory in the disbursement vouchers for the financial transactions undertaken by the TRC, as required by the level of his position and designation as Chief Operating Officer. He would also make reports to the Board of Trustees of TRC about the office's transactions and would make recommendations about office policies.

Accused Cunanan asserted that all PDAF transactions and processing were under the direct supervision of the office of Director General Ortiz. Cunanan claimed that his signing authority was limited by Ortiz through various issuances, such as: Office Circular No. 00GE0098,⁶¹ dated January 19, 2007, which clipped his signing authority at above PhP100,000.00 up to PhP1,000,000.00, when

⁶⁰ Records, Vol. II, pp. 394-436

⁶¹ Exhibit 1-Cunanan

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before it was the same level as Ortiz; Office Circular No. 000P0099,⁶² dated September 3, 2007, wherein Ortiz reiterated the signing limits in the earlier circular, and also spelled out the office practice of processing PDAF in the TLRC, specifically, that no PDAF shall be implemented without a MOA duly executed and that all MOA shall be endorsed by the Legislative Liaison Officer (LLO), for approval by Ortiz, after being reviewed by the Legal Department and initialled by the Group Manager of the Corporate Support Services Group (CSSG). Cunanan claimed that said circular stripped his office of any participation in the implementation of PDAF-funded projects; Office Circular No. 000P0100,⁶³ dated November 27, 2007, which revised slightly the implementing guidelines for PDAF accounts and reiterated the previous points about signing authority and preparation of documents; Memorandum No. 0DG-200712-081,⁶⁴ which amended Office Circular No. 00GE0098, and stated that in the case of the PDAF of legislators, the Group Manager of Technology and Livelihood Information Dissemination Services (TLIDSG), concurrently the LLO, shall act as alternate signatory of the DDG, as "Recommending Authority" to TRC's DVs for any amount exceeding PhP1,000,000.00.

Accused Cunanan explained that in signing the PDAF-related DVs, he first made sure that the attachments are complete in accordance with the checklist, such as the SAROs, endorsement letters from the legislator, MOA, and the Project Proposals. As the PDAF is treated as special funds when it reaches the TRC, Cunanan gets to sign the DVs before the final signature of Ortiz. Cunanan further explained that the two DVs in the subject PDAF transactions have the stamp "Verified as to the Completeness of the Documents Attached"⁶⁵ which were both signed by Maurine Dimaranan, TRC's Internal Auditor, hence, he trusted that indeed, the attachments are complete and regular. Cunanan also added that the resident COA auditors in TRC did not report any irregularities observed in the PDAF projects.

Accused Cunanan also stressed that when Ortiz suggested to increase the management fee collected by TRC from 1% to 3%, Cunanan issued a Memorandum,⁶⁶ dated February 9, 2007, addressed to Ortiz to emphasize his reservations that the increase should apply to all NGOs. He also suggested that the office come up

⁶² Exhibit 2-Cunanan

⁶³ Exhibit 3-Cunanan

⁶⁴ Exhibit 4-Cunanan

⁶⁵ Exhibits 12-Cunanan and 12-A-Cunanan

⁶⁶ Exhibit 13-Cunanan

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with a clear Policy Guidelines pertaining to all PDAF transactions before implementing any increase. Thus, when Cunanan assumed the position of Director General, he organized a committee to investigate and review TRC's PDAF projects implementation. He caused the issuance on January 28, 2010, of Office Circular No. 00PE0100b5,⁶⁷ regarding the Implementing Guidelines on Projects Funded Through PDAF or other Government Subsidy to make it comply with COA Circular No. 2007-001. They also wrote all the NGOs concerned to rectify their deficiencies and liquidate all unliquidated funds, and failing to do so, Cunanan blacklisted them through a Memorandum⁶⁸ issued on July 16, 2010.

Atty. Francisco B. Figura, one of the accused, testified for himself. In his Judicial Affidavit,⁶⁹ Figura testified that he joined TRC in July 1986, and at the time material to the cases, he was the Officer-in-Charge of the CSSG. The CSSG consists of the Legal and Administrative Department, Financial Services Department and Corporate and Acquired Assets Department. As OIC-Group Manager, he monitors and supervises the performance of the department heads, rate them accordingly, address their concerns to ensure efficiency, and represent them in the Management Committee (ManCom) of TRC. He first learned that TRC is an implementing agency of the PDAF projects when it was announced by Cunanan sometime in August 2006 in a ManCom meeting. Several months later, Ortiz, as Director General of TRC, issued an Office Circular No. OOG0098,⁷⁰ dated January 19, 2007, reiterating the office policies on authorized signatories for official documents.

In a TRC ManCom meeting in January 2007 to discuss the PDAF projects, Figura claimed that he recommended that TRC itself should implement the projects. Ortiz replied that TRC lacks warm bodies to implement the projects, to which Figura suggested the hiring of contractuales and job order personnel but Ortiz countered that they still have to be trained and the Civil Service requirements in hiring are stringent because of the Rationalization Law. Figura claimed that he mentioned the process of selecting the NGO, in particular, the requirement of public bidding, but Ortiz replied that livelihood training is part of the "soft" portion of the PDAF which does not require public bidding, unlike the "hard" portion such as infrastructure. Despite Figura's reservations, the final word of Ortiz

⁶⁷ Exhibit 5-Cunanan

⁶⁸ Exhibit 6-Cunanan

⁶⁹ Records, Vol. VIII, pp. 75-107A

⁷⁰ Exhibit 3-Figura

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as head of the agency was followed, that is, the NGO or Foundation designated in the official letter of the legislator should serve as the TRC conduit in implementing the PDAF. Figura testified that it was Ortiz who decided to impose a 1% management fee, plus PhP50,000.00 worth of TRC livelihood materials for every PDAF account. Ortiz also reiterated that the designated LLO should continue to coordinate with the legislator's office, vet or assess the qualifications of the recommended NGO, prepare the MOA in coordination with the legislator and the NGO, and other initiatory work needed to process the PDAF projects. Figura claimed that he tried to secure copies of the minutes of the ManCom meetings relevant to PDAF sometime in 2013, but no minutes were available. He has also resigned from TRC in July 2010 so he no longer has access to its records.

As proof of his reservations on the TRC policies regarding PDAF implementation, Figura made a handwritten note⁷¹ on Cunanan's Memorandum,⁷² dated February 9, 2007, addressed to Ortiz. In his note, Figura appealed to both Ortiz and Cunanan that due to the far-reaching implications and consequences of the PDAF matters/issues which may affect the very existence of the Center [TRC], the matters be thoroughly discussed in the ManCom and presented to the Board of Trustees of TRC for approval as policies related to operations are unavoidably involved. The policies were not presented to the BoT for approval but in one of the BoT meetings, Cunanan made a report on the PDAF accounts.

Accused Figura also pointed out that in his Memorandum,⁷³ dated April 4, 2007, addressed to Ortiz, he requested to be relieved of the duty to sign Box "A" of the DV in his capacity as OIC-DDG, insofar as PDAF of Congressmen are concerned, citing the serious implications and responsibilities attached to the said signature, and the huge amounts involved. Figura also mentioned in the memorandum that he shares the view of the Corporate Auditor in the AOM No. 2007-002, dated February 13, 2007, that the Center should make representations with the congressmen that the training and livelihood projects funded by their PDAF be implemented by the Center itself instead of the foundations. Figura added that if TRC lacks enough personnel to do the job, the foundations or NGOs should be accredited with TRC, have a good track record in implementing training and livelihood programs, and managed by

⁷¹ Exhibit 12-A-Figura

⁷² Exhibit 12-Figura

⁷³ Exhibit 11-Figura

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people with credibility and good reputation. Figura claimed that this was not acted upon by Ortiz.

Accused Figura denied that his office has a role in coordinating with the legislators on the PDAF projects and in the accreditation of the NGO partners. Such task belongs to the LLO, as shown in Memorandum Order No. 07,⁷⁴ issued by Ortiz on June 22, 2005, wherein the Legislative Liaison Office was reactivated and the functions of the LLO were defined. In a Memorandum,⁷⁵ dated January 10, 2006, Belina Concepcion was designated as LLO, and sometime in the middle of 2007, she was replaced by Ma. Rosalinda Lacsamana. As to the implementation of the PDAF projects or monitoring thereof, Figura claimed that it is the task of the TLIDSG. Figura further added that there were audit findings and observations related to PDAF accounts that were the subject of the exit conference in 2008, in particular, the Corporate Auditor raised the concern that the PDAF funds should be released in tranches and that proper monitoring of the implementation of the projects should be made by the TRC. In the exit conference in 2009, the audit team found that some foundations failed to implement the projects and recommended that these foundations be required to explain and blacklisted. For the years 2007, 2008, 2009 and 2010, not a single Notice of Disallowance was issued by the Corporate or Resident Auditor on the PDAF projects.

According to Figura, Ortiz issued other office circulars in relation to the PDAF accounts, such as Office Circular No. OOOP0099,⁷⁶ issued on September 3, 2007, which mandated the Implementing Guidelines on PDAF accounts; and Office Circular No. OOOP0100,⁷⁷ dated November 27, 2007, which revised partially the implementing guidelines.

While accused Figura admitted to counter-signing the checks subject of the cases, he maintained that it was part of his official function under Office Circular No. OGGE0998. The signing was also the last part in any disbursement process as Ortiz, head of TRC, already approved the DV and signed the checks as principal signatory. Thus, Figura argued that he was just performing a ministerial duty.

⁷⁴ Exhibit 9-Figura

⁷⁵ Exhibit 10-Figura

⁷⁶ Exhibit 1-Figura

⁷⁷ Exhibit 2-Figura

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The testimony of accused Figura was adopted by accused Veloso.

Maria Rosalinda Lacsamana, one of the accused, testified for herself. In her Judicial Affidavit,⁷⁸ Lacsamana testified on the truthfulness and veracity of the contents of her Counter-Affidavit, dated December 3, 2015. Lacsamana asserted that when she joined TLRC in 2006, it was implementing livelihood projects funded under the PDAF of members of Congress, which was then called Countrywide Development Fund (CDF). Aside from being Group Manager, Lacsamana was designated, for some time, as LLO for PDAF projects. Among her duties and responsibilities is to ascertain that the supporting documents relating to the projects were signed, complete, and in order. Her duties are part of standard operating procedures of TLRC and are ministerial in nature, thus, her acts were done in good faith. She claimed that the solicitation of PDAF projects from legislators is not her function. She does not even personally know any of the legislators in the PDAF cases and she does not deal with them or any of their staff directly. She maintained that she has no authority to enter into any agreement with legislators and the NGOs for the release of funds and implementation of their projects. Lacsamana emphasized that in the MOAs between TLRC, the legislator and the NGOs, neither her name nor her signature appears therein, or even as a witness thereto.

Accused Lacsamana explained that her participation in the subject PDAF cases was as signatory to the Release Memoranda,⁷⁹ dated March 20, 2007, and March 26, 2007, respectively. In signing the memoranda, she acted based on several TRC Office Circulars which serve as the guidelines for implementing livelihood projects funded under PDAF of members of Congress, the latest of which are Office Circular No. 000P0099,⁸⁰ issued on September 3, 2007, and Office Circular No. 000P0100, issued on November 27, 2007. The Release Memoranda came after the tripartite MOA and while dated earlier than the MOA, the latter were notarized later. Lacsamana asserted that the tenor of the release memoranda was merely recommendatory, as shown by the words "we are recommending" and at the bottom, the words "For your consideration". Thus, it is not a command to Ortiz who has the final say in TLRC as to which NGO will implement the project. Lacsamana maintained that she was only performing tasks which she was customarily doing, and not because

⁷⁸ Records, Vol. VIII, pp. 21-60.

⁷⁹ Exhibits 3-Lacsamana and 5-Lacsamana.

⁸⁰ Exhibits 6-Lacsamana to 6-B-Lacsamana and 7-Lacsamana to 7-C-Lacsamana.

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she took advantage of her public office or that she was motivated by bad faith, manifest partiality or a concerted effort or design to defraud the government.

Accused Lacsamana explained the initial processes and procedures followed before the tripartite MOA was executed, as follows: First, a senator or congressman makes a request for the release of their PDAF allocation. A project list accompanies the request, which is then sent to the Senate Finance Committee, in the case of a Senator, or the House Appropriations Committee, in the case of a House member. The Committee Chairman then endorses it to the Senate President or the Speaker, who then forwards it to the DBM. The DBM then releases the funds to the IA identified by the lawmaker, who is furnished a copy of the release document known as SARO. Finally, the lawmaker chooses the NGOs that received their funds and implemented their projects through a MOA among the legislator, IA and the NGO. Lacsamana asserted that she has no participation in the implementation of the PDAF during the procurement activities, the conduct of public bidding, or in the manner in which or how it is to be implemented. She also denied having control and responsibility over the funds of the TLRC or the PDAF as such funds are not under her custody. She also denied knowing Veloso personally, or any representative of the NGO involved in the present cases.

Accused Veloso adopted the testimony of accused Lacsamana.

Marivic V. Jover, one the accused, testified for herself. In her Judicial Affidavit,⁸¹ Jover asserted that she was merely performing her regular duties as the Chief Accountant of TLRC when she affixed her signature on the subject DVs. Her functions were ministerial in nature as they only dealt with checking of required documents forwarded to their division. She also does not know any of other accused, except for those who are also working in TLRC.

Accused Jover explained that she became Chief Accountant of TLRC from March 29, 2007 until October 31, 2015, although she started working as Accountant II in December 1991. As Chief Accountant, her duties and functions include monitoring accounting functions of the Center, certifying DVs as to availability of funds, preparation of financial reports for submission to the Management of TLRC and other duties as stated in her job description. Jover also

⁸¹ Records, Vol. VIII, pp. 193-210

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ensures that all accounting transactions comply with COA accounting guidelines, specifically, on the recording and reporting based on the Philippine Financial Reporting Standards (PFRS) and the Manuals on the New Government Accounting System (NGAS). She clarified that her functions do not include procurement, operation, audit, and cash/check preparation and release.

In relation to the implementation of PDAF projects, Jover's duty relates only to the financial matters and not on its implementation. The process undertaken by the Accounting Division is pursuant to Office Circular No. OOFN0059 which was modified by the Revised Implementing Guidelines on PDAF Accounts covered by Office Circular No. OOOO0100. Thus, the Accounting Division become involved in the process after the signatory to Box A of the DV already certified the lawfulness of the intended project, pursuant to the two circulars. In Box B of the DV, Jover certifies the availability of funds, that the expenditure is properly certified, that the expenditure is supported by documents, that account codes are proper, and that previous cash advance, if any, has been liquidated or accounted for. As part of her certification, Jover checked and found in order the supporting documents attached to the DVs, such as the SARO/NCA, TLRC Official Receipt, which evidenced receipt of funds from the Bureau of Treasury, signature on Box "A" of the requesting unit, endorsement letter of the legislator, and MOA. Jover also certified that account codes are proper, meaning that the PDAF transactions were recorded under Trust Liabilities-CDF/PDAF, with account code of 8-84-923, which is a liability or payable account.

Accused Jover further added that pursuant to Office Circular No. OOFN0059,⁸² she had no choice but to affix her signature on the DV provided that the transaction was already certified by the signatory of Box "A" and was supported by documents. Jover claimed that if she does not follow the procedures under the office circulars, she will be administratively disciplined for not following the prescribed standard procedures, and also, she will cause undue delay in the implementation of government-supported projects. Jover also testified that she has never met accused Veloso or any representative of AARON. She also denied receiving any consideration in signing the DVs.

The testimony of accused Jover was adopted by accused Veloso.

⁸² Exhibit 5-Figura

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Accused Figura,⁸³ Lacsamana,⁸⁴ Jover,⁸⁵ Veloso⁸⁶ and Cunanan⁸⁷ formally offered their respective documentary evidence, to which the prosecution filed its consolidated comment/opposition. The Court ruled to: (1) Admit Exhibits "4" and "5" for accused Veloso; "9", "10", "12" and "12-A" for accused Figura; and "5-Figura" for accused Jover, which shall be likewise marked as the latter's Exhibit "1"; (2) Admit, but not for the purpose for which they were offered, Exhibits "1", "2", "3", "6", and "7" for accused Veloso; "1" to "1-C" and "12" and "12-A" for accused Cunanan; "3" and "11" for accused Figura; and "1", "2", "3", and "4" for accused Lacsamana; (3) Deny Exhibits "2", "3", "4", "5" and "6" for accused Cunanan for being irrelevant, and "13" for not having been identified by the witness; "1" and "2" for accused Figura for being irrelevant, "5" for accused Lacsamana for not having been identified by the witness, and "6" and "7" for being irrelevant.

The prosecution formally offered Exhibits G-1, R-1, QQ, RR and SS as rebuttal evidence, which the Court admitted.

All the accused, except Ortiz, submitted their respective memoranda.

THE FACTS

Based on the evidence adopted and presented, and the stipulations between the prosecution and the accused, the Court finds the facts below.

At the time material to the cases, accused Veloso was the elected representative of the 3rd District of Leyte, while accused Ortiz, Cunanan, Figura, Lacsamana, and Jover, are all officials of the TRC/TLRC.

Sometime in March and April 2007, accused Veloso requested the release of his PDAF allocation to be utilized on livelihood programs for his constituents in the 3rd District of Leyte. He chose TLRC as implementing agency and endorsed AARON to be its NGO-partner in project implementation. Veloso's PDAF allocation was released pursuant to SAROs No. ROCS-07-03051 and No. ROCS-D-07-05540.

⁸³ Records, Vol. VIII, pp. 215-239

⁸⁴ Records, Vol. VIII, pp. 244-283

⁸⁵ Records, Vol. VIII, pp. 284-295

⁸⁶ Records, Vol. VIII, pp. 296-307

⁸⁷ Records, Vol. VIII, pp. 328-357

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Accused Veloso, Ortiz, and Alfredo Ronquillo of AARON subsequently entered into two separate MOAs on the planned implementation of the projects. The corresponding DVs and Checks were issued by TLRC in favor of AARON as payee, in the amounts of PhP14,400,000.00 and PhP9,800,000.00, respectively.

Based on a special audit conducted by the SAO-COA on the PDAF allocation of some senators and congressmen, it was observed that the subject transactions were not compliant to existing laws and regulations. Aside from the physical and legal existence of AARON turning out to be questionable, the PDAF remained unliquidated as of audit. Thereafter, COA issued two (2) Notices of Disallowance for the two SAROs involved.

The FIO of the Office of the Ombudsman started its investigation and filed the complaint against the accused on September 3, 2015.

Finding probable cause to indict Veloso, Ortiz, Cunanan, Figura, Lacsamana and Jover for two (2) counts each of violation of Section 3(e) of RA 3019, and Malversation, defined and penalized under Art. 217 of the Revised Penal Code, the Office of the Ombudsman, on May 24, 2019, filed the Informations against them.

Hence, this Decision.

DISCUSSION

The following discussion shall be limited to the participation of accused Veloso, Cunanan, Figura, Lacsamana and Jover only. Should the name of accused Ortiz who is still at large be inevitably mentioned, it is only to lend completeness to the narration of events, and will not ascertain his culpability, if any.

Section 3(e) of RA 3019, as amended, 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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(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted

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benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

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In *Consigna v. People of the Philippines*,⁸⁸ the Supreme Court enumerated the essential elements of violation of Sec. 3(e) of RA 3019, thus:

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

The first element is not disputed. As stipulated by the parties, the accused are public officials at all times material and relevant to the present cases. Accused Veloso, was the Representative of the 3rd District of Leyte, and TRC officials Cunanan, Figura, Lacsamana and Jover were all discharging administrative and/or official functions when Veloso's PDAF allocations were released to AARON for the supposed implementation of livelihood programs/projects.

The third element is likewise present. There are two ways by which Section 3(e) of RA 3019 may be violated—the first, by causing undue injury to any party, including the government, or the second, by giving any private party any unwarranted benefit, advantage or preference. Although neither mode constitutes a distinct offense, an accused may be charged under either mode or both. The disjunctive term "or" connotes that either act qualifies as a violation of Sec. 3 (e) of RA 3019. In other words, the presence of one would suffice for conviction.⁸⁹ Undue injury, as defined, means actual damage. It must be established by evidence and must have been caused by the questioned conduct of the offenders.⁹⁰

⁸⁸ April 2, 2014, 720 SCRA 350, 366

⁸⁹ *People of the Philippines v. Naciongayo*, G.R. No. 243897, June 8, 2020

⁹⁰ *Bacasmas v. Sandiganbayan*, July 10, 2013, 701 SCRA 35, 59

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In the present cases, the prosecution has sufficiently established that the PDAF funds released to AARON, amounting to PhP14,400,000.00 and PhP9,800,000.00, respectively, for the supposed implementation of livelihood projects in the 3rd District of Leyte remain unliquidated. It was through the accused's actions, collectively or individually performed, that the PDAF funds were released to said NGO. Nary a single testimony or document was offered to show that the subject PDAF funds were utilized for the public purpose that they have been allocated for, indicative of the undue injury caused to the government to the tune of PhP24,200,000.00 in lost or unaccounted for public funds.

Likewise, the prosecution was able to prove that the accused gave private individual Alfredo Ronquillo and/or AARON unwarranted benefits and advantage when it was selected to be the NGO-partner of TLRC in implementing the PDAF-funded livelihood projects.

As defined, "unwarranted" means lacking adequate or official support; unjustified; unauthorized or without justification or adequate reasons, while "advantage" means a more favorable or improved position or condition; benefit or gain of any kind; benefit from some course of action.⁹¹

Accused Veloso, for his part, unilaterally handpicked and endorsed AARON to be TLRC's partner without any adequate basis and justification. Accused Veloso claimed that he does not personally know anyone connected with AARON, and that he heard of AARON from his colleagues in Congress. The Court finds such claim dubious. During cross-examination, he failed to mention the names of the supposed congressmen who guaranteed AARON's track record of implementing PDAF-funded projects. Even his own witness, Ellen Zoleta, gave unconvincing testimony as to how their office supposedly vetted the qualification of AARON. Both Veloso and Zoleta claimed that the latter checked "official records" in determining the veracity that AARON has implemented projects for other congressmen. However, when cross-examined, Zoleta said that the official records she was pertaining to were documents from AARON's own representative. She also cannot name the particular congressmen who purportedly had previously worked with AARON, and whose staff allegedly told her about AARON.

Thus, it is highly suspect how Veloso could have specifically endorsed an NGO unknown to him and which he has not dealt with

⁹¹ *Cabrera v. People of the Philippines*, G.R. Nos. 191611-14, July 29, 2019

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at any time prior, without seeing any documentation of its qualifications and track record, to partner with TLRC in implementing his million-peso PDAF allocation. Even his endorsement letter already describes AARON as a duly accredited foundation by the TLRC, which runs counter to his assertion that the endorsement is merely recommendatory and still subject to TLRC's approval and accreditation. His claim that he relied on the assurance of Ortiz that AARON is the best foundation at that time does not persuade, as he could easily requested for documents if he was indeed acting on an honest belief that his PDAF allocations can be properly implemented by TLRC and its NGO-partner.

On the part of the TLRC officials, they simply adhered to the endorsement made by Veloso without first ascertaining the qualifications of AARON. None of the accused testified that TLRC had successfully transacted with AARON in the past as its partner in implementing PDAF-funded projects. Despite the supposed reservations of some of the accused in the transactions, they still proceeded with the release of the money to AARON. Moreover, as an implementing agency, they have in their network several NGOs which they can partner with, based on their track records. However, admittedly, the accused TLRC officials yielded to the endorsement of AARON by Congressman Veloso. All these acts led to giving unwarranted benefits and advantage to AARON.

Verily, in selecting AARON to the exclusion of other NGOs to act as partner of TLRC, absent any adequate justification, the accused gave Ronquillo and AARON unwarranted benefits and advantage. With the undue injury caused to the government in terms of unliquidated PDAF funds, coupled with the unwarranted benefits and advantage given to AARON, the third element is satisfied.

As to the second element, there are three modes to commit the crime, that is, through manifest partiality, evident bad faith, and/or gross inexcusable negligence, which the Court defined in *Fuentes v. Sandiganbayan*⁹² as follows:

"Partiality" is synonymous with "bias" which "excites a disposition to see and report matters as they are wished for rather than as they are." "Bad faith does not simply connote bad judgment or negligence; it imputes a dishonest purpose or some moral obliquity and conscious doing of a wrong; a breach of sworn duty through some motive or intent or ill will; it partakes of the nature of fraud." "Gross negligence has been so defined as negligence characterized by the want of even slight care,

⁹² G.R. No. 186421, April 17, 2017

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acting or omitting to act in a situation where there is a duty to act, not inadvertently but wilfully and intentionally with a conscious indifference to consequences in so far as other persons may be affected. It is the omission of that care which even inattentive and thoughtless men never fail to take on their own property.”

It must be emphasized that in the present cases, the two (2) Informations charging the accused of violation of Sec. 3(e) of RA 3019 only alleged that they acted with manifest partiality and/or evident bad faith in the commission of the offense.

In *Fuentes*, the Supreme Court further defined manifest partiality and evident bad faith, thus:

There is “manifest partiality” when there is a clear, notorious, or plain inclination or predilection to favor one side or person rather than another. On the other hand, “evident bad faith” connotes not only bad judgment but also palpably and patently fraudulent and dishonest purpose to do moral obliquity or conscious wrongdoing for some perverse motive or ill will. It contemplates a state of mind affirmatively operating with furtive design or with some motive or self-interest or ill will or for ulterior purposes.

The prosecution avers that the accused conspired with one another and acted with manifest partiality and/or evident bad faith when they caused the release of Veloso’s PDAF allocation to AARON which eventually failed to implement the PDAF-funded livelihood projects, in violation of existing laws, rules and regulations.

To start, accused Veloso admitted to performing the following acts in relation to the release of his two (2) PDAF allocations: First, that he wrote two separate letters to the House Speaker requesting the release of his PDAF allocations amounting to PhP15,000,000.00 and PhP10,000,000.00, respectively, to TLRC. Next, that he chose the TLRC as Implementing Agency of the two (2) PDAF allocations. Then, he wrote a letter recommendation to the TLRC endorsing and authorizing AARON as its conduit or NGO-partner in the implementation of his PDAF-funded projects. He also signed the Project Proposals, and the two (2) tripartite MOAs with TLRC Director General Ortiz and AARON President Ronquillo.

In his defense, accused Veloso averred that he endorsed AARON based on what he heard from his colleagues and the verification conducted by his secretary, Zoleta. Veloso denied

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personally knowing anyone from AARON, or that he obtained any benefit, material or otherwise, in endorsing AARON to become the implementing partner of TLRC. He also presented as witness his secretary, Zoleta, who testified that she learned that AARON has been dealing with some Congressmen as NGO-partner, upon verifying with her colleagues who were working with some Congressmen and by looking into some official records. Veloso further claimed that he signed the tripartite MOAs as he trusted that TLRC has already done its due diligence in accrediting and qualifying the competence and financial capability of AARON.

The Court is not persuaded.

To stress, the claim of accused Veloso that he endorsed AARON on the basis that he heard of the foundation from other members of Congress is quite implausible and finds no basis in law.

First, Veloso's exclusive endorsement of AARON to be TLRC's NGO-partner directly contravenes the provisions of the 2007 GAA. The law expressly lists the names of the implementing agencies, such as TLRC, as the authorized implementors of PDA-funded projects. No adequate justification was offered by Veloso in doing such illegal endorsement. That he supposedly recommended AARON based on what his colleagues said holds no evidentiary weight. Veloso cannot even pinpoint which specific congressman supposedly talked about TLRC and/or its NGO partners, which Veloso claimed to overhear during lunch at Congress. Even Zoleta, Veloso's secretary, who claimed that she verified from other Congress staff whether AARON indeed implemented PDAF-funded projects cannot provide the names of other Congress members who purportedly endorsed AARON. She even back tracked from her initial assertion that she checked "official records" as she later clarified that she did not in fact check any records from Congress. Rather, it was from AARON's representative that Zoleta supposedly saw the endorsement from other congressmen. To the Court's view, these are feeble attempts by accused Veloso to put forth a sense of legitimacy in his endorsement of AARON, in which he undoubtedly fails.

Second, there is the lingering question in the Court's mind as to why accused Veloso will go to such extent as to personally endorse AARON to be the conduit of his livelihood programs when, as he claims, he has only heard about AARON supposedly from his colleagues and thru the insistence by Ortiz. If Veloso was not so

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invested as to which NGO gets to partner with TLRC, and if his sole interest lies in ensuring that his constituents benefit from his PDAF through livelihood programs, then he can just easily let TLRC choose the best and most qualified NGO to implement the programs. After all, Veloso claimed that he relied on TLRC given its expertise in livelihood programs. It also does not make any sense as to why there is a need for Veloso to endorse AARON when it was supposedly Ortiz who insisted on having it as TLRC's partner. To recap, the project menu from which the congressmen can choose from only includes the names of the accredited implementing agencies. No NGO names appear in the menu. Hence, for accused Veloso to endorse AARON, a foundation whose qualifications and track record are unknown to him, and with such act of endorsement not even required of him, points to the conclusion that he acted in a plain inclination or predilection to favor AARON. Thus, Veloso's act of endorsing AARON to the exclusion of other NGOs is highly indicative of his manifest partiality.

Third, the Court likewise takes issue and finds it unbelievable that accused Veloso was not circumspect as to the qualification of AARON considering that the subject projects are, as admitted by him, his only PDAF-funded projects aimed for livelihood programs. Neither did accused Veloso monitor the implementation of the projects, nor did he even follow up with the TLRC as to the status of their execution or completion. Accused Veloso claimed that he was not obligated and required by any law or even by the MOAs to monitor and supervise the project implementation, especially, the disbursement of funds therefor. However, these projects are the first and only livelihood programs that he funded with his PDAF allocations in his nine years of service as Representative of his district. In addition, the target completion dates of the two projects are in March and April 2007. As his term ended on June 30, 2007, he had time to check the status of the projects, if indeed he is acting in good faith in allocating his PDAF for his constituents. Further, he also had the opportunity to physically ask his constituents when he supposedly helped his wife who ran as representative in the 3rd district of Leyte. It thus escapes the Court's mind how Veloso can display such utter disregard to the outcome of the project and the welfare of his constituents who would have benefited from his PDAF amounting to PhP24,200,000.00.

In sum, the actions of accused Veloso all point to the conclusion that it is with evident bad faith and manifest partiality to AARON that he endorsed the same, in violation of existing laws and regulations.

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As to accused TLRC officials, the prosecution tried to establish that their individual acts were performed in furtherance of a common criminal design which is to release Veloso's PDAF allocation to AARON despite the latter not being qualified or able to implement the livelihood projects.

For accused Cunanan, his participation in the subject transactions was in signing Box "A" of DV Nos. 012007030572⁹³ and 012007040794⁹⁴, issued by TLRC in the amounts of PhP14,400,000.00 and PhP9,800,000.00, respectively, in favor of AARON as the payee. In signing Box "A", Cunanan, as Deputy Director General of TLRC, certified that such expenses/cash advance was necessary, lawful and incurred under his direct supervision.

For accused Figura, his role was in counter-signing the two (2) checks, Check No. 850407,⁹⁵ dated March 28, 2007, in the amount of PhP14,400,000.00, and Check No. 850488,⁹⁶ dated April 30, 2007, in the amount of PhP9,800,000.00, both issued by TLRC to AARON.

Accused Jover, on the other hand, as Chief Accountant and OIC of TLRC's Accounting Division, signed Box "B" of DV Nos. 012007030572⁹⁷ and 012007040794⁹⁸, certifying that there is adequate available funds/budgetary allotment for the amounts of PhP14,400,000.00 and PhP9,800,000.00, respectively; that the expenditure is properly certified, that the expenditure is supported by documents per checklist, that account codes are proper, and that previous cash advance, if any, has been liquidated or accounted for.

For accused Lacsamana, Legislative Liaison Officer of TLRC, her participation in the transaction was in drafting and signing the two (2) Release Memoranda,⁹⁹ dated March 20, 2007, and March 26, 2007, which recommended the release of Veloso's PDAF allocation, in the amounts of PhP14,400,000.00 and PhP9,800,000.00, respectively, to AARON, subject to TLRC's retention of service fees and costs of livelihood materials.

⁹³ Exhibit I

⁹⁴ Exhibit T

⁹⁵ Exhibit J

⁹⁶ Exhibit U

⁹⁷ Exhibit I

⁹⁸ Exhibit T

⁹⁹ Exhibits 3-Lacsamana and 5-Lacsamana

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After a meticulous review of the documentary and testimonial evidence of both the prosecution and the accused, the Court finds that the prosecution failed to prove beyond reasonable doubt that accused Cunanan, Figura and Jover acted with manifest partiality and/or evident bad faith in participating in the subject transactions.

In a catena of cases, the Supreme Court has held that a mere signature or approval appearing on a document does not meet the required quantum of proof to establish the existence of conspiracy. Thus, conspiracy cannot solely be predicated on the very functions that a public officer had to discharge in the performance of his official duties. Verily, conspiracy is not the product of negligence but of intentionality on the part of cohorts.¹⁰⁰

Here, aside from the act of signing the pertinent documents related to the disbursement of the PDAF, the prosecution did not adduce additional evidence which will prove that accused Cunanan, Figura and Jover conspired with the other accused in carrying out the evil scheme of allocating PDAF to ghost projects. On the contrary, these accused were able to show that they merely acted in the performance of duties, as supported by TLRC office circulars which specifically delineated the accused's respective roles in the implementation of PDAF-funded projects. Moreover, accused Cunanan and Figura offered documentary evidence which showed that they raised with Ortiz their reservations on the TLRC policies pertaining to the implementation of PDAF.

For accused Cunanan, it is not disputed that he signed the DVs pursuant to TLRC Office Circular No. OOGE0098,¹⁰¹ dated January 19, 2007, which provides for the office policies on authorized signatories for official documents. The DVs Cunanan signed bore the certification of TLRC's Internal Auditor, Maurine Dimaranan, that she verified the completeness of the documents attached.¹⁰² Accused Cunanan claimed that he also checked the attached documents in accordance with the checklist, such as the SAROs, endorsement letters from Veloso, tripartite MOA, and the Project Proposals, all of which were available at the time he signed the DVs and duly prepared by the concerned officials, hence the appearance of regularity.

¹⁰⁰ *Macuiran v. People*, G.R. No. 235104, March 18, 2021

¹⁰¹ Exhibit 3-Figura

¹⁰² Exhibits 12-Cunanan and 12-A-Cunanan

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The Court also gives credence to accused Cunanan's assertion that he tried suggesting to Ortiz that TLRC come up with clear policy guidelines pertaining to all PDAF transactions before implementing any increase in management fees. In his Memorandum,¹⁰³ dated February 9, 2007, Cunanan emphasized his reservations that any increase should apply to all NGOs. This precludes a showing of manifest partiality toward a specific NGO. Even his co-accused Figura testified that Cunanan and Ortiz have conflicting views on office policies, which strengthens the assertion that Cunanan's and Ortiz's respective actions were not committed with a common criminal design. This was further highlighted when Cunanan later assumed the position of Director General, and he initiated the investigation and review of TLRC's implementation of PDAF-funded projects. He issued Office Circular No. 00PE0100b5,¹⁰⁴ or the Implementing Guidelines on Projects Funded Through PDAF or other Government Subsidy to make it comply with COA Circular No. 2007-001. Under his supervision, TLRC wrote all the NGOs concerned to rectify any deficiency and unliquidated funds. Finally, through a Memorandum¹⁰⁵ issued on July 16, 2010, Cunanan blacklisted the non-compliant NGOs, including AARON.

The prosecution likewise failed to sufficiently prove that accused Figura acted with manifest partiality and/or evident bad faith. Figura claimed that as early as January 2007, he already recommended in the ManCom meetings that it should be TLRC itself that should implement the projects, and if short-staffed, to hire contractual and job order personnel. Figura also supposedly mentioned the requirement of public bidding in the process of selecting the NGO. All his recommendations, however, were not favorably met by Ortiz. While such claims are not supported by the minutes of the meetings, Figura presented his handwritten note¹⁰⁶ on Cunanan's Memorandum,¹⁰⁷ dated February 9, 2007, addressed to Ortiz. In the note, it can be gleaned that Figura appealed to both Ortiz and Cunanan that due to the far-reaching implications and consequences of the PDAF matters/issues, that they should be thoroughly discussed in the ManCom and presented to the Board of Trustees for approval. He intimated that such matters may affect the very existence of TLRC. Another documentary evidence is Figura's Memorandum,¹⁰⁸ dated April 4, 2007, addressed to Ortiz, wherein

¹⁰³ Exhibit 13-Cunanan

¹⁰⁴ Exhibit 5-Cunanan

¹⁰⁵ Exhibit 6-Cunanan

¹⁰⁶ Exhibit 12-A-Figura

¹⁰⁷ Exhibit 12-Figura

¹⁰⁸ Exhibit 11-Figura

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Figura reiterated his suggestion that if TRC lacks enough personnel to do the job, the foundations or NGOs should be accredited with TRC, have a good track record in implementing training and livelihood programs, and managed by people with credibility and good reputation.

Accused Figura's reservation as to the impact of implementing PDAF-funded projects is further amplified in his Memorandum,¹⁰⁹ dated April 4, 2007, addressed to Ortiz, where he requested to be relieved of the duty to sign Box "A" of the DV in his capacity as OIC-DDG, insofar as PDAF of Congressmen are concerned. In his Memorandum, Figura cited the serious implications and responsibilities attached to the said signature, and the huge amounts involved. He also mentioned that he shares the view of the Corporate Auditor in AOM No. 2007-002, dated February 13, 2007, which states that TLRC should make representations with the congressmen that the training and livelihood projects funded by their PDAF be implemented by TLRC itself instead of the foundations.

Overall, the Court finds that these overt acts of accused Cunanan and Figura negate the presence of manifest partiality and/or evident bad faith on their part.

As to accused Jover, her participation by signing the subject DVs to certify that there are adequate funds or budgetary allotment in the amounts of PhP14,400,000.00 and PhP9,800,000.00, likewise did not amount to manifest partiality and/or evident bad faith, absent any other evidence to the contrary. Jover testified that pursuant to the Office Circular No. OOFN0059,¹¹⁰ the Accounting Division became involved in the process only after the signatory to Box A of the DV already certified the lawfulness of the intended project. In signing Box "B" of DV Nos. 012007030572¹¹¹ and 012007040794,¹¹² Jover certified that there are available funds and allotted budget for the amounts disbursed, and that the expenditure is certified and supported by documents per checklist. The documents include the SAROs, Release Memorandum, MOA, and Endorsement Letter, all of which were duly prepared by other officials. The Court agrees that Jover is not obligated to check whether the NGO was in fact properly accredited by the LLO. From an accounting point of view, as long as the required documents are attached, and the authorized official certified the lawfulness of the intended project, the account codes

¹⁰⁹ Exhibit 11-Figura

¹¹⁰ Exhibit 5-Figura

¹¹¹ Exhibit I

¹¹² Exhibit T

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are proper and any cash advances are liquidated, then Jover is rightfully performing her duty to sign the DVs. Hence, the Court finds that there was no attendant manifest partiality and/or evident bad faith in Jover's act of signing the DVs.

In *Sanchez v. People*,¹¹³ the Supreme Court explained that the good faith of heads of offices in signing a document will only be appreciated if they, with trust and confidence, have relied on their subordinates in whom the duty is primarily lodged.

In the present cases, accused Cunanan, Figura and Jover relied on Lacsamana, being the LLO, to have performed her duties of conducting the proper accreditation of AARON and reviewing the relevant documents required by the laws and rules prior to recommending the release of the PDAF. These duties belong to the LLO, as expressly stated in Memorandum Order No. 07,¹¹⁴ issued by Ortiz on June 22, 2005, which reactivated the Legislative Liaison Office and defined the functions of the LLO.

In *Martel, et al. v. People*,¹¹⁵ the Supreme Court explained that to constitute evident bad faith or manifest partiality, it must be proven that the accused acted with malicious motive or fraudulent intent. It is not enough that the accused violated a law, committed mistakes or was negligent in his duties. There must be a clear showing that the accused was spurred by a corrupt motive or a deliberate intent to do wrong or cause damage. Thus, there being none, accused Cunanan, Figura and Jover must be acquitted of the charge of violating Section 3(e) of RA 3019.

As to accused Lacsamana, the Court finds that the totality of her actions was attended with evident bad faith and manifest partiality to AARON.

First, it is not disputed that she was the designated LLO of TLRC at the time material to the cases. As such, her duties are clearly defined in Memorandum Order No. 07,¹¹⁶ issued by Ortiz on June 22, 2005, which reactivated the Legislative Liaison Office and organized directly under the Office of the Director General. As expressly provided therein, the LLO shall have the following functions:

¹¹³ August 14, 2013, 703 SCRA 586

¹¹⁴ Exhibit 9-Figura

¹¹⁵ G.R. No. 224720-23/G.R. No. 224765-68, February 2, 2021

¹¹⁶ Exhibit 9-Figura

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- To take charge and/or monitor the Priority Development Assistance Funds (PDAFs) released to TLRC and facilitate the execution of Agreements relative to the utilization of the said funds in accordance with Special Allotment Release Order (SARO)
- To offer Technology and Livelihood program packages specifically designed for Congressional District areas
- To coordinate, monitor and liaise facilitation of partnership programs/projects with Congressional Districts

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From the clear import of the memorandum, it is the LLO who is in charge and must monitor the PDAF released to TLRC and facilitate the execution of MOAs for the funds' utilization. The Memorandum further directed all operating units, who may have ongoing programs with members of Congress, to coordinate and/or turn over all related documents and provide status report to the LLO for appropriate intervention and coordination. Thus, all programs related to the PDAF must be coordinated or turned over to the LLO as the TLRC official in charge. As such, it is the LLO who issues the Memorandum recommending the release of the PDAF to a particular NGO.

Accused Lacsamana admitted signing the release memoranda but insisted that it was a ministerial duty on her part. She tried to evade liability by maintaining that she is not the head of the agency nor was she a signatory to the tripartite MOA. Her arguments failed to persuade the Court.

Admittedly, it is accused Lacsamana's duty to ascertain that the supporting documents relating to the projects were signed, complete, and in order. Accused Cunanan, Figura and Jover, are all in unison in asserting that the accreditation of the NGO-partner is lodged with the LLO. Even the DVs provide that one of the documents to be attached, as enumerated in the checklist, is the Release Memo, which is signed by Lacsamana.

In signing the release memo, Lacsamana did not provide sufficient justification as to how and why AARON was the selected NGO-partner. She failed to provide evidence as to how she conducted the accreditation of AARON, if an accreditation was performed at all. In fact, it was not disputed that no competitive bidding was conducted, which should have been carried out pursuant to RA 9184. Lacsamana conveniently blamed Veloso, who supposedly was the one who unilaterally chose AARON. If

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Lacsamana was in good faith in the performance of her duties, she could have, at the very least, checked the relevant documentation of AARON to ascertain its qualifications and capabilities as an NGO-partner, pursuant to COA Circular No. 96-003. Had she only exerted the littlest effort to request from AARON registration and financial documents, she would have been alerted by the red flags that AARON might be a sham NGO. Even the monitoring of post-implementation of the projects was not carried out by Lacsamana. Office Circular No. 000P0099,¹¹⁷ dated September 3, 2007, specifically provided that liquidation reports and accomplishment reports must be submitted by TLRC as project implementor. Yet, as observed in the present cases, no single document was available to prove that the PDAF was utilized for the intended livelihood programs. Accused Lacsamana did not even claim that she reached out to AARON to ask for updates at any time after the PDAF was released. It is unclear as to why Lacsamana blatantly disregarded the existing laws and rules at that time, despite knowing fully well her duties and responsibilities. The setup thus seemed too convenient to still be accorded good faith.

With the foregoing, the Court arrives at the inevitable conclusion that accused Veloso and Lacsamana acted with unity of purpose and through manifest partiality and evident bad faith, gave unwarranted benefits to AARON and caused undue injury to the government in the total amount of PhP24,200,000.00, thereby violating Section 3(e) of RA 3019, as amended.

The accused are also charged with the crime of Malversation, defined and penalized under Article 217 of the Revised Penal Code, as amended by RA 10951, to wit:

Article 217 of the Revised Penal Code states:

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, 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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¹¹⁷ Exhibit 2-Cunanan

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5. The penalty of *reclusion temporal* in its maximum period, if the amount involved is more than Four million four hundred thousand pesos (P4,400,000) but does not exceed Eight million eight hundred thousand pesos (P8,800,000). If the amount exceeds the latter, the penalty shall be *reclusion perpetua*.

In all cases, persons guilty of malversation shall also suffer the penalty of perpetual special disqualification and a fine equal to the amount of the funds malversed or equal to the total value of the property embezzled.

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.

Malversation may be committed by appropriating public funds or property; by taking or misappropriating the same; by consenting, or through abandonment or negligence, by permitting any other person to take such public funds or property; or by being otherwise guilty of the misappropriation or malversation of such funds or property.¹¹⁸

To commit the crime of malversation of public funds, the following elements must be present:

1. that the offender is a public officer;
2. that he had the custody or control of funds or property by reason of the duties of his office;
3. that the funds or property were public funds or property for which he was accountable; and
4. that he appropriated, took, misappropriated or consented or, through abandonment or negligence, permitted another person to take them.¹¹⁹

The first element is stipulated. The accused are all public officers at the times material and relevant to the present cases.

Likewise, the second and third elements are present. The accused, by virtue of their respective positions and roles in the

¹¹⁸ *Zoleta v. Sandiganbayan (Fourth Division)*, July 29, 2015, 764 SCRA 110, 122

¹¹⁹ *Mesina v. People*, June 17, 2015, 758 SCRA 639

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subject transactions, are considered accountable officers having custody or control over the disbursement of the subject PDAF, which is undisputedly public funds. As defined, the PDAF is a lump-sum, discretionary fund wherein legislators are able to effectively control certain aspects of the fund's utilization and is primarily intended for local projects.¹²⁰ Accused Veloso, for his part, had control over his PDAF allocation and requested its release for the supposed implementation of his livelihood programs. The rest of the accused, as officials of TLRC, which is Veloso's chosen implementing agency, received the PDAF allocation then processed and effected its disbursement to AARON.

As to the fourth element, the Court finds that it has also been sufficiently established by the prosecution.

In the crime of malversation of public funds, all that is necessary for conviction is sufficient proof that the accused accountable officer had received public funds or property, and did not have them in his possession when demand therefor was made without any satisfactory explanation of his failure to have them upon demand. For this purpose, direct evidence of the personal misappropriation by the accused is unnecessary as long as he cannot satisfactorily explain the inability to produce or any shortage in his accounts.¹²¹

In the present cases, it is not disputed that AARON failed to implement the supposed livelihood programs which were funded by Veloso's PDAF. To date, the funds remain unliquidated. Some of the local chief executives in the 3rd district of Leyte, at the time material to the cases, denied receiving or knowing about the programs. Thus, public funds were disbursed to finance fictitious projects facilitated by an unqualified and unaccredited NGO. To put it bluntly, nothing came out of the Php24,200,000.00 PDAF allocation.

There is no question that the ultimate release of Veloso's PDAF to AARON was initiated by Veloso himself, who admitted exclusively endorsing AARON to be TLRC's NGO-partner, in direct contravention of the 2007 GAA which provides for only select implementing agencies to implement PDAF-funded projects. Veloso proffered no satisfactory explanation as to his baseless endorsement, thereby leaving unrebutted the presumption that he misappropriated the PDAF for personal use or conspired with others

¹²⁰ *Belgica v. Executive Secretary Ochoa*, G.R. No. 208566, November 19, 2013.

¹²¹ *Mesina v. People*, June 17, 2015. 758 SCRA 639

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to do so. The Court is neither convinced that the endorsement was merely recommendatory. Based on accused Lacsamana's testimony, which was adopted by Veloso, it was the lawmaker that chooses the NGO that will receive the funds and implement the projects. This was further evinced when Veloso signed the project proposals prepared by AARON, and the tripartite MOAs, together with TLRC's Ortiz and AARON's Ronquillo.

To complement Veloso's endorsement, accused Lacsamana recommended the release of the PDAF to AARON, despite not properly accrediting the NGO and ascertaining its capability in implementing the programs. Accused Lacsamana, as TLRC's LLO, had the duty to examine and review the relevant documentation of the NGOs. From her own testimony, she admitted that her duties and responsibilities include ascertaining that the supporting documents relating to the projects were signed, complete, and in order. However, as shown by the evidence on record, she blatantly and wilfully disregarded the prevailing laws and rules at the time, which resulted in the unfortunate disbursement of millions of PDAF allocation to an unscrupulous NGO.

Following RA 9184 and considering the attendant circumstances in the present cases, a competitive bidding should have been done in the selection of the NGO. Next, the proper accreditation of the NGO should have been conducted by Lacsamana, pursuant to COA Circular No. 96-003. Minimum requirements asked of the NGO are the Certificates of Registration to ensure its legal personality, that it has responsible officers, and that it is based in the community where the project shall be implemented. The NGO's financial statements for at least three (3) years should also have been checked, as well as a list of projects that it has previously undertaken. Notably, Lacsamana failed to adduce evidence that these steps in the accreditation of AARON, if at all an accreditation was conducted, were followed. Admittedly, there was no competitive bidding held as they went with Veloso's choice of NGO which, as it turned out, proved to be a sham. Had accused Lacsamana not actively participated in the illegality of the whole process, the PDAF will not have fallen into AARON's hands to be malversed.

Thus, the Court finds that the prosecution was able to prove beyond reasonable doubt that accused Veloso and Lacsamana, through their concerted actions, as public officers accountable for the PDAF allocations which are under their custody or control by

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reason of the duties of their office, misappropriated or permitted Ronquillo/AARON to take the funds, thereby committing the crime of malversation.

While RA 10951, which amended Art. 217 of the RPC, provides that the law shall have retroactive effect, it only finds application when favorable to the accused. In the present cases, although the acts were committed prior to RA 10951, the subject amounts both exceeded the threshold of PhP8,800,000 with an imposable penalty of *reclusion perpetua*. As it is not favorable to the accused, the Court will not apply the penalty provided in the amending law.

As to accused Cunanan, Figura and Jover, it is well to note that the prosecution failed to prove beyond reasonable doubt that they acted with a common criminal design in allowing the release of the PDAF to AARON. It is an elementary rule that the evidence for the prosecution is the yardstick for determining the sufficiency of proof necessary to convict, and that the prosecution must rely on the strength of its own evidence rather than on the weakness of the evidence for the defense.¹²²

For accused Cunanan and Figura, the Court found exculpatory their overt acts of asserting their reservations about the subject transactions albeit done after affixing their signatures. For accused Jover, she signed the DVs to certify that funds are adequate and allotted from the budget. The pertinent documents attached to the DVs are prepared and signed by other accused, who are the obligated officers pursuant to the office circulars. At best, the individual participations of Cunanan, Figura and Jover can be categorized as grossly negligent in the performance of their respective duties. Indeed, mistakes committed by a public officer are not actionable absent any clear showing that they were motivated by malice or gross negligence amounting to bad faith.¹²³ Accordingly, a society that values the good name and freedom of every individual should not condemn a man for commission of a crime when there is reasonable doubt about his guilt.¹²⁴ Nevertheless, such gross negligence does not exempt them from being civilly liable as their actions contributed to the injury suffered by the government.

¹²² *Nicolas v. Sandiganbayan*, February 11, 2008, 544 SCRA 324

¹²³ *Saviano v. Ombudsman*, July 13, 2009, 592 SCRA 394, 406

¹²⁴ *People v. Claro*, G.R. No. 199894, April 5, 2017

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Considering that the acquittal of accused Cunanan, Figura and Jover is based on reasonable doubt, the Court holds that they are not exonerated from civil liability.

An acquittal will not bar a civil action in the following cases: (1) where the acquittal is based on reasonable doubt as only preponderance of evidence is required in civil cases; (2) where the court declared that the accused's liability is not criminal, but only civil in nature; and (3) where the civil liability does not arise from, or is not based upon the criminal act of which the accused was acquitted.

In the present cases, the participation of accused Cunanan, Figura and Jover in the subject transactions is stipulated. There is no question that their individual acts are instrumental in the release of Veloso's PDAF allocation to AARON. While Cunanan and Figura may have expressed their reservations to the TLRC policies related to the implementation of the PDAF, ultimately, they still affixed their signatures to the DVs and the checks, respectively, which resulted in the disbursement. In addition, they allowed AARON to implement the projects without TLRC conducting a competitive bidding. For accused Jover, as Chief Accountant, she failed to follow the process detailed in COA Circular No. 96-003 which instructs that for projects above PhP300,000.00, as in the subject transactions, the release shall be made in tranches. Accused Cunanan, Figura and Jover are thus remiss in their duties and must be held civilly liable.

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

1. In Criminal Case Nos. SB-19-CRM-0138 and -0139, accused **EDUARDO K. VELOSO** and **MA. ROSALINDA M. LACSAMANA** are hereby found **GUILTY** beyond reasonable doubt of violation of Section 3 (e) of RA 3019, and are hereby sentenced to suffer the indeterminate penalty of imprisonment of six (6) years and one (1) month, as minimum, up to ten (10) years, as maximum, for each count, with perpetual disqualification from holding public office.

Accused **DENNIS L. CUNANAN**, **FRANCISCO B. FIGURA**, and **MARIVIC V. JOVER** are hereby **ACQUITTED** for failure of the prosecution to prove their guilt beyond reasonable doubt. Considering that the act or omission from which the civil liability arises exists, civil liability may likewise be assessed against accused Cunanan, Figura and Jover.

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Hence, by way of civil liability, accused Veloso, Lacsamana, Cunanan, Figura and Jover are hereby ordered to indemnify the government and return to the Treasury, jointly and severally, the sum of Twenty Four Million Two Hundred Thousand Pesos (Php24,200,000.00) which represents the amounts wrongfully and illegally disbursed.

2. In Criminal Case Nos. SB-19-CRM-0140 and -0141, accused **EDUARDO K. VELOSO** and **MA. ROSALINDA M. LACSAMANA** are hereby found **GUILTY** beyond reasonable doubt of Malversation of public funds under Art. 217 of the Revised Penal Code, as amended. There being no mitigating or aggravating circumstance in these cases, they are hereby sentenced to suffer the indeterminate penalty of imprisonment of twelve (12) years and one (1) day of *reclusion temporal*, as minimum, to eighteen (18) years, eight (8) months and one (1) day of *reclusion temporal*, as maximum, for each count.

Accused Veloso and Lacsamana are **ordered to pay a fine of Twenty Four Million Two Hundred Thousand Pesos (Php24,200,000.00)**, equal to the amount malversed. They shall also suffer the penalty of perpetual special disqualification from holding any public office.

Accused **DENNIS L. CUNANAN, FRANCISCO B. FIGURA,** and **MARIVIC V. JOVER** are hereby **ACQUITTED** for failure of the prosecution to prove their guilt beyond reasonable doubt.

Accordingly, the hold-departure orders issued against accused Cunanan, Figura and Jover in connection with these cases are hereby lifted and set aside, and the bonds they posted for their provisional liberty are ordered released, subject to the usual accounting and auditing procedures.

SO ORDERED.


EFREN N. DE LA CRUZ
Chairperson/Associate Justice



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WE CONCUR:

Geraldine Faith A. Econg
GERALDINE FAITH A. ECONG
Associate Justice

Arthur O. Malabaguio
ARTHUR O. MALABAGUIO
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.

Efren N. De La Cruz
EFREN N. DE LA CRUZ
Chairperson, First Division

CERTIFICATION

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

Amparo M. Cabotaje-Tang
AMPARO M. CABOTAJE-TANG
Presiding Justice