

Republic of the Philippines
SANDIGANBAYAN
Quezon City

SECOND DIVISION

PEOPLE OF THE PHILIPPINES, CRIMINAL CASE NOS. 25550 to
Plaintiff, 25552; 25554 to 25557. 25559 to
25560; 25562 to 25563; 25566;
25570 to 25571

*For: Violation of Sec. 3(E), R.A.
No. 3019, as amended*

-versus-

CRIMINAL CASE NO. 25568
*For: Violation of Section 3(h) R.A.
No. 3019)*

Present:

Herrera, Jr., J., Chairperson
Musngi, J. &
Pahimna, J.

ANTONIO P. CALINGIN, ET AL. *Promulgated:*
Accused. *March 22, 2019*

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Pahimna, J.

DECISION

Accused ANTONIO P. CALINGIN, former **Municipal Mayor** of Claveria, Misamis Oriental stands charged with fourteen (14) counts of violation of Section 3(e) and one (1) count of violation of 3(h) both of Republic Act No. 3019 (R.A. No. 3019), otherwise known as the Anti-Graft and Corrupt Practices Act, along with the following municipal officials of Claveria, Misamis Oriental: **Municipal Treasurer LOURDES E. PLANTAS**, **Assistant Municipal Treasurer JOAQUIN S. DILAG**, **Municipal Accountant ESTRELLITA E. BALLESCAS**,¹ and **Municipal Engineer ROMEO P. ESTRADA**. Also charged are the following private persons: **RENATO C. QUIBLAT**, **ANDY D. BEJASA** (Chairman of the Board, Blue Marlin Integrated Development Corporation), **KIM C. TULIO** (President and Chairman of the Board, Macajalar Construction, Inc.), "THE PROPRIETOR" of Musuan Peak Resources & Development Corporation, **ROCKY CALINGIN** (Manager, PSB Enterprises, Inc.), and "THE PROPRIETOR" of Saver's Plaza Auto Parts, under separate informations, all dated 2 December 1998, the accusatory portions of which each reads:

¹ Also known as Estrellita Labile Balleascas. (See records, p. 834).

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CRIMINAL CASE NO. 25550

(For Violation of Section 3(e), R.A. No. 3019)

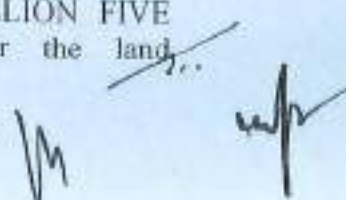
"That on or before May 1995 and sometime prior or subsequent thereto, at the Municipality of Claveria, Misamis Oriental, Philippines, and within the jurisdiction of this Honorable Court, the accused, ANTONIO P. CALINGIN, a high ranking public officer, being then the Municipal Mayor of Claveria, while in the performance of his official functions, committing the offense in relation to his public office, taking advantage of his official position, in connivance and in conspiracy with the following private persons, namely; ANDY D. BEJASA, the Chairman of the Board of Blue Marlin Integrated Development Corporation, a private corporation duly organized and registered in accordance with Philippine Law; and KIM C. TULIO, the President and Chairman of the Board of Macajalar Construction, Inc., a private corporation duly organized and registered in accordance with Philippine law, with evident bad faith and manifest partiality did then and there wilfully, unlawfully and criminally cause undue injury to the government and public interest and at the same time giving unwarranted benefits and advantages to said private persons, ANDY D. BEJASA and KIM C. TULIO, by releasing and allowing the payment of the amount of FOUR MILLION FIVE HUNDRED THOUSAND PESOS (P4,500,000.00) to said private persons as payment for various items of construction works in the Balay Ticala Housing Project of the municipality, although the actual accomplishments of said private persons were worth only ONE MILLION SEVEN HUNDRED SIX THOUSAND, EIGHT HUNDRED FIFTY-FOUR PESOS AND SEVENTY CENTAVOS (P1,706,854.70), thereby causing undue injury to the government and public interest, in the sum of TWO MILLION SEVEN HUNDRED NINETY-THREE THOUSAND ONE HUNDRED FORTY-FIVE PESOS AND THIRTY CENTAVOS (P2,793,145.30)."

CONTRARY TO LAW.

CRIMINAL CASE NO. 25551

(For Violation of Section 3(e), R.A. No. 3019)

That on or about 02 December 1995 and sometime prior or subsequent thereto, at the Municipality of Claveria, Misamis Oriental, Philippines, and within the jurisdiction of this Honorable Court, the accused, ANTONIO P. CALINGIN, a high ranking public officer, being then the Municipal Mayor of Claveria and LOURDES E. PLANTAS, the Municipal Treasurer; a low ranking public officer of Claveria, Misamis Oriental, while in the performance of their official positions, committing the offense in relation to their public office, taking advantage of their official functions, conspiring and confederating with one another, acting with evident bad faith and manifest partiality, did then and there wilfully, unlawfully and criminally cause undue injury to the government and public interest and at the same time giving unwarranted benefits and advantages to said ANTONIO P. CALINGIN, by reimbursing the said ANTONIO P. CALINGIN in the amount of ONE MILLION FIVE HUNDRED THOUSAND PESOS (P1,500,000.00) for the land



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management development expenses of the Balay Ticala Housing Project in the Municipality, spent by the said ANTONIO P. CALINGIN, although no land management development expenses were actually spent by ANTONIO P. CALINGIN, thereby causing undue injury to the government and public interest, in the sum of ONE MILLION FIVE HUNDRED THOUSAND PESOS (P1,500,000.00).

CONTRARY TO LAW.

CRIMINAL CASE NO. 25552

(For Violation of Section 3(e), R.A. No. 3019)

That on or before 22 December 1995 and sometime prior or subsequent thereto, at the Municipality of Claveria, Misamis Oriental, Philippines, and within the jurisdiction of this Honorable Court, the accused ANTONIO P. CALINGIN, a high ranking public officer, being then the Municipal Mayor of Claveria; and LOURDES E. PLANTAS, a low ranking public officer being the Municipal Treasurer of Claveria, while in the performance of their official functions, committing the offense in relation to their public office, taking advantage of their official positions, conspiring and confederating with each other, acting with evident bad faith and manifest partiality, did then and there wilfully, unlawfully and criminally cause undue injury to the government and public interest and at the same time giving unwarranted benefits and advantages to said ANTONIO P. CALINGIN, by releasing and allowing payment to him the sum of SEVEN HUNDRED FIFTY THOUSAND PESOS (P750,000.00), representing the Project Management Fee of DVF Construction, in connection with the Balay Ticala Housing Project of the municipality, although no project management services were actually rendered to said project, thereby causing undue injury to the government and public interest in the sum of SEVEN HUNDRED FIFTY THOUSAND PESOS (P750,000.00).

CONTRARY TO LAW.

CRIMINAL CASE NO. 25554

(For Violation of Section 3(e), R.A. No. 3019)

That on or before 19 January 1996 and sometime prior or subsequent thereto, at the Municipality of Claveria, Misamis Oriental, Philippines, and within the jurisdiction of this Honorable Court, the accused, ANTONIO P. CALINGIN, a high ranking public officer, being then the Municipal Mayor of Claveria; LOURDES E. PLANTAS, the Municipal Treasurer; and ESTRELLITA E. BALLESCAS, the Municipal Accountant, both low ranking officers of Claveria, Misamis Oriental, while in the performance of their official functions, committing the offense in relation to their public office, taking advantage of their official positions, conspiring and confederating with one another, acting with evident bad faith and manifest partiality, did then and there wilfully, unlawfully and criminally cause undue injury to the government and public interest and at the same time



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giving unwarranted benefits and advantages to said ANTONIO P. CALINGIN, by reimbursing the said ANTONIO P. CALINGIN in the amount of TEN THOUSAND PESOS (P10,000.00) for the expenses he spent in titling of land pertaining to the Balay Ticala Housing Project of the municipality, although such titling of land was not actually processed, thereby causing undue injury to the government and public interest, in the sum of TEN THOUSAND PESOS (P10,000.00).

CONTRARY TO LAW.

CRIMINAL CASE NO. 25555

(For Violation of Section 3(e), R.A. No. 3019)

That on or before 19 January 1996 and sometime prior or subsequent thereto, at the Municipality of Claveria, Misamis Oriental, Philippines, and within the jurisdiction of this Honorable Court, the accused, ANTONIO P. CALINGIN, a high ranking public officer, being then the Municipal Mayor of Claveria; LOURDES E. PLANTAS, the Municipal Treasurer; and ESTRELLITA E. BALLESCAS, the Municipal Accountant, both low ranking public officers of Claveria, Misamis Oriental, while in the performance of their official functions, committing the offense in relation to their public office, taking advantage of their official positions, conspiring and confederating with one another, acting with evident bad faith and manifest partiality, did then and there wilfully, unlawfully and criminally cause undue injury to the government and public interest and at the same time giving unwarranted benefits and advantages to said ANTONIO P. CALINGIN, by reimbursing the said ANTONIO P. CALINGIN in the amount of ONE HUNDRED FIFTY FIVE THOUSAND PESOS (P155,000.00) for the sinking fund he deposited with the PNB Trust Department, in connection with the Balay Ticala Housing Project of the municipality, although such amount was not actually deposited by said ANTONIO P. CALINGIN with the said bank, thereby causing undue injury to the government and public interest, in the sum of ONE HUNDRED FIFTY FIVE THOUSAND PESOS (P155,000.00).

CONTRARY TO LAW.

CRIMINAL CASE NO. 25556

(For Violation of Section 3(e), R.A. No. 3019)

That [o]n or before 22 January 1996 and sometime prior or subsequent thereto, at the Municipality of Claveria, Misamis Oriental, Philippines, and within the jurisdiction of this Honorable Court, the accused, ANTONIO P. CALINGIN, a high ranking public officer, being then the Municipal Mayor of Claveria; LOURDES E. PLANTAS, the Municipal Treasurer; ESTRELLITA E. BALLESCAS, the Municipal Accountant; and ROMEO P. ESTRADA, the Municipal Engineer, all low ranking public officers of Claveria, Misamis Oriental, while in the

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performance of their official functions, committing the offense in relation to their office, taking advantage of their official position, conspiring and confederating with one another and together with a private person, the Proprietor of Musuan Peak Resources and Development Corporation, a private corporation duly organized and registered in accordance with Philippine Law, acting with evident bad faith and manifest partiality, did then and there wilfully, unlawfully and criminally cause undue injury to the government and public interest and at the same time give unwarranted benefits to the said Proprietor of Musuan Peak Resources and Development Corporation, by leasing a road grader from the said Proprietor of Musuan Peak Resources and Development Corporation, without conducting a prior public bidding among other interested lessors of heavy equipments in the municipality, and thereafter releasing and allowing payment of ONE HUNDRED THIRTY ONE THOUSAND AND SEVENTY FIVE PESOS (P131,075.00) to said private person by reason of the lease.

CONTRARY TO LAW.

CRIMINAL CASE NO. 25557

(For Violation of Section 3(e), R.A. No. 3019)

That on or before 07 February 1996 and sometime prior or subsequent thereto, at the Municipality of Claveria, Misamis Oriental, Philippines, and within the jurisdiction of this Honorable Court, the accused, ANTONIO P. CALINGIN, a high ranking public officer, being then the Municipal Mayor of Claveria, LOURDES E. PLANTAS, the Municipal Treasurer, ESTRELLITA E. BALLESCAS, the Municipal Accountant, both low ranking public officers, while in the performance of their official functions, committing the offense in relation to their public office, taking advantage of their official positions, conspiring and confederating with each other and together with a private person, ROMEO C. QUIBLAT, acting with evident bad faith and manifest partiality, did then and there wilfully, unlawfully and criminally cause undue injury to the government and public interest and at the same time giving unwarranted benefits and advantages to said ROMEO C. QUIBLAT, by releasing and allowing payment to him the sum of FORTY-THREE THOUSAND AND FOUR HUNDRED TWENTY-EIGHT PESOS (P43,428.00), for the surveying services of said ROMEO C. QUIBLAT in connection with the Balay Ticala Housing Project of the municipality, although no surveying services were actually rendered to said project, thereby causing undue injury to the government and public interest in the sum of FORTY-THREE THOUSAND AND FOUR HUNDRED TWENTY-EIGHT PESOS (P43,428.00).

CONTRARY TO LAW.

CRIMINAL CASE NO. 25559

(For Violation of Section 3(e), R.A. No. 3019)

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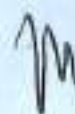

That on or before 07 February 1996 and sometime prior or subsequent thereto, at the Municipality of Claveria, Misamis Oriental, Philippines, and within the jurisdiction of this Honorable Court, the accused, ANTONIO P. CALINGIN, a high ranking public officer, being then the Municipal Mayor of Claveria; LOURDES E. PLANTAS, the Municipal Treasurer; ESTRELLITA E. BALLESCAS, the Municipal Accountant, both low ranking public officers of Claveria, Misamis Oriental, while in the performance of their official functions, committing the offense in relation to their public office, taking advantage of their official positions, conspiring and confederating with one another, acting with evident bad faith and manifest partiality, did then and there wilfully, unlawfully and criminally cause undue injury to the government and public interest and at the same time giving unwarranted benefits and advantages to said ANTONIO P. CALINGIN, by reimbursing the said ANTONIO P. CALINGIN in the amount of TWO HUNDRED THOUSAND PESOS (P200,000.00) for the land management development expenses of the Balay Ticala Housing Project in the Municipality, spent by the said ANTONIO P. CALINGIN, although no land management development expenses were actually spent by said ANTONIO P. CALINGIN, thereby causing undue injury to the government and public interest, in the sum of TWO HUNDRED THOUSAND PESOS (P200,000.00).

CONTRARY TO LAW.

CRIMINAL CASE NO. 25560

(For Violation of Section 3(e), R.A. No. 3019)

That on or before 20 February 1996 and sometime prior or subsequent thereto, at the Municipality of Claveria, Misamis Oriental, Philippines, and within the jurisdiction of this Honorable Court, the accused, ANTONIO P. CALINGIN, a high ranking public officer, being then the Municipal Mayor of Claveria; LOURDES E. PLANTAS, the Municipal Treasurer; ESTRELLITA E. BALLESCAS, the Municipal Accountant, both low ranking public officers of Claveria, Misamis Oriental, while in the performance of their official functions, committing the offense in relation to their public office, taking advantage of their official positions, conspiring and confederating with one another, acting with evident bad faith and manifest partiality, did then and there wilfully, unlawfully and criminally cause undue injury to the government and public interest and at the same time giving unwarranted benefits and advantages to said ANTONIO P. CALINGIN, by reimbursing the said ANTONIO P. CALINGIN in the amount of ONE HUNDRED THOUSAND PESOS (P100,000.00) for the land management development expenses of the Balay Ticala Housing Project in the Municipality, spent by the said ANTONIO P. CALINGIN, although no land management development expenses were actually spent by the said ANTONIO P. CALINGIN, thereby causing undue injury to the government and public interest, in the sum of ONE HUNDRED THOUSAND PESOS (P100,000.00).

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CONTRARY TO LAW.

CRIMINAL CASE NO. 25562

(For Violation of Section 3(e), R.A. No. 3019)

That on or before March 1996 and sometime prior or subsequent thereto, at the Municipality of Claveria, Misamis Oriental, Philippines, and within the jurisdiction of this Honorable Court, the accused ANTONIO P. CALINGIN, a high ranking public officer, being then the Municipal Mayor of Claveria; LOURDES E. PLANTAS, the Municipal Treasurer; ESTRELLITA E. BALLESCAS, the Municipal Accountant; JOAQUIN S. DILAG, the Assistant Municipal Treasurer and ROMEO P. ESTRADA, the Municipal Engineer, all low ranking officers of Claveria, Misamis Oriental, while in the performance of their official functions, committing the offense in relation to their office, taking advantage of their official positions, conspiring and confederating with one another, and together with ROCKY CALINGIN, the Manager of PSB Enterprises, Inc., acting with evident bad faith and manifest partiality, did then and there wilfully, unlawfully and criminally cause undue injury to the government and public interest and at the same time giving unwarranted benefits to said ROCKY CALINGIN, by leasing a road grader from PSB Enterprises, Inc., to be used in the Balay Ticala Housing Project of the municipality, without conducting a prior public bidding among other interested lessors of heavy equipments in the municipality, and thereafter releasing and allowing payment of THREE HUNDRED EIGHTY-SIX THOUSAND FOUR HUNDRED EIGHTY-FOUR PESOS (P386,484.00) to said ROCKY CALINGIN by reason of the lease.

CONTRARY TO LAW.

CRIMINAL CASE NO. 25563

(For Violation of Section 3(e), R.A. No. 3019)

That on or before 02 April 1996 and sometime prior or subsequent thereto, at the Municipality of Claveria, Misamis Oriental, Philippines, and within the jurisdiction of this Honorable Court, the accused, ANTONIO P. CALINGIN, a high ranking public officer, being then the Municipal Mayor of Claveria and LOURDES E. PLANTAS, the Municipal Treasurer; ESTRELLITA E. BALLESCAS, the Municipal Accountant, both low ranking public officers, while in the performance of their official functions, committing the offense in relation to their public office, taking advantage of their official positions, conspiring and confederating with each other and together with a private person, ROMEO C. QUIBLAT, acting with evident bad faith and manifest partiality, did then and there wilfully, unlawfully and criminally cause undue injury to the government and public interest and at the same time giving unwarranted benefits and advantages to said ROMEO C. QUIBLAT, by releasing and allowing payment to him the sum of THIRTEEN THOUSAND, FIVE HUNDRED SEVENTY-FOUR PESOS AND SIXTY CENTAVOS (P13,574.60), for the surveying services of said ROMEO C. QUIBLAT in connection with

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Balay Ticala Housing Project of the municipality, although no surveying services were actually rendered to said project, thereby causing undue injury to the government and public interest in the sum of THIRTEEN THOUSAND, FIVE HUNDRED SEVENTY FOUR PESOS AND SIXTY CENTAVOS (P13,574.60).

CONTRARY TO LAW.

CRIMINAL CASE NO. 25566

(For Violation of Section 3(e), R.A. No. 3019)

That on or before 02 April 1996 and sometime prior or subsequent thereto, at the Municipality of Claveria, Misamis Oriental, Philippines, and within the jurisdiction of this Honorable Court, the accused, ANTONIO P. CALINGIN, a high ranking public officer, being then the Municipal Mayor of Claveria; LOURDES E. PLANTAS, a low ranking public officer being the Municipal Treasurer of Claveria, while in the performance of their official functions, committing the offense in relation to their public office, taking advantage of their official positions, conspiring and confederating with each other, acting with evident bad faith and manifest partiality, did then and there wilfully, unlawfully and criminally cause undue injury to the government and public interest and at the same time giving unwarranted benefits and advantages to said ANTONIO P. CALINGIN, by releasing and allowing payment to him the sum of THREE HUNDRED EIGHTY THOUSAND FOUR HUNDRED FIFTY FOUR PESOS AND FIFTY FIVE CENTAVOS (P380,454.55), representing the Project Management Fee of Karee and Company, in connection with the Balay Ticala Housing Project of the municipality, although no project management services were actually rendered to said project, thereby causing undue injury to the government and public interest in the sum of THREE HUNDRED EIGHTY THOUSAND FOUR HUNDRED FIFTY FOUR PESOS AND FIFTY FIVE CENTAVOS (P380,454.55).

CONTRARY TO LAW.

CRIMINAL CASE NO. 25568

(For Violation of Section 3(h), R.A. No. 3019)

That on or before 02 April 1996 and sometime prior or subsequent thereto, at the Municipality of Claveria, Misamis Oriental, Philippines, and within the jurisdiction of this Honorable Court, the accused, ANTONIO P. CALINGIN, a high ranking public officer, being then the Municipal Mayor of Claveria; LOURDES E. PLANTAS, the Municipal Treasurer; ESTRELLITA E. BALLESCAS, the Municipal Accountant; and ROMEO P. ESTRADA, the Municipal Engineer, all low ranking officers of Claveria, Misamis Oriental, did then and there wilfully, criminally and unlawfully have financial or pecuniary interest in a business, contract or transaction in connection with which said ANTONIO P. CALINGIN intervened or took part in his official capacity in which he is prohibited by

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law from having any interest, by endorsing for deposit under Account No. 810487-9, his personal account number at the Philippine National Bank, Lim Ket Kai Branch, Cagayan de Oro City, PNB Check No. 487634 amounting to FOUR HUNDRED FIFTY THOUSAND THREE HUNDRED TWENTY-ONE PESOS AND SIXTY THREE CENTAVOS (P450,321.63), in payment for the materials purchased from Ristian Hardware, Cagayan de Oro City.

CONTRARY TO LAW.

CRIMINAL CASE NO. 25570

(For Violation of Section 3(e), R.A. No. 3019)

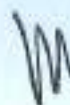
That on or before 04 June 1996 and sometime prior or subsequent thereto, at the Municipality of Claveria, Misamis Oriental, Philippines, and within the jurisdiction of this Honorable Court, the accused, ANTONIO P. CALINGIN, a high ranking public officer, being then the Municipal Mayor of Claveria; LOURDES E. PLANTAS, the Municipal Treasurer; and ESTRELLITA E. BALLESCAS, the Municipal Accountant, both low ranking public officers of Claveria, Misamis Oriental, while in the performance of their official functions, committing the offense in relation to their public office, taking advantage of their official positions, conspiring and confederating with each other, acting with evident bad faith and manifest partiality, did then and there wilfully, unlawfully and criminally cause undue injury to the government and public interest and at the same time giving unwarranted benefits and advantages to said ANTONIO P. CALINGIN, by reimbursing the said ANTONIO P. CALINGIN in the amount of THIRTY THOUSAND PESOS (P30,000.00) for the expenses he spent in the titling of land pertaining to the Balay Ticala Housing Project of the Municipality, although such titling of land was not actually processed, thereby causing undue injury to the government and public interest, in the sum of THIRTY THOUSAND PESOS (P30,000.00).

CONTRARY TO LAW.

CRIMINAL CASE NO. 25571

(For Violation of Section 3(e), R.A. No. 3019)

That [o]n or before 09 July 1996 and sometime prior or subsequent thereto, at the Municipality of Claveria, Misamis Oriental, Philippines, and within the jurisdiction of this Honorable Court, the accused, ANTONIO P. CALINGIN, a high ranking public officer, being then the Municipal Mayor of Claveria; LOURDES E. PLANTAS, the Municipal Treasurer; ESTRELLITA E. BALLESCAS, the Municipal Accountant; and ROMEO P. ESTRADA, the Municipal Engineer, all low ranking public officers of Claveria, Misamis Oriental, while in the performance of their official functions, committing the offense in relation to their office, taking advantage of their official position, conspiring and confederating with one another and together with a private person, the Proprietor of Saver's Plaza



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Auto Parts, Cagayan de Oro City, acting with evident bad faith and manifest partiality, did then and there wilfully, unlawfully and criminally cause undue injury to the government and public interest and at the same time giving unwarranted benefits and advantages to said Proprietor of Saver's Plaza Auto Parts, by purchasing a water tank fiber glass from the said Saver's Plaza Auto Parts, without conducting a prior public bidding among others interested suppliers in the Municipality, and thereafter releasing and allowing payment of ONE HUNDRED THOUSAND PESOS (P100,000.00) to said private person.

CONTRARY TO LAW.”

Accused Municipal Mayor Calingin, Municipal Accountant Ballescas, Municipal Engineer Estrada, and Assistant Municipal Treasurer Dilag, all pleaded not guilty to the respective charges against them upon their arraignment on July 14, 2008. Accused Quiblat also pleaded not guilty for Criminal Case Nos. 25557 and 25563 on November 24, 2008.

Meanwhile, the rest of the accused remain at-large.

Originally, forty-seven (47) Informations for violation of Section 3 (e) and (h) of R.A. No. 3019 and Article 220 of the Revised Penal Code were filed with this Court docketed as Criminal Case Nos. 25549-25595. Thereafter, in the Court's Order of August 23, 2009, thirty-two (32) (Criminal Case Nos. 25549, 25553, 25558, 25561, 25564, 25565, 25567, 25569, and 25572 to 25595) out of the forty-seven (47) Informations were dismissed upon Manifestation/Motion (Re: Withdrawal of Informations) filed by the prosecution on June 17, 2009, on the ground that that the charges and facts are already included in the other cases and to effect a smooth and orderly trial of the remaining cases.²

Meantime, accused Municipal Treasurer LOURDES E. PLANTAS, Assistant Municipal Treasurer JOAQUIN S. DILAG, and Municipal Engineer ROMEO P. ESTRADA, respectively died on August 11, 2005, March 29, 2014, and September 24, 2014. Hence, through Order dated April 12, 2011 and Resolution dated March 31, 2015, the cases against them were dismissed.

After arraignment, the prosecution, on one hand, and accused Calingin with Ballescas, Dilag and Estrada, including accused Quiblat, on the other hand, entered into a Joint Stipulation of Facts, submitted to the Court on February 17, 2009, as follows: (1) that all accused are public officers at the time of the alleged commission of the offense, accused Calingin, Ballescas, Dilag and Estrada, being then the Municipal Mayor, Municipal Accountant, Assistant Municipal Treasurer, Municipal Engineer, respectively of the municipality of Claveria, Misamis Oriental; (2) that accused Renato C. Quiblat is a private

² Records, pp.1010-1011, 1024.

M Cfr

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individual, a licensed geodetic engineer, charged as the one who conducted surveying services for the Balay Ticala Project; (3) that one of the components of the Balay Ticala Project is the conduct of land survey activities; (4) that the Municipal Government of Claveria, Misamis Oriental undertook a project called the Balay Ticala Project; and, (5) that an audit team from the Commission on Audit, Region X, composed of Adolfa Creayla, Eng, Joseph O. Pagala, Edna Reyes, Judylene T. Cabrerros, conducted a special audit on the Balay Ticala Housing Project.³

Thereafter, the prosecution presented two witnesses, namely: Ms. Adolfa A. Creayla, State Auditor IV, OIC- Supervising Auditor for COA Regional Office No. X, Cagayan de Oro City; and Mr. Joseph O. Pagala, now Information Technology Specialist III assigned at COA Region X, Cagayan de Oro City, and was then State Auditor II, for the Regional Office. Thereafter, it formally offered its evidence through its Formal Offer of Documentary Exhibits filed on August 24, 2011. The Court's Resolution of January 9, 2012, admitted all the documentary evidence offered by the prosecution.

After the prosecution has rested its case, the following were filed by the defense: Motion for Leave to File Demurrer to Evidence, Motion to be Allowed to File Demurrer to Evidence with Leave of Court, and Manifestation (of adoption of such motions), respectively filed on February 03 and 10, 2012 and September 6, 2012, by accused Ballescas (with Estrada and Dilag), Calingin, and Quiblat.

The Resolution dated January 7, 2013 denied the foregoing motions.

The defense then presented its witnesses. Accused Quiblat was the first to take the stand. Next were Assistant Municipal Treasurer Dilag and Municipal Engineer Estrada, both of whom, however, subsequently died. Thereafter, for accused Ballescas, Dilag and Estrada, Celia Fe Emanel and Cresencio D. Gamon took the stand. Municipal Accountant Ballescas also testified and as her corroborative witnesses, she presented Persevenia Cutas Madjos and Leonedisa G. Sales. Meanwhile, for failure of accused Municipal Mayor Calingin to present evidence on his behalf and pursuant to the February 1, 2016 Order, accused Calingin, was deemed, in the Order of April 12, 2016, to have waived his right to present evidence.

Thereafter, only accused Municipal Accountant Ballescas filed a Formal Offer of Evidence which was received on June 30, 2016. On October 27, 2016, the Court admitted all Ballescas' documentary evidence.

³ Records, pp. 937-938 (Joint Stipulation of Facts).

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Subsequently, after the prosecution and accused Ballescas filed their respective Memorandum, the cases were deemed submitted for decision.

EVIDENCE FOR THE PROSECUTION

The documentary and testimonial evidence for the prosecution reveal the following antecedents:

In a Joint Venture Agreement (JVA) dated January 25, 1995, the Municipality of Claveria, represented by accused Calingin, then Mayor of the Municipality of Claveria, Misamis Oriental, contracted Blue Marlin Integrated Development Corporation (Blue Marlin), represented by accused Andy D. Bejasa, to develop 187,357 square meters of land located at Barangay Patrocinio, Claveria, Misamis Oriental and construct thereon 1,342 housing units. This low-cost housing project was referred to as the Balay Ticala Housing Project. Php20 Million municipal bond floatation proceeds were earmarked as initial development fund to complete and finish at least eight-five (85) housing units.

Thereafter, on April 5, 1995, Blue Marlin represented by Andy D. Bejasa, executed a Deed of Assignment in favor of Macajalar Construction Inc., represented by Kim C. Tulio, assigning and granting to the latter full power and authority to "do and perform" the January 25, 1995 JVA.

In May 1995, Blue Marlin/Kim Tulio was paid Php4.5 Million Pesos for the various items of work undertaken on the project.

By February 1996, the Municipality of Claveria took over the implementation of the housing project. Eleven (11) housing units were constructed with a total expenditure of Php5,870,873.42

After one month from the takeover, the municipality ceased construction.

On April 8, 1996, Macajalar Construction through its President, Kim C. Tulio, executed an Affidavit of Quit Claim, waiving any and all of its rights or those of its successors-in-interest in the housing project in favor of the Municipality of Claveria or its authorized representative.

Then, sometime in 1996, Adolfa A. Creayla, CPA, State Auditor IV, Officer-In-Charge (OIC) Supervising Auditor for COA Regional Office No. X, Cagayan de Oro City, as head of the Internal Control System Evaluation received an assignment to conduct internal control system evaluation on the municipality of Claveria, Misamis Oriental. Noting several irregularities in the municipality's receipts and vouchers, COA Regional Office Order No. 96-X-68

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dated November 5, 1996⁴ was thereafter issued creating a Special Audit Team led by State Auditor Creayla, with Engineer Joseph Pagala, Technical Audit Specialist II, Enda B. Rejas, State Auditor I, and Judylene N. Tuazon, State Auditing Examiner II, as members, to conduct fraud audit on the Municipality of Claveria.

The audit was held from January 10, 1997 to March 17, 1997. At the conclusion thereof, the special audit team submitted a Special Audit Report dated October 21, 1997⁵ and Joint Affidavit dated October 23, 1997,⁶ with the following observations on the Balay Ticala Housing Project covering calendar years 1995 and 1996:

- 1) Evaluation conducted on the Balay Ticala Housing Project revealed the projects over-all accomplishments were worth P4,472,728.70 only as against the total amount utilized for the purpose of P10,370,873.42, resulting in losses of P5,898,144.72.
- 2) The Municipal Mayor approved the payment of P386,484.00 for rental of grader/heavy equipment to PSB Enterprises, Inc, whose Manager is Mr. Rocky S. Calingin, the Municipal Mayor's son, contrary to the provisions of Section 3 (h) of R.A. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act and Art. 403 of the Implementing Rules and Regulations (IRR) of R.A. 7160. Likewise, its lease of equipment from the said company had no legal basis because no contract of lease was executed for the purpose and no authority was secured from the Sangguniang Bayan in violation of Section 444 Item 1 (VI) of R.A. 7160. Further, rental services from the said company was secured without the benefit of public bidding in violation of Section 536 of the Government Accounting and Auditing Manual, Volume 1 (GAAM).

In addition, we noted the following checks were endorsed by Mayor Antonio P. Calingin, viz:

Payee	Check No.	Date	Amount	Remarks
Karre & Company	487635	4.02.96	P380,454.55	Endorsed by Mayor Antonio P. Calingin for deposit under Account No. 810487-9
PBS Enterprises	487632	4.02.96	89,775.00	-do-
PBS Enterprises	487633	4.02.96	43,225.00	-do-
Ristian Hardware	487634	4.02.96	450,321.63	-do-
PSB Enterprises	487704	4.16.96	35,000.00	Endorsed & encashed by Mayor Calingin
DVF Construction	952905	12.22.95	750,000.00	-do-

It may be worth remembering that some checks which were payable to Mayor Calingin were endorsed by him for deposit to account no. 810487-9.

⁴ Exhibit A.

⁵ Exhibit B.

⁶ Exhibit C.

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- 3) The amount of P2,750,000.00 out of P9.8 Million proceeds from bonds flotation was used for purposes other than for which such bonds were floated resulting in illegal use of public funds.
- 4) Disbursements of P9.5 M were made without accounting processing and signature of the Municipal Accountant, in violation of Section 344 of R.A. 7160. Likewise, these disbursements were not supported with the required documents, in violation of Section 4 (6) of P.D. 1445.
- 5) The check of P4.5 M payable to Blue Marlin Integrated Development Corp./Kim Tulio bore only the signature of Municipal Mayor Antonio P. Calingin, as authorized by the Sangguniang Bayan members, in violation of Section 345 of R.A. 7160 and Section 43 of COA Circular No. 92-382.
- 6) Payments amounting to P1,995,000.00 were made to Mayor Antonio P. Calingin instead of the creditor's or their authorized representatives, in violation of Section 93 of P.D. 1445.
- 7) A total of P2,553,763.47 in the General Fund was used to pay expenditures of the Balay Ticala Housing Project despite the absence of an appropriation for the purpose, contrary to Section 4 (1) of P.D. 1445 and Section 336 of R.A. 7160.
- 8) Copies of contracts and purchase orders entered into by the Municipality with several contractors/suppliers for the Balay Ticala Housing Project totaling P6,748,357.00 were not furnished the Office of the Provincial Auditor for review, in violation of the provisions of COA Circular Nos. 76-34, 82-195, and 96-010.

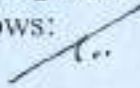


Through 1st Endorsement dated October 31, 1997,⁷ the COA Regional Director transmitted this Special Audit Report⁸ together with the Joint Affidavit⁹ to the Ombudsman-Mindanao. After preliminary investigation and reinvestigation, forty-seven (47) Informations for violation of Section 3 (e) and (h) of R.A. No. 3019 and Article 220 of the Revised Penal Code were filed with this Court docketed as Criminal Case Nos. 25549-25595. Thereafter, as mentioned above, via Court's August 23, 2009 Order, thirty-two (32) out of the forty-seven (47) Informations were dismissed upon manifestation/ motion filed by the prosecution on June 17, 2009, on the ground that that the charges and facts are already included in other cases and "to effect a smooth and orderly trial" of the herein remaining 15 cases, which are: Criminal Case Nos. 25550, 25551, 25552, 25554, 25555, 25556, 25557, 25559, 25560, 25562, 25563, 25566, 25568, 25570, and 25571.

As to the herein fifteen (15) active cases, the prosecution presented State Auditor Adolfa A. Creayla and COA Engineer Joseph O. Pagala, who identified on the stand the following documents and testified as follows:

⁷ Exhibit D.

⁸ Exhibit B.

⁹ Exhibit C.

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**SUMMARY OF TESTIMONY OF STATE
AUDITOR ADOLFA A. CREAYLA**

Witness is the State Auditor IV, OIC- Supervising Auditor for COA Regional Office No. X, Cagayan de Oro City. Sometime in 1996, she, as head of the Internal Control System Evaluation received an assignment to conduct internal control system evaluation on the municipality of Claveria, Misamis Oriental. Noting several irregularities in the municipality's receipts and vouchers, COA Regional Office Order No. 96-X-68 dated November 5, 1996¹⁰ was thereafter issued creating a Special Audit Team led by her, with Engineer Joseph O. Pagala, Technical Audit Specialist II, Enda B. Rejas, State Auditor I, and Judylene N. Tuazon, State Auditing Examiner II, as members, to conduct fraud audit on the Municipality of Claveria.

For **CRIMINAL CASE NO. 25550**, State Auditor Creayla observed that Disbursement Voucher No. 1¹¹ for "partial payment of contract for the construction of Balay Ticala Housing Project along Block Nos. 1 & 2 with the following construction activity to wit: Mobilization, construction of single and Duplex Housing unit & Land Development located at Patrocinio, Claveria, Misamis Oriental under PNB Check No. 952901 as per supporting papers hereto attached in the amount of FOUR MILLION FIVE HUNDRED THOUSAND PESOS ONLY", did not pass the Municipal Accountant's Office, there being no signature thereon of the Municipal Accountant. The same is also not supported with documents, such as bidding documents, the comprehensive plans, accomplishment report, agency inspection report, billing statement and official receipt. Also, no public bidding was undertaken in entering into a joint venture with Blue Marlin.¹²

Likewise, after a careful assesment of the actual accomplishment, it was found that the actual cost of accomplishment was allegedly worth Php1.7 Million Pesos only as compared to the total expenditures of Php 4.5 Million Pesos; thus, an overpayment of Php 2.7 Million Pesos was made. In addition, there were two (2) claimants as shown on the face of the disbursement voucher – Blue Marlin Integrated Development Corporation (BMIDC) and Kim Tulio. The latter, who signed as the recipient in Disbursement Voucher No. 1 was the representative of the sub-contractor to whom Blue Marlin assigned the JVA without the consent of the municipality. Creayla noted that the Municipality of Claveria does not appear to be a party to the Deed of Assignment.¹³

In **CRIMINAL CASE NO. 25551**, State Auditor Creayla said that considering the amount, PNB Check No. C-952906 dated December 22, 1995

¹⁰ Exhibit A.

¹¹ Exhibit E.

¹² TSN, September 15, 2009, pp. 14-15.

¹³ TSN, September 15, 2009, pp. 16-21.

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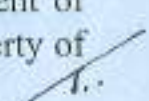
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and Disbursement Voucher No. 5¹⁴ for "reimbursement of land development expenses xxx in the total amount of One Million Five Hundred Thousand Pesos xxx" payable to the order of Antonio P. Calingin", should not have been made payable to accused Calingin, but to the supplier/contractor. She added that the January 25, 1995 JVA covers land development under item 2.1 thereof which says: "*The developer shall undertake the land development xxx*"; hence, the Php4.5 Million Pesos payment to Blue Marlin should cover land development expenses. Moreover, Disbursement Voucher No. 5 did not pass the Municipal Accountant; and accused Calingin was the indicated claimant and sole signatory thereof as certifying and approving officer as well as the recipient of the check. It also lacked bidding documents, accomplishment report, billing statement and official receipt. Also notable is that the check was indorsed by accused Calingin for deposit to Account No. 810487-9 as shown by the dorsal portion thereof.¹⁵

As regards **CRIMINAL CASE NO. 25552**, State Auditor Creayla remarked that in spite of the absence of supporting documents like billing statement and accomplishment report, PNB Check No. 952905-R dated December 22, 1995 in the amount of Php750,000.00 was issued payable to the order of "DVF CONSTRUCTION AND/OR CASH" which per Disbursement Voucher No. 4,¹⁶ was for the "payment of project management fee for Ticala Housing Project."

She further noticed that Disbursement Voucher No. 4 did not pass the Municipal Accountant considering the absence of the signature of the Municipal Accountant thereon. Also, the same bears the signature of accused Calingin as certifying and approving officer and as the recipient of the check including its proceeds considering the signatures of accused Calingin on the dorsal portion thereof. She added that she has not encountered a contractor in the name of "DVF Construction" during the audit. There was, instead, a "Preferred Ventures Corporation" contracted as consultant for the municipality's bond floatation. She referred to Ordinance No. 94-29, authorizing accused Calingin to sign the Agreement between the Municipality of Claveria and Preferred Ventures Corporation represented by Danilo V. Fausto anent the latter's engagement as consultant of the municipality in the floatation of its bonds.¹⁷

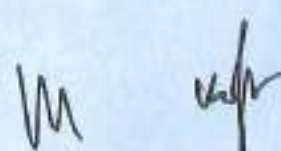
Anent **CRIMINAL CASE NO. 25554**, Disbursement Voucher No. 101-01-9638 and PNB Check No. 485311-W dated January 19, 1996, payable to the order of "ANTONIO P. CALINGIN-MUN. MAYOR, CLAVERIA, MIS. OR." in the amount of Ten Thousand Pesos (Php10,000.00) for "reimbursement of miscellaneous expenses incurred in the processing of titling of mun. property of 

¹⁴ Exhibit F and F-1.

¹⁵ TSN, September 15, 2009, pp. 25-30.

¹⁶ Exhibit G and G-1.

¹⁷ TSN, September 15, 2009, pp. 31-38.



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BALAY TICALA HOUSING PROJECT¹⁸ were not allegedly substantiated by any supporting documents.¹⁹

Similarly, in **CRIMINAL CASE NO. 25555**, State Auditor Creayla observed that PNB Check No. 485319-W dated January 19, 1996 payable to the order of "ANTONIO P. CALINGIN-MUN. MAYOR, CLAVERIA, MIS. OR." in the amount of One Hundred Fifty-Five Thousand Pesos (PhP155,000.00) and Disbursement Voucher No. 101-01-96-45 "[t]o reimburse deposit made to PNB Trust Department for Sinking Fund requirement for TICALA Housing Project, Claveria, Mis. Or. xxx"²⁰ have no supporting documents like deposit slip. Meanwhile, appearing at the back of the check is the signature of accused Calingin.²¹

In connection with **CRIMINAL CASE NO. 25556**, State Auditor Creayla presented PNB Check No. 485327-W dated January 22, 1996, payable to the order of "MUSUAN PEAK RESOURCES AND DEVT. CORPORATION - CLAVERIA" in the amount of One Hundred Thirty-One Thousand and Seventy-Five Pesos (PhP131,075) and Disbursement Voucher No. 101-01-96-54, for "payment of rental of Road Grader used for Balay Ticala Housing Project xxx" bearing handwritten notes of Claveria Auditor-In-Charge Theodore Magtu to the following effect: "Incomplete documentation - 1. No O.R.; 2) No inspection report of agency; 3) no accomplishment report; 4) lease contract accomplished/notarized for legal reasons."²² State Auditor Creayla noted that the same were without supporting documents such as official receipts, the bidding documents, accomplishment report, and the contract of lease.²³

Relative to **CRIMINAL CASE NO. 25557**, PNB Check dated February 7, 1996, payable to the order of "ENG. RENATO C. QUIBLAT - CAGAYAN DE ORO CITY" in the amount of Php43,428.00 and Disbursement Voucher No. 101-96-02-208²⁴ were also irregularly issued and paid for surveying services despite the non-attachment of the surveying contract, accomplishment report, and statement of account.²⁵

Identified for **CRIMINAL CASE NO. 25559**, were PNB Check No. 485363-W dated February 7, 1996 in the amount of Php200,000.00 payable to the order of "ANTONIO P. CALINGIN-MUN. MAYOR, CLAVERIA, MIS. OR." and Disbursement Voucher No. 101-96-02-211, to "reimburse expenses

¹⁸ Exhibits H and H-1.

¹⁹ TSN, September 15, 2009, pp. 39 - 41.

²⁰ Exhibits I and I-1.

²¹ TSN, September 15, 2009, pp. 42-45.

²² Exhibits J and J-1.

²³ TSN, January 18, 2010, p. 12.

²⁴ Exhibit K and K-1.

²⁵ TSN, January 18, 2010, pp.15-16.

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with land management development of Balay Ticala Project.”²⁶ State Auditor Creayla again said that considering the amount, the payment should have been made payable to the contractor. Further, land management development was already included in the JVA with Blue Marlin and was already included in the Php4.5 Million Pesos paid to Blue Marlin. She also noted at the back of the check that the proceeds thereof were indorsed by accused Calingin and deposited to Account No. 810487-9.²⁷

As regards **CRIMINAL CASE NO. 25560**, PNB Check No. 437302-W dated February 20, 1996, in the amount of Php100,000.00 payable to the order of “ANTONIO P. CALINGIN-MUN. MAYOR, CLAVERIA, MIS. OR.” with attached Disbursement Voucher No. 101-06-02-266 to “reimburse expenses related with land management development of Balay Ticala Project xxx,”²⁸ allegedly also lacked substantiation since they do not have supporting documents such as the bidding documents, accomplishment report, inspection report and statement of account; and considering the amount, the money should have been made payable to the contractor.²⁹

Concerning **CRIMINAL CASE NO. 25562**, six (6) PNB Checks in the total amount of Php386,484.00 payable to the order of “PSB ENTERPRISES-TAGOLOAN, MIS. OR.” for the rental of road grader, which according to State Auditor Creayla, were issued either in the absence of the corresponding disbursement voucher, or with disbursement voucher but sans bidding documents, inspection report, official receipt and contract of lease. State Auditor Creayla identified the checks one by one and further testified as follows:

(1) PNB Check No. 487632-W dated April 2, 1996, for Php89,775.00.³⁰ Although the journal of checks reflected Disbursement Voucher No. 101-96-04-435, a copy of such Disbursement Voucher No. 101-96-04-435 was not submitted to her. Instead, attached to the check was a mere Statement of Account³¹ signed by PSB Manager Rocky S. Calingin who is allegedly the son of accused Calingin by common knowledge. Also, the check was endorsed for deposit to the Account No. 810487-9 – the same account number to where accused Calingin deposited the proceeds of other checks made payable to him for his alleged reimbursements.

²⁶ Exhibits L and L-1.

²⁷ TSN, January 18, 2010, pp. 20-26.

²⁸ Exhibits M and M-1.

²⁹ TSN, January 18, 2010, pp. 26-29.

³⁰ Exhibit P.

³¹ Exhibit P-1.

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(2) PNB Check No. 487633-W dated April 2, 1996, in the amount of Php43,225.00 was indorsed by accused Calingin for deposit to Account No. 810487-9; and the attached Disbursement Voucher No. 101-96-04-436³² has no supporting documents.

(3) PNB Check No. 487704-W dated April 16, 1996 in the amount of Php35,000.00³³ was issued sans a disbursement voucher. The amount was received by accused Calingin as shown by the dorsal portion of the check.

(4) PNB Check No. 487351-W dated March 12, 1996 in the amount of Php70,984.00, the proceeds of which were received by Rocky S Calingin; the attached Disbursement Voucher No. 101-96-03-359³⁴ was approved without supporting documents.

(5) PNB Check No. 487350-W dated March 12, 1996, for Php47,500.00, the proceeds of which were received by Rocky S Calingin; the attached Disbursement Voucher No. 101-96-03-358³⁵ was approved sans supporting documents.

(6) PNB Check No. 490437-W dated August 7, 1996, in the amount of Php100,000.00 was prepared without an approved disbursement voucher. The attached Disbursement Voucher No. 101-96-08-904 was not accomplished and bears a signed notation of Municipal Accountant Ballescas that "File of check issued bearing SN 490437 dtd 8/7/96, voucher was not yet prepared."³⁶

Presented for **CRIMINAL CASE NO. 25563** was PNB Check No. 487395-W dated April 2, 1996, in the amount of Php13,574.60, payable to, and encashed by Romeo C. Quiblat.³⁷ However, again lacking in supporting documents such as: billing documents, contract, accomplishment report, inspection report, statement of account, and official receipt, was Disbursement Voucher No. 101-96-04-429, in payment of "Relocation & Correction Survey of Lot No. 7400, Pls -805 applied for Titling at RTC Branch 22 as per Court Order with an area of 14.7552 hectares and Submittal to Department of Environment and Natural Resources for approval xxx."³⁸

³² Exhibits Q and Q-1.

³³ Exhibit R.

³⁴ Exhibits S and S-1.

³⁵ Exhibits T and T-1.

³⁶ Exhibits V and V-1; TSN, January 19, 2010, pp. 4-17.

³⁷ Exhibit N.

³⁸ Exhibit N-1; TSN, January 18, 2010, pp. 29-34.

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With respect to **CRIMINAL CASE NO. 25566**, State Auditor Creayla noted that with only one signatory to Disbursement Voucher No. 101-04-96-138 for "payment for the construction of Balay Ticala Housing Project xxx representing second billing per statement of account dated March 1, 1996xxx,"³⁹ that is, the signature of accused Calingin as approving authority, and despite the fact that the same does not have any supporting documents like the bidding documents, inspection report, official receipt, and statement of account, the corresponding check - PNB Check No. 487635-W dated April 2, 1996, payable to the order of "KARRE & COMPANY -CHICO ST., QUEZON CITY" in the amount of Php380,454.55 was issued by, and endorsed by accused Calingin for deposit, again, to Account No. 810487-9.⁴⁰

In **CRIMINAL CASE NO. 25568**, State Auditor Creayla claimed that the check proceeds of PNB Check No. 487634-W dated April 2, 1996, for Php450,321.63 payable to the order of "RISTIAN HARDWARE-CAGYAN DE ORO CITY" was endorsed by accused Calingin and approved for deposit to Account No. 810487-9.⁴¹ Moreover, Disbursement Voucher No. 101-96-04-437 for "payment of materials for the const. of Row House at Patrocinio, Claveria. Mis. Or. xxx"⁴² has no supporting documents such as the bidding documents, purchase order, special report, and official receipt.⁴³

It was also shown in **CRIMINAL CASE NO. 25570** that Disbursement Voucher No. 101-96-06-658 (Exhibit BB) for claimant accused Calingin for "reimbursement of miscellaneous expenses and titling of Balay Ticala xxx"⁴⁴ was issued without supporting documents like the invoices and official receipt. Creayla added that the corresponding check was not presented to the team but the amount was in fact paid to accused Calingin as shown by entries at the bottom portion of the Disbursement Voucher where accused Calingin signed as the recipient of PNB Check No. 487802, dated June 4, 1996, for Php30,000.00, was received by accused Calingin.⁴⁵

The same absence of substantiation was found in **CRIMINAL CASE NO. 25571** where Disbursement Voucher No. 101-96-07-802 for payment of "one unit water tank fiber glass for Balay Ticala Housing Project xxx" was approved without supporting documents like the bidding documents, inspection report, official receipt, statement of account. The dorsal portion of PNB Check No. 487849-W, dated July 9, 1996, in the amount of Php100,000.00, payable to the order of Savers' Plaza Auto Parts and/or Raul Rebolos,⁴⁶ indicates that the

³⁹ Exhibit V-1.

⁴⁰ Exhibit V-1; TSN, January 19, 2010, pp. 20-24.

⁴¹ Exhibit O.

⁴² Exhibit O-1.

⁴³ TSN, January 18, 2010, pp. 34-37.

⁴⁴ Exhibit BB.

⁴⁵ TSN, January 19, 2010, pp. 24-25.

⁴⁶ Exhibit AA.

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proceeds thereof was received by Crisanto Calingin, allegedly a relative of accused Calingin.⁴⁷

**SUMMARY OF TESTIMONY OF COA
ENGINEER JOSEPH O. PAGALA**

Before his promotion as Information Technology Specialist III assigned at COA Region X, Cagayan de Oro City, he was State Auditor II assigned at the Technical Services Office in the Regional Office tasked to conduct technical review of government contracts, inspection of infrastructure projects and deliveries of materials and equipment, and appraisal of disposable and serviceable materials. He took and passed the Engineering Board Exam on May 19, 1982, landing almost among the top 10.⁴⁸

Anent the Balay Ticala Project, he confirmed being a team member of the Special Audit Team that was created to verify the validity and propriety of the transactions involved in the project and to ascertain whether the accomplishment of the project is commensurate with the disbursements. After formulating the audit plan and program, they allegedly asked for project documents from the municipality and also went to the project site. In going to the site, he was with the Team Leader Creayla, other team members and accused Engineer Romeo P. Estrada.⁴⁹

He recalled that he proceeded with the actual evaluation of the clearing and grubbing, the excavation of the roadway, the drainage and some other structures. He said he was not provided with technical documents regarding earthworks and the water system. But it appeared to him that water would be sourced from the two (2) deep wells being drilled, one near the row houses and the other near the national road. He saw casing pipes protruding from the ground but there was no water coming out of the pipes.⁵⁰

As to the housing units, he evaluated them through the cost estimates shown to him by accused Engineer Estrada, although, such cost estimates and the plans were not yet approved by the Municipal Mayor. He said he took note of each items of work for every unit because in every unit there is an item of work like earthwork and housing work. He presented photographs⁵¹ of the housing units (9 duplex units, 12 units of single detach and 10 units of row houses) and confirmed that he personally took such pictures using instatic camera, with the films developed by Team Leader Creayla. He also owned the percentages of accomplishment handwritten beside the pictures. On the

⁴⁷ TSN, January 19, 2010, pp. 25-26.

⁴⁸ TSN, November 18, 2010, pp. 6-7.

⁴⁹ TSN, November 18, 2010, pp. 8-9.

⁵⁰ TSN, November 18, 2010, pp. 9-11.

⁵¹ Exhibits Y, Y-1 to Y-10; Z, Z-1 to Z-20.

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manifestation that the pictures bear no dates, he said he took the pictures in year 1997 and in year 2000 when he came back to the site to check the progress of the project.⁵²

They allegedly conducted the ocular one whole day. After the ocular, they studied the documents available to them. He said that the most important documents not submitted to them was the *comprehensive plan of the whole subdivision plan, program of works and each structures, the bidding documents, accomplishment reports, and statements of works accomplished.*⁵³

He further explained that land development involves the surveillance of the site, titling, preparation of the plans, designs and specifications, preparation of program of works, and cost estimates of all structures involved, then, the implementation of the project. Survey is allegedly included in land development because that is how the developer would be able to come up with the design, plans, extent and scope of work to be undertaken. Titling is likewise included in land development because it is proof of ownership; ownership should come first before construction.⁵⁴

On the checks and disbursement vouchers previously identified by witness State Auditor Creayla, he confirmed that they were certified copies and that they indeed lacked supporting documents. As to Exhibit K and K-1- for **CRIMINAL CASE NO. 25557**, that is the check and disbursement voucher for surveying services, he claimed that during the ocular inspection, he looked for survey monuments, but he found none; even the municipal engineer cannot allegedly locate the survey monuments.⁵⁵

He added that the team sent written communication to the accused requesting for documents. After waiting for six (6) months without receiving any comment from them, they finalized their report.⁵⁶

Meanwhile, after presenting State Auditor Creayla and Engineer Pagala, the prosecution offered the following exhibits:

EXHIBIT	DESCRIPTION
A	COA Regional Office Order No. 96-X-68 dated November 5, 1996
B	Sixty Six (66) Page Special Audit Report on Balay Ticala Housing Project Covering CY 1995 and 1996 as prepared by COA Audit Team Adolfa Creayla, Joseph Pagala, Edna Rejas and Judylene Cabrerros

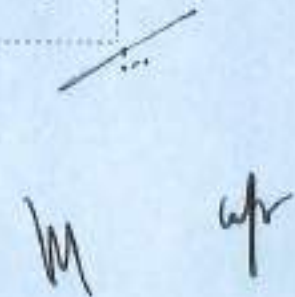
⁵² TSN, November 18, 2010, pp. 12-14.

⁵³ TSN, November 18, 2010, pp. 21-22.

⁵⁴ TSN, November 18, 2010, p.23.

⁵⁵ TSN, November 18, 2010, p. 30.

⁵⁶ TSN, November 18, 2010, p. 42.



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C	Four (4) Page Joint Affidavit executed by COA Audit Team Adolfa Creayla, Joseph Pagala, Edna Rejas and Judylyene Cabrerros
D	1 st Indorsement dated October 31, 1997 by Director Eugenio G. Fernandez.
E	Disbursement Voucher in the amount of P4,500,000.00 with name of claimant as Blue Marlin Development/Kim Tulio- Cagayan de Oro City (CC # 25550)
F	PNB Check dated December 22, 1995 in the amount P1,500,000.00 payable to Antonio Calingin (For CC # 25551)
F-1	Disbursement Voucher in the amount of P1,500,000.00 name of claimant Antonio Calingin (For CC # 25551)
G	PNB Check dated November 22, 1995 payable to DVF Construction in the amount of P750,000.00 (For CC # 25552)
G-1	Disbursement Voucher in the amount of P750,000.00 in the name of claimant DVF Construction and/or Cash (For CC # 25552)
H	PNB Check dated January 19, 1996 payable to Antonio Calingin in the amount of P10,000.00 (For CC # 25554)
H-1	Disbursement Voucher in the amount of P10,000.00, name of claimant Antonio Calingin (For CC # 25554)
I	PNB Check dated January 19, 1996 payable to Antonio Calingin in the amount of P155,000.00 (For CC # 25555)
I-1	Disbursement Voucher in the amount of P155,000.00 name of claimant Antonio Calingin (For CC # 25555)
J	PNB Check dated January 22, 1996, payable to Musuan Peak Resources & Dev't Corporation in the amount of P131,075.00
J-1	Disbursement Voucher in the amount of P131,075.00, name of claimant Musuan Peak Resources & Dev't Corporation
K	PNB Check dated February 7, 1996 payable to Engr. Renato Quiblat in the amount of P43,428.00 P43,428.00
K-1	Disbursement Voucher in the amount of P43,428.00, name of claimant Engr. Renato Quiblat
L	PNB Check dated February 7, 1996 payable to Antonio Calingin in the amount of P200,000.00
L-1	Disbursement Voucher in the amount of P200,000.00, name of claimant Antonio Calingin
M	PNB Check dated February 20, 1996 payable to Antonio Calingin in the amount of P100,000.00 (For CC # 25560)
M-1	Disbursement Voucher in the amount of P100,000.00, name of claimant Antonio Calingin (For CC # 25560)
N	PNB Check dated April 2, 1996 payable to Engr. Renato Quiblat in the amount of P13,574.60 (For CC # 25563)

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N-1	Disbursement Voucher in the amount of P13,574.60, name of claimant Engr. Renato Quiblat (CC # 25563)
O	PNB Check dated April 2, 1996 payable to Ristian Hardware in the amount of P450,321.63 (For CC # 25568)
O-1	Disbursement Voucher in the amount of P450,321.63, name of claimant Ristian Hardware (For CC # 25568)
P	PNB Check dated April 2, 1996 payable to PSB Enterprises in the amount of P89,775.00 (For CC # 25562)
P-1	Statement of Account from PSB Enterprises dated April 1, 1996 signed by one Rocky Calingin (For CC # 25562)
Q	PNB Check dated April 2, 1996 payable to PSB Enterprises in the amount of P43,225.00 (For CC # 25562)
Q-1	Disbursement Voucher in the amount of P43,225.00, name of claimant PSB Enterprises (For CC # 25562)
R	PNB Check dated April 16, 1996 payable to PSB Enterprises in the amount of P35,000.00 (For CC # 25562)
S	PNB Check dated March 12, 1996 payable to PSB Enterprises in the amount of P70,984.00 (For CC # 25562)
S-1	Disbursement Voucher in the amount of P70,984.00, name of claimant PSB Enterprises (For CC # 25562)
T	PNB Check dated March 12, 1996 payable to PSB Enterprises in the amount of P47,500.00 (For CC # 25562)
T-1	Disbursement Voucher in the amount of P47,500.00 name of claimant PSB Enterprises (For CC # 25562)
U	PNB Check ⁴ dated August 7, 1996 payable to PSB Enterprises in the amount of P100,000.00 (For CC # 25562)
U-1	Disbursement Voucher in the amount of P100,000.00 name of claimant PSB Enterprises (For CC # 25562)
V	PNB Check dated April 2, 1996 payable to Karre & Company in the amount of P380,454.55 (For CC # 25566)
V-1	Disbursement Voucher in the amount of P380,454.55 name of claimant Karre & Company
W to W-16	1 st Indorsement dated November 12, 1998, regarding the Comments by the Special Audit Team of Adolfa Creayla, Joseph Pagala, Edna Rejas and Judylene Cabreros on the Counter Affidavit of Antonio Calingin, et.al. consisting of 16 pages
X to X-6	2 nd Indorsement dated September 11, 2000 regarding the Comment of the Special Audit Team of Adolfa Creayla, Joseph Pagala, Edna Rejas and Judylene Cabreros to the

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	Supplemental to the Counter affidavit of Antonio Calingin consisting of six (6) pages
Y to Y-10	Photographs of the Balay Ticala Housing Project taken in the year 1997, pasted on white coupon bond and compiled in a yellow long folder
Z to Z-20	Photographs of the Balay Ticala Housing Project taken in the year 2000, pasted on white coupon bond and compiled in an orange long folder
AA	PNB Check dated July 9, 1996 payable to Savers Plaza Auto Parts in the amount of P100,000.00, with the attached Disbursement Voucher
BB	Disbursement Voucher in the amount of P30,000.00 name of claimant Antonio Calingin
CC to CC-3	Actual Evaluation of Accomplishment of Balay Ticala Housing project as to Housing Units project as to Housing Units as prepared by Engr. Joseph Pagala TAS II of the Special Audit Team consisting of four (4) pages
DD to DD-2	Actual Evaluation of Accomplishment of Balay Ticala Housing project as to Row houses as prepared by Engr. Joseph Pagala TAS II of the Special Audit Team consisting of three (3) pages

As already said, the Resolution of January 9, 2012 admitted all these documentary exhibits inclusive of their sub-markings. Subsequently, after the denial of Ballescas, Calingin and Quiblat's separate motions for leave to file demurrer to evidence, the defense presented its evidence.

EVIDENCE FOR THE DEFENSE

**SUMMARY OF TESTIMONY OF ACCUSED
RENATO C. QUIBLAT FOR CRIMINAL
CASE NOS. 25557 and 25563**

Accused is a Geodetic Engineer who, since 1965, has been conducting land surveys. Anent the Balay Ticala Housing Project, he said he was engaged by the Municipality of Claveria, Misamis Oriental to layout the sub-lots of the subdivision, the roads, and prepare survey returns for the Department of Environment and Natural Resources.⁵⁷ The contract price was Php308,000.00 which was computed by multiplying 386 lots by Php800.00. Out of this amount, he confirmed having received 15% mobilization fee minus tax. Aside from this, he received another amount for preparing a Commissioner's Report ordered by

⁵⁷ TSN, February 18, 2013, p. 11.

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the court for him to correct overlapping of property and relocation survey of lot 7400.⁵⁸

He insisted that there was actual surveying conducted by him. He was even allegedly underpaid based on the percentage of work accomplished by him. In the course of his direct examination, he marked a Contract of Survey dated February 6, 1996, signed by him and the municipality represented by accused Calingin, as Exhibit 1;⁵⁹ Scheme Plan Blue Print as Exhibit 2;⁶⁰ and Commissioner's Report as Exhibit 3.⁶¹

On cross-examination, he recalled the checks given to him as payment for mobilization fee and for the relocation survey and acknowledged his signatures on the disbursement vouchers. When asked how was he able to get the engagement from the municipality, he answered that he previously had an agreement with Blue Marlin, but since the latter and the municipality did not proceed with the contract, he was left hanging.⁶² He admitted that he has not yet completed the survey so he did not collect any amount after the 15% mobilization fee because there was already an order to stop the project. He could not recall issuing receipts for those checks but admitted that he was not able to make any written report on the survey because he had only subdivided at least 40% to 50% of the targeted lots. Because of this, he was not also able to submit complete survey returns.⁶³

**SUMMARY OF TESTIMONY OF CELIA FE EMANEL
FOR ACCUSED BALLESCAS (AND DECEASED DILAG
AND ESTRADA)**

Testifying for accused Ballescas, Dilag and Estrada, was Celia Fe Emanel, Administrative Aide VI of the local government of Claveria. In 2009, she allegedly became the BAC Secretary and when she assumed office as such, she found file of records anent Balay Ticala Housing Project, specifically, the records of the minutes of the pre-qualification and bidding. Hence, she identified the signature above the mark "certified copy/reproduction verified by Celia Fe D. Emanel" on the Minutes of the Pre-Qualification Bids and Awards Committee (PBAC) held on February 26, 1996.⁶⁴

**SUMMARY OF TESTIMONY OF CRESENCIO D. GAMON
FOR ACCUSED BALLESCAS (AND DECEASED DILAG**

⁵⁸ TSN, February 18, 2013, pp. 17-18.

⁵⁹ TSN, February 18, 2013, pp. 8-9.

⁶⁰ TSN, February 18, 2013, pp. 13-14.

⁶¹ TSN, February 18, 2013, p.19.

⁶² TSN, February 18, 2013, p.22.

⁶³ TSN, February 18, 2013, pp.33-35.

⁶⁴ Exhibit 1; TSN, September 9, 2013, 7-12.

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AND ESTRADA)

In 1996, Cresencio D. Gamon was allegedly hired as a laborer for Macajalar, specifically as helper in the surveying, and other works as may be ordered by the engineers. During his work for the Balay Ticala, he said he saw road grader used in clearing and leveling the road. However, Macajalar did not finish the project; and when the municipality took over the project, he was hired as the watchman of the warehouse for the Balay Ticala Project. Before he logged in at 5:00 P.M., he related that he saw the grader leveling the road going to the housing project so that it can be utilized as service road. He said that road works would commence at the time of his log out at 7:00 A.M.⁶⁵

**SUMMARY OF TESTIMONY OF ACCUSED
ESTRELLITA L. BALLESCAS FOR CRIMINAL
CASE NOS. 25554 to 25557, 25559-25560,
25562-25563, 25568, 25570 to 25571**

Accused Estrellita L. Ballescas, admitted that she was the Municipal Accountant of Claveria from 1990 up to her early retirement in December 2003. Her duties as such Municipal Accountant included taking charge of both the accounting and internal audit services of the municipality; maintaining its auditing services; preparing and submitting the financial statement for the Mayor and the Sanggunian; apprising officials on the financial condition and operations of the municipality; certifying as to the availability of the budgetary allotments to which expenditures and obligations may be charged; reviewing the completeness of the supporting documents attached to the disbursement vouchers; preparing the journal and analyzing obligations; and maintaining and keeping all records and reports related thereto.⁶⁶

When asked how the municipality funds are disbursed, she explained that the office concerned first issues the disbursement voucher for submission to the Accounting Office who shall then review the supporting documents and check whether they are complete. If yes, the same shall be endorsed to the Municipal Treasurer for the availability of funds. The latter shall then endorse the same to the Municipal Mayor for approval. If approved, the Municipal Treasurer shall issue the check for release to the creditor. The Municipal Treasurer thereafter submits the disbursement vouchers with supporting documents to the Accounting Office for Journal entry. At the end of the month, the Accounting Office should forward to the Provincial Auditor's Office the original vouchers together with the supporting documents for transactions incurred for the month.⁶⁷

⁶⁵ TSN, September 9, 2013, pp. 17-22.

⁶⁶ TSN, November 11, 2013, pp. 6-7.

⁶⁷ TSN, November 11, 2013, pp. 7-8.

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Anent the Balay Ticala Housing Project, she claimed that she only discovered about the same when State Auditor Creayla went to her office and looked for the record of the Balay Ticala Project. Her office allegedly had no record of such housing project. It was allegedly from the Office of the Municipal Treasurer where State Auditor Creayla found the funding of the project. She likewise said that she did not also receive a Notice of Allowance or Suspension after the special audit.⁶⁸

As regards **CRIMINAL CASE NO. 25554**, she claimed that accused Calingin attached to the disbursement voucher the Reimbursement Expense Receipt (RER) certifying the expenses incurred for the titling the property for the Balay Ticala Project. However, State Auditor Creayla pulled out the voucher and the RER when they conducted a special audit of Balay Ticala Housing Project.⁶⁹

In **CRIMINAL CASE NO. 25555**, she said that she did not know about sinking fund because it was not their usual disbursement, but there was allegedly a bank memo from the PNB attached to the disbursement voucher to reimburse Calingin's deposit with the PNB for the sinking fund requirement for Balay Ticala Housing Project.⁷⁰

In relation to **CRIMINAL CASE NO. 25556**, Balleascas denied the signature appearing in disbursement voucher for payment of lease of road grader from Musuan Peak Resources and Development Corporation.⁷¹ She identified the signature above her name in Exhibit J-1 as that of Accounting Clerk Elvira Orantia, but, she could not recall if she issued to the latter any memorandum of authorization to sign on her behalf.⁷²

For **CRIMINAL CASE NO. 25557**, she disclaimed signing Exhibit K-1 and did not remember authorizing anyone in her office to sign on her behalf.⁷³

In **CRIMINAL CASE NOS. 25559 to 25560**, she remembered that attached to the disbursement vouchers (Exhibits L-1 and M-1) were xerox copies of the logbook for the grading of the land. However, the vouchers and xerox copies of the logbook were pulled out by Auditor Creayla during the audit.

⁶⁸ TSN, November 12, 2013, pp. 11-12.

⁶⁹ TSN, November 11, 2013, pp. 9-10.

⁷⁰ TSN, November 11, 2013, pp. 11-12.

⁷¹ TSN, November 11, 2013, pp. 13-14.

⁷² TSN, November 12, 2013, pp. 26-27

⁷³ TSN, November 11, 2013, pp. 15.

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Anent CRIMINAL CASE NO. 25562, she claimed that payments to PSB as indicated in Exhibits Q-1, S-1, T-1, were supported by Statements of Account which reflect actual grading hours. But the same were pulled out by Auditor Creayla.⁷⁴

For CRIMINAL CASE NO. 25563, she recalled that attached to Exhibit N-1, was the application for title. Again, the original disbursement voucher was allegedly pulled out by Auditor Creayla.⁷⁵

In connection with CRIMINAL CASE NO. 25568, she asserted that Ristian was the winning bidder and attached to the voucher were the Minutes of the bidding, Purchase Request, Purchase Orders and the three canvass papers of the pre-bidders. Again, she claimed that State Auditor pulled out the original voucher during the audit.⁷⁶

As regards CRIMINAL CASE NO. 25570, she said that attached to the voucher (Exhibit AA) was a reimbursement receipt. However, State Auditor pulled out the original voucher during the audit.⁷⁷

**TESTIMONY OF PERSEVENIA CUTAS MADJOS
AS CORROBORATIVE WITNESS OF ACCUSED
BALLESCAS**

As corroborative witness of accused Ballescás, witness Persevenia Cutas Madjos who is now Administrative Officer IV, testified that in 1995, she held the position of Accounting Clerk II. For the Balay Ticala Project, it was her duty to record the paid vouchers in the Journal and General Ledger. However, there were no entries in the journal and ledger regarding supporting documents. On cross-examination, she said that she came across the supporting documents like the purchase request, purchase order, and bill of materials, but the vouchers and the supporting documents were submitted to Auditor Creayla by Ms. Sales through a written transmittal. However, she did not have a copy of the same.⁷⁸

**SUMMARY OF TESTIMONY OF LEONEDISA G. SALES,
AS CORROBORATIVE WITNESS OF ACCUSED
BALLESCAS**

Leonedisá G. Sales, presently an Administrative Assistant II of the local government of Claveria, narrated that in 1995, she was the Accounting Clerk III


⁷⁴ TSN, November 12, 2013, pp. 4-6.

⁷⁵ TSN, November 12, 2013, pp. 6-7.

⁷⁶ TSN, November 12, 2013, p. 8.

⁷⁷ TSN, November 12, 2013, p. 9.

⁷⁸ TSN, March 3, 2014, pp. 12-16.

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responsible for scrutinizing disbursement vouchers and their supporting documents. She said that after Ms. Madjos records and makes entries in the journal, she reviews the vouchers and documents attached thereto for submission to the Auditor's Office headed by State Auditor Creayla with transmittal letter.⁷⁹ On cross-examination, she claimed that she submitted to State Auditor Creayla all the pertinent papers attached to the vouchers for the Balay Ticala Project; and when asked what proof did she have that State Auditor Creayla received these documents, she said she had a copy of the transmittal letter to State Auditor Creayla; but when asked where it (the transmittal letter) was, she answered that it was in her office and she did not bring it with her.⁸⁰

Meanwhile, after the presentation of defense witnesses, only accused Estrellita Ballescas filed a Formal Offer of Evidence. The Resolution dated October 27, 2016 admitted all Ballescas' documentary evidence, as follows:

EXHIBIT	DOCUMENT
1	Minutes of the Pre-Qualification Bids and Awards Committee (PBAC) held on 26 February 1996
1-a	Certification by Celia Fe D. Emanuel
2	Disbursement Voucher in the amount of Php10,000
3	
also marked as (H-1)	
4	Disbursement Voucher in the amount of Php155,000.00
Also marked as (I-1)	
5	Disbursement Voucher in the amount of Php131,075.00
Also marked as (J-1)	
6	Disbursement Voucher in the amount of Php43,428.00
Also marked as (K-1)	
7	Disbursement Voucher in the amount of Php200,000.00
Also marked as (L-1)	
8	Disbursement Voucher in the amount of P100,000.00
Also marked as (M-1)	
9	Disbursement Voucher in the amount of Php43,225.00
Also marked as (Q-1)	
10	Disbursement Voucher in the amount of Php70,984
Also marked as	

⁷⁹ TSN, March 3, 2014, pp. 20-24.

⁸⁰ TSN, March 3, 2014, pp. 26-27.

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(S-1) 11 Also marked as (T-1)	Disbursement Voucher in the amount of Php47,500
12 Also marked s (N-1)	Disbursement Voucher in the amount of Php13,574.60
13 Also marked as (O-1)	Disbursement Voucher in the amount of Php450,321.63
14 Also marked as (BB)	Disbursement Voucher in the amount of Php30,000.00

DISCUSSION AND RULING

Before delving into the irregularities attending the transactions subject of these cases, it is imperative to address first the matters raised by Ballescas in her Memorandum: first, that the documentary evidence of the prosecution were all photocopies; second, that all the original disbursement vouchers submitted to the COA auditor who conducted the special audit included the supporting documents.

Apparently, accused Ballescas puts in issue, once again, the admissibility of the documentary evidence offered by the prosecution in support of the present cases. However, this matter had already been addressed, hence, should be settled by now. With due consideration to the written objections and oppositions filed by defense, the Resolution of January 9, 2012, nevertheless admitted all the exhibits offered by the prosecution. Thereafter, the Court denied the separate motions of the accused for leave to file demurrer to evidence which are essentially based on the same ground, that is, the failure of the prosecution to present the original documents.

Before proceeding further, let it be clarified that not all the documentary evidence of the prosecution are photocopies: some attachments to the original copy of the Special Audit Report are photocopies, but the disbursement vouchers and checks and their attachments, if any, are certified copies; the rest are original copies.

Indeed, the best evidence rule mandates that when the subject of inquiry is the contents of a document, no evidence shall be admissible other than the original document itself. However, "[w]hen the original document has been lost or destroyed, or cannot be produced in court, the offeror, upon proof of its execution or existence and the cause of its unavailability without bad faith on

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his part, may prove its contents by a copy, or by a recital of its contents in some authentic document, or by the testimony of witnesses in the order stated.”

Thus, “the order of presentation of secondary evidence is: existence, execution, loss, contents. xxx The sufficiency of the proof offered as a predicate for the admission of an allegedly lost document lies within the judicial discretion of the trial court under all the circumstances of the particular case.”⁸¹

It has also been held that “... production of the original may be dispensed with, in the trial courts discretion, whenever *the opponent does not bona fide dispute the contents of the document and no other useful purpose will be served by requiring production.*”⁸²

Here, the transcripts sufficiently establish how the Special Audit Team got hold of the disbursement vouchers and the checks; how they got lost eventually in flood; and when State Auditor Creayla certified as true copies the photocopies of the disbursement vouchers and the checks:

PROS. Balmeo, Jr.

Q: All right. Can you please tell us what happened during that entrance conference, ma'am?

A. Sir, after informing that we have the Office Order and after requesting their support and cooperation, we handed immediately our letter request addressed to Mayor Calingin to submit to us the vouchers pertaining to Balay Ticala Housing Project.

xxx xxx xxx

Q. After handling that letter to accused Mayor Antonio Calingin, what happened next, ma'am in the course of that entrance conference?

A: Lourdes Plantas, the municipal treasurer, transmitted to us on January 31, 1997, the disbursement vouchers, the three (3) of the disbursement vouchers we required in our letter request which we handed to Mayor Calingin on January 10, 1997, only three (3) vouchers, sir.

xxx xxx xxx

Q: All right. And when were you furnished those documents that you mentioned?


A: January 31, 1997, sir, twenty-one (21) days after we handed our letter request to Mayor Calingin.

Q: And what were the documents handed to you ma'am?

⁸¹ Republic v. Lorenzo and Mateo, G.R. No. 148025, August 13, 2004.

⁸² Gaw v. Chua, G.R. No. 160855, April 16, 2008

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A: **Some disbursement vouchers pertaining to Balay Ticala Housing Project, sir.**⁸³

XXX XXX XXX

Q: Having testified that you saw those things, what then did you do in the course of your special audit, ma'am?

XXX XXX XXX

A: Since we are still waiting for the other disbursement vouchers okay in relation to Balay Ticala Housing project, **we again demanded them to submit to us the disbursement voucher.**

Q: All right, thank you. **Now, you said it was Lourdes Plantas who submitted to you initially those documents.**

A: **Yes, sir.**⁸⁴

XXX XXX XXX

Q: All right. Now you just made mention that you were asking for other documents. What happened to that request of yours, ma'am?

A: Yes, sir the municipality was able, of course to submit to us the other disbursement vouchers.

Q: When? Can you please tell us when were **the second compliance by the municipality, ma'am?**

A: As I can recall after January 31, sir, before the end of our field work, March 17, 1997.⁸⁵

XXX XXX XXX

Eventually, it was revealed that the original disbursement vouchers and checks were damaged during the flood in Cagayan de Oro City on January 3, 11 and 13, all of 2009, and have become irretrievable. On February 18, 2009, State Auditor Creayla narrated thus:

PROS. GRUTA

Q: This morning Auditor Creayla, the good counsel commented that some annexes to your Special Audit Report, specifically Annex "29" and some documents to Annex "68" and "72" are mere photocopies or

⁸³ TSN, February 17, 2009, pp. 22-23.

⁸⁴ TSN, February 17, 2009, p. 26.

⁸⁵ TSN, February 17, 2009, p. 27.

[Handwritten signatures]

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certified copies of documents. **Where are the original Disbursement Vouchers and checks, Auditor Creayla?**

A: **Ma'am, the original Disbursement Vouchers and checks which we showed to you last July 2008 when there was a hearing on Balay Ticala Project, held in Cagayan de Oro City were kept in a safe records rooms at our COA Regional Office No. 10 Cagayan de Oro City, but due to floods last January 3, those original Disbursement Vouchers and checks were damaged.**

Q: You mentioned flood in January 3, do you have any proof that indeed your documents were damaged during the flood in Cagayan de Oro City in January of 2009?

A: Yes ma'am we took pictures. These are the pictures actually taken by Engr. Joseph Pagala.

Q: The witnesses presented this representation several pictures, Your Honor. May we ask the good counsels to look at the pictures of documents in flood waters depicted in the pictures.⁸⁶

XXX XXX XXX

Q: Okay will you please repeat for the records where did you place the original Disbursement Vouchers and checks, and how do they relate to these documents depicted in the picture?

A: Actually, it was Engr. Joseph Pagala who placed those documents in our records room.

Q: And how are those documents in the records room related to these pictures of documents?

A: These are the records in our record room, because not records pertaining to Balay Ticala Housing Project were there. **All the records in our regional office are kept in that particular records room, ma'am.**

PROS. GRUTA

May we allow the good justices to look at the pictures, Your Honors.

Q: **So you are saying now. Auditors, that these documents cannot be retrieved anymore?**

A: **We could no longer retrieve, ma'am because these were soaked with water and it would be difficult to retrieve.**

Q: **Will you please tell the Court again what are the dates when the floods came?**

⁸⁶ TSN, February 18, 2009, pp. 6-7.

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A: Twice last January 3, 2009, and then, January 11, January 13.

CHAIRMAN

This is what place?

A: Cagayan de Oro City, Your Honor.

CHAIRMAN

Where in Cagayan de Oro City?

A: In our Regional Office, Your Honor.

CHAIRMAN

In the Poblacion?

A: Yes, Your Honor.

CHAIRMAN

When did the floods occur?

A: January 3, January 11 and January 13.

CHAIRMAN

2009?

A: Yes, Your Honor.⁸⁷

XXX XXX XXXX

Meanwhile, it has also been established that it was State Auditor Creayla who certified the photocopies of the originals upon instruction of the Graft Investigating Officer and that she actually certified them before the occurrence of the flood:

PROS. GRUTA

Q: So what do you have what documents do you have now, Auditor Creayla, what kind of documents pertaining to the Disbursement Voucher?

A: I have with me certified true copies from the original documents ma'am.⁸⁸

XXX XXX XXXX

AJ BALDOS

⁸⁷ TSN, February 18, 2009, pp. 8-10.

⁸⁸ TSN, February 18, 2009, p. 12.

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When was this certified?

PROS. BALMEO

There's no date appearing.

AJ BALDOS

Why did you certify it?

A: Your Honor when we submitted our report to the Office of the Deputy Ombudsman Mindanao, we were required by the attorney then, Your Honors, to have the original document certified.

AJ BALDOS

So your certification were made even before the flood.

A: Yes Your Honor.⁸⁹

Equally important to note is that not one of the accused who took the stand denied the authenticity of the certified copies of the disbursement vouchers and checks. Mayor Calingin himself did not even take the stand to at least deny the authenticity of the disbursement vouchers and checks introduced against him.

Having so determined the admissibility of prosecution's secondary evidence, this brings to fore the second issue raised by accused Ballescas. Contrary to the prosecution's version that no supporting documents were attached to the disbursement vouchers, Ballescas conveniently claimed that all the supporting documents were attached to the lost original disbursement vouchers.

Thus, now for the Court's determination is: whether or not the disbursement vouchers were supported with attachments?

Remarkably, long before the flood in January 2009 during which the original disbursement vouchers and checks were lost, the Special Audit Report dated October 21, 1997 and Joint Affidavit dated October 23, 1997 both of the Special Audit Team, already included the finding that the disbursements were not supported with the required documents. The absence of such supporting documents was in fact, the very reason why all accused were investigated by the Office of the Ombudsman; and was the ground for the December 2, 1998 Resolution of the Office of the Ombudsman finding probable cause against all the accused.

⁸⁹ TSN, January 18, 2010, p. 19.

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It is for this reason why the Court believes that there were no attachments to the disbursement vouchers; or, if there be any (such as the Statement of Account attached to PNB Check for Criminal Case No. 25562, and the "contracts/purchase orders" mentioned in Annex R of the Special Audit Report), the same are woefully insufficient to substantiate the municipality's disbursements.

Besides, if it were true that there were attachments to the disbursement vouchers, all the accused herein could have had easily presented to the special audit team or to the OMB other copies of such attachments. They could have averted the instant proceedings by simply presenting copies of the attachments sought by the COA. However, they did not because they cannot produce something that does not exist.

Further, it is well to note that the transmittal letter, which Ballescas' witness in the person of Ms. Sales claimed to exist, which is the only piece of evidence which could have confirmed that State Auditor Creayla indeed received all pertinent documents, and which could have settled once and for all what documents were turned over to the Special Audit Team, never surfaced.

Remarkably, on cross-examination, accused Ballescas Creayla even contradicted her own witness when she said that State Auditor allegedly merely pulled out the documents and "they just gave." She added, incredibly, that she did not file any complaint against the audit team because according to her, after all, at the end of the month, they were going to submit all those original vouchers to Creayla as Auditor In-charge.

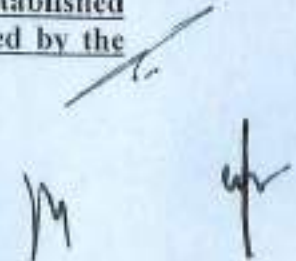
Thus, the Court believes that indeed, the disbursements were not supported with attachments.

*People v. Macalaba*⁹⁰ is squarely applicable to the present scenario:

The general rule is that if a criminal charge is predicated on a negative allegation, or that a negative averment is an essential element of a crime, the prosecution has the burden of proving the charge. However, this rule is not without an exception. Thus, we have held:

Where the negative of an issue does not permit of direct proof, or where the facts are more immediately within the knowledge of the accused, the *onus probandi* rests upon him. Stated otherwise, it is not incumbent upon the prosecution to adduce positive evidence to support a negative averment the truth of which is fairly indicated by established circumstances and which, if untrue, could readily be disproved by the

⁹⁰ G.R. Nos. 146284-86. January 20, 2003.



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production of documents or other evidence within the defendants knowledge or control.

It is also well to cite *De Guzman v. Sandiganbayan*,⁹¹ where the Supreme Court sustained a conviction for violation of Section 3(e) of R.A. No. 3019 for failure of the accused to produce the supporting receipts for a disbursement voucher issued in his favor.

In *De Guzman*, the latter, as Officer-in-Charge and Assistant Director of the Bureau of Plant Industry, received Php200,000.00 on December 17, 1985, with authority to disburse it in connection with certain official training programs of the Department of Agriculture. In a disbursement voucher dated February 5, 1986, he claimed credit for the amount but when required later to produce the supporting receipts, failed or refused to do so. Thus, the corresponding information for violation of Section 3(e) of R.A. No. 3019 was filed against him.

Subsequently, in convicting De Guzman, this Court held that- “[w]hen accused claimed credit for the cash advance of P200,000.00 in the Disbursement Voucher, dated February 5, 1986 xxx (for the expenses incurred during Three Regional Trainings in Ipil, Zamboanga del Sur and Baguio City without any supporting receipts in liquidation thereof, as can be seen from said exhibit itself, and without submitting testimonial or documentary evidence to justify either the cash advance or the alleged expenses, then it stands clearly and positively established that he had misappropriated said amount for his personal use or benefit. xxx”

On petition to the Supreme Court, petitioner De Guzman “insists that it is not for him to show that the supporting receipts exist; on the contrary, it is for the prosecution to prove that they do not exist.” The Supreme Court saw that **“[t]his is, indeed, a strange manner of accounting.xxx”** The Supreme Court continued:

The situation before us is **starkly simple**. The petitioner received P200,000.00 from the government to defray the expenses of training programs. He has not liquidated it short of saying it was spent for some amorphous training programs not on record. **Who should prove those training programs? The petitioner, of course. And he should do so with concrete facts and figures supported by receipts**, not with the mere undocumented surmise that the training programs could have been held.

Now, on the present charges.

Except for Criminal Case No. 25568, all fourteen (14) cases are for violation of Section 3(e) and R.A. 3019, as amended, which provides:

⁹¹ G.R. No. 103276, April 12, 1994.

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Section 3. Corrupt practices of public officers.- In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful

X X X X

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

The following essential elements must be present:

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

FIRST ELEMENT

Anent the **first element**, there is no issue that Antonio P. Calingin and Estrellita L. Ballescas were the Municipal Mayor and Municipal Accountant, respectively of the Municipality of Claveria, Misamis Oriental.

SECOND ELEMENT and THIRD ELEMENT

“The [second] element of Section 3 (e) of RA 3019 may be committed in three ways, *i.e.*, through manifest partiality, evident bad faith or gross inexcusable negligence. Proof of *any* of these three in connection with the prohibited acts mentioned in Section 3(e) of RA 3019 is enough to convict.”⁹² Partiality, bad faith and gross negligence mean:

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

⁹² Sison v. People, G.R. Nos. 170339, 170398-403, March 9, 2010.

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of fraud. Gross negligence has been so defined as negligence characterized by the want of even slight care, 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.⁹³

Meanwhile, as regards the third element, *Sison v. People* taught that-

... [T]here 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 use of the disjunctive “or” connotes that the two modes need not be present at the same time. In other words, the presence of one would suffice for conviction.

“Unwarranted” was defined as:

“lacking adequate or official support; unjustified; unauthorized—without justification or adequate reason. “Advantage” means a more favorable or improved position or condition; benefit, profit or gain of any kind; benefit from some course of action. “Preference” signifies priority or higher evaluation or desirability; choice or estimation above another.

In other words: “In order to be found guilty under the second mode, it suffices that the accused has given unjustified favor or benefit to another, in the exercise of his official, administrative or judicial functions.”

In these cases, the Court finds the presence of both elements.

Accused Calingin and Ballestas’ reckless disregard of auditing and accounting rules and regulations constitutes evident bad faith on the part of the former, and gross inexcusable negligence on the latter’s part. Their respective actions and omissions caused undue injury to the government, at the same time, gave private parties including Calingin himself, unwarranted benefits, advantage or preference.

The common denominator of **all these cases** is that the transactions are seriously flawed from the beginning as there is no showing from an examination of the disbursement vouchers that public bidding took place.

The importance of public bidding cannot be overemphasized. “The requirement of public bidding is not an idle ceremony. It is the accepted method

⁹³ *Ibid.*

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for arriving at a fair and reasonable price. It ensures that overpricing, favoritism, and other anomalous practices are eliminated or minimized.⁹⁴

Aside from lack of public bidding, all disbursement vouchers and checks, as already discussed above, lacked substantiation. This violates one of the *fundamental principles* of government financial transactions set forth under **Section 4(6) of Presidential Decree (P.D.) 1445** or the Government Auditing Code of the Philippines which states:

Section 4. Fundamental principles. Financial transactions and operations of any government agency shall be governed by the fundamental principles set forth hereunder, to wit:

6. Claims against government funds shall be supported with complete documentation.

Additionally, **Section 168 of the Government Accounting and Auditing Manuals (GAAM)** considers supporting documents as a *basic* requirement to all classes of disbursement, to wit:

Section 168. Basic Requirements applicable to all classes of disbursements.-The following basic requirements applicable to all classes of disbursements shall be complied with

XXXX

(c) Documents to establish validity of claim.-Submission of documents and other evidences to establish the validity and correctness of the claim for payment.

In addition to the two irregularities noted above, other anomalies are also noticeable on the face of the disbursement vouchers and checks. The same shall be discussed in detail, as follows:

CRIMINAL CASE NO. 25550

For releasing and allowing the payment of the sum of Four Million Five Hundred Thousand Pesos (Php4,500,000.00) to Andy D. Bejasa, the Chairman of the Board of Blue Marlin Integrated Development Corporation and Kim C. Tulio, President and Chairman of the Board of Macajalar Construction, Inc., as payment for various items of construction works in Balay Ticala Project, although the actual accomplishments of said private persons were worth only One Million Seven Hundred Six Thousand, Eight Hundred Fifty-Four Pesos and Seventy Centavos (Php1,706,854.70), thereby causing undue injury to the

⁹⁴ National Power Corporation v. Civil Service, G.R. No. 152093, January 24, 2012, Citing Tatad v. Garcia, Jr., 313 Phil. 296, 351 (1995), Davide, Jr., J., Dissenting Opinion.

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government and public interest, in the sum of Two Million Seven Hundred Ninety-Three Thousand One Hundred Forty-Five Pesos and Thirty Centavos (Php2,793,145.30) and giving unwarranted benefits and advantage to said private persons, accused Municipal Mayor Calingin is charged with violation of Section 3(e), R.A. 3019. The prosecution evidence:

CHECK	DISBURSEMENT VOUCHER	COA REMARKS
<p>PNB Check No. 952901 dated 5/95</p> <p>- check details are indicated in Disbursement Voucher No. 1 (Exhibit E) and Schedule of Disbursements Charged Against Bonds Floatation Proceeds May 1995-December 31, 1995 (Annex R of the Special Audit Report)</p>	<p>Disbursement Voucher No. 1 (Exhibit E)</p> <p>PAYING OFFICE: Municipal Treasury</p> <p>CLAIMANT: Blue Marlin Integrated Development Corp./KIM TULIO</p> <p>PARTICULARS OF PAYMENT: partial payment of contract for the construction of Balay Ticala Housing Project along Block Nos. 1 & 2 with the following construction activity to wit: Mobilization, construction of single and Duplex Housing unit & Land Development located at Patrocinio, Claveria, Misamis Oriental under PNB Check No. 952901 as per supporting papers hereto attached in the amount of FOUR MILLION FIVE HUNDRED THOUSAND PESOS ONLY</p> <p>CERTIFIED (Expenses/Cash Advance necessary, lawful, and incurred under my direct supervision) : Municipal Mayor Antonio P. Calingin</p> <p>CERTIFIED (Adequate available funds/budgetary allotment in the amount of xxx; expenditure properly certified, supported by documents marked (x) per checklist on back hereof; account codes proper; previous cash advance liquidated/accounted for):</p> <p><i>no signature of Municipal Accountant Estrellita L. Ballescas</i></p> <p>APPROVED: Municipal Mayor</p>	<ul style="list-style-type: none"> • no signature of the Municipal Accountant • not supported with documents, such as the bidding documents, comprehensive plans, accomplishment report, agency inspection report, billing statement and official receipt • actual cost of accomplishment was worth Php1.7 Million Pesos only as compared to the total expenditures of Php 4.5 Million Pesos

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	Antonio P. Calingin	
	RECIPIENT: BMIDC/KIM TULIO	

The Court is convinced of the evaluation and assessment made by COA on the actual accomplishments of the contractors. It was established by testimonial and documentary evidence, consisting of the photographs taken of the site depicting unfinished houses and uneven land surface, and the Actual Evaluation of Accomplishment of Balay Ticala Housing Project,⁹⁵ that the actual accomplishments were worth only One Million Seven Hundred Six Thousand, Eight Hundred Fifty-Four Pesos And Seventy Centavos (Php1,706,854.70); hence, payment of Php4.5 Million Pesos to the private contractors resulted in government losses in the sum of Two Million Seven Hundred Ninety-Three Thousand, One Hundred Forty-Five Pesos and Thirty Centavos (Php2,793,145.30). At the same time, said private contractors were accorded unwarranted benefits and advantage.

At this juncture, the Court finds it fitting to quote *Jaca v. People*⁹⁶ where it was held that:

Most importantly, the COA's findings are accorded great weight and respect, unless they are clearly shown to be tainted with grave abuse of discretion; the COA is the agency specifically given the power, authority and duty to examine, audit and settle all accounts pertaining to the revenue and receipts of, and expenditures or uses of fund and property owned by or pertaining to, the government. It has the exclusive authority to define the scope of its audit and examination, and to establish the required techniques and methods. An audit is conducted to determine whether the amounts allotted for certain expenditures were spent wisely, in keeping with official guidelines and regulations. Under the Rules on Evidence and considering the COA's expertise on the matter, the presumption is that official duty has been regularly performed unless there is evidence to the contrary. The petitioners failed in this regard.

Fact is, payment should not have been made in the first place for several irregularities may be found on the face of the instant Php4.5 Million worth of transaction.

First, the voucher is oddly numbered "#1", hence, does not even conform to the prescribed uniform system of numbering of vouchers under **Commission**

⁹⁵ Exhibits CC and DD and series; Exhibit Y and series; and Exhibit Z and series. See also Annex E-1 and E-2 (Schedule of Balay Ticala Housing Project) to the Special Audit Report, E-3 (Summary of Evaluated Accomplishments marked as Exhibit B-15), E-3 (Schedule of Disbursements Pertaining to Bonds Floatation Proceeds) to the Special Audit Report marked as Exhibit B.

⁹⁶ GR. No. 166967, January 28, 2013 (consolidated with other cases).

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on **Audit Circular No. 78-79 dated April 5, 1978.**⁹⁷ Also, the same does not bear the signature of the Municipal Accountant whose signature is indispensably required before payment is made. Notably, at the back of the prescribed disbursement voucher form, is the plain instruction that the "RECEIVED FROM" portion of the voucher shall be accomplished only after the three (3) signatures in the voucher are secured and only upon actual receipt of the payment.⁹⁸

Moreover, in violation of the afore-quoted **Section 4(6) of P.D. 1445** and **Section 168 of GAAM**, the instant voucher is not supported with any attachments which could have established the validity, legality and propriety of the disbursement.

Meanwhile, in the absence of bidding documents, it could be reasonably concluded that no public bidding took place. This violates **Section 536, Chapter 3 of the GAAM**, which provides the general rule that "contracts on infrastructure projects shall be obtained through competitive public bidding." It adds that "[i]nfrastructure contracts may be negotiated under strict and limited conditions in the manner provided by laws, rules and regulations. However, it shall be the last recourse and the exception to the general rule of competitive public bidding."

The same is required by **Presidential Decree (P.D.) No. 1594 (Prescribing Policies, Guidelines, Rules and Regulations for Government Infrastructure Contract)** which states:

Section 4. Bidding. Construction projects shall generally be undertaken by contract after competitive public bidding. Projects may be undertaken by administration or force account or by negotiated contract only in exceptional cases where time is of the essence, or where there is lack of qualified bidders or contractors, or where there is a conclusive evidence

⁹⁷ Numbering System of Vouchers

Vouchers shall be numbered and/or identified as follows:

The first two digits shall correspond to the identity of the fund or account against which the voucher is chargeable. The second two digits shall correspond to the last digits of the year of issue. The third two digits shall correspond to the number of the month of issue. The last digits shall correspond to the number of the voucher starting with 01 for the first voucher of the year and shall continue in numerical sequence up to the end of the year, by fund or account.

The choice of the first two digits corresponding to the fund or account identification shall be left to the discretion of the Chief Accountant or Local Treasurer of the agency/unit, but the identification should be numerical not alphabetical. Each fund or account shall have a separate numbering series and there shall be physical segregation of the filing of vouchers by fund or account.

⁹⁸ See Accounting Forms and Reports under Section 489, Chapter 2, of the GAAM and its Appendix 13.



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that greater economy and efficiency would be achieved through this arrangement, and in accordance with provision of laws and acts on the matter, subject to the approval of the Ministry of Public Works. xxx

Here, there is no showing of any justification for dispensing with the requirement of public bidding. Instead, the records only disclose that the municipality entered into a joint venture agreement with Blue Marlin to develop 187,357 square meters of land located at Barangay Patrocinio, Claveria, Misamis Oriental and construct thereon 1,342 housing units. Thus, accused Calingin negotiated with Blue Marlin without laying the basis therefore.

Moreover, the municipality should have not entered into a JVA with Blue Marlin without compliance with the pre-requisites of **Section 2 of P.D. 1594**, to wit:

Section 2. Detailed Engineering. No bidding and/or award of contract for a construction project shall be made unless the detailed engineering investigations, surveys, and designs for the project have been sufficiently carried out in accordance with the standards and specifications to be established under the rules and regulations to be promulgated pursuant to Section 12 of this Decree so as to minimize quantity and cost overruns and underruns, change orders and extra work orders, and unless the detailed engineering documents have been approved by the Minister of Public Works, Transportation and Communications, the Minister of Public Highways, of the Minister of Energy, as the case may be.

Remarkably, COA Engineer Pagala reported that during his site inspection, he was not provided with the comprehensive plan of the whole subdivision plan, program of works and each structures. He also noted that the cost estimates and plans were not yet approved by the Municipal Mayor.

Thus, given the overpayment of Php2,793,145.30 and for not following basic and fundamental accounting and auditing rules and regulations, accused Calingin, indeed, patently actuated with evident bad faith which resulted in undue injury to the government and also gave unwarranted benefit and advantage to private persons.

CRIMINAL CASE NO. 25551

In this case, accused Municipal Mayor Antonio P. Calingin is charged with violation of Section 3(e) of R.A. 3019 for reimbursing himself the amount of Php1,500,000.00 supposedly representing his expenses for the land management development of Balay Ticala Housing Project, although no land management development expenses were actually spent by him, thereby giving unwarranted benefits and advantage to himself and causing undue injury to the

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government and public interest in said sum of money. The prosecution presented the following:

CHECK	DISBURSEMENT VOUCHER	COA REMARKS
<p>PNB Check No. 952906-R dated December 22, 1995, in the amount of Php1,500,000.00, payable to the order of ANTONIO CALINGIN (Exhibit F)</p> <p>SIGNATORIES:</p> <p>> Face: Municipal Mayor Antonio Calingin P. and Municipal Treasurer Lourdes E. Plantas</p> <p>> Dorsal: Municipal Mayor Antonio Calingin P.</p> <p>- For deposit to Account No. 810487-9</p>	<p>Disbursement Voucher No. 5 (Exhibit F-1)</p> <p>PAYING OFFICE: Municipal Treasury</p> <p>CLAIMANT: Municipal Mayor Antonio P. Calingin</p> <p>PARTICULARS OF PAYMENT: reimbursement of land development expenses xxx in the total amount of Php1,500,000.00</p> <p>CERTIFIED (Expenses/Cash Advance necessary, lawful, and incurred under my direct supervision) : Municipal Mayor Antonio P. Calingin</p> <p>CERTIFIED (Adequate available funds/budgetary allotment in the amount of xxx; expenditure properly certified, supported by documents marked (x) per checklist on back hereof; account codes proper; previous cash advance liquidated/accounted for):</p> <p><u>no signature of Municipal Accountant Estrellita L. Ballescas</u></p> <p>APPROVED: Municipal Mayor Antonio P. Calingin</p> <p>RECIPIENT: Municipal Mayor Antonio P. Calingin</p>	<ul style="list-style-type: none"> lacked bidding documents, accomplishment report, billing statement and official receipt Considering the amount, payment should have been payable not to accused Calingin, but to the supplier/contractor the 25 January 1995 JVA covers land development; hence, payment for it should have been included in the Php4.5 Million Pesos payment to Blue Marlin Disbursement Voucher did not pass the Municipal Accountant

An examination of the subject check and voucher discloses that, indeed, they lacked any attachment, in violation of the afore-quoted **Section 4(6) of P.D. 1445** and **Section 168 of GAAM**. The lack of documentation prevents an evaluation of the validity, propriety and correctness of the advance payment made by, and accused Calingin's claim for reimbursement. For one, it cannot even be ascertained to whom advance payment was made, and, if payment was made to Blue Marlin, it cannot be determined how much was previously paid to Blue Marlin for land management development.

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Moreover, on its face, the Disbursement Voucher is oddly numbered "5", hence, does not conform with the prescribed uniform system of numbering of vouchers under **Commission on Audit Circular No. 78-79 dated April 5, 1978**. Further, it plainly shows that it lacked the required certification of the Municipal Accountant to the effect that "adequate available funds/budgetary allotment in the amount of xxx; expenditure properly certified, supported by documents marked (x) per checklist on back hereof; account codes proper; previous cash advance liquidated/accounted for." This runs counter to **Section 4(5) of P.D. 1445** which says:

Section 4. *Fundamental principles.* Financial transactions and operations of any government agency shall be governed by the fundamental principles set forth hereunder, to wit:

5. Disbursements or disposition of government funds or property shall invariably bear the approval of the proper officials. .

And, considering the absence of the signature of the Municipal Accountant, the check should have not have been issued according to **Commission on Audit Circular No. 92-382, dated July 3, 1992**.⁹⁹

Sec. 42. Checks drawn on disbursement vouchers. - Checks in settlement of obligations shall be drawn only on duly approved disbursement vouchers.

Moreover, payment was made to accused Calingin contrary to **Section 93 of P.D. 1445** which directs that checks drawn against the treasury checking account for agencies maintained with any government depository shall be made payable either directly to the creditor to whom the money is due or to a disbursing officer for official disbursement.

Thus, in claiming and receiving such unauthorized "reimbursement" in gross violation of basic and fundamental accounting and auditing rules, accused Calingin gave unwarranted benefit and advantage to himself; at the same time, he caused undue injury to the government.

CRIMINAL CASE NO. 25552

Here, again charged for violation of Section 3(e), R.A. No. 3019 is Municipal Mayor Antonio P. Calingin for releasing and allowing payment to himself the sum of Seven Hundred Fifty Thousand Pesos (Php750,000.00) allegedly representing the project management fee of DVF Construction, in connection with the Balay Ticala Housing Project, although no project

⁹⁹ Circular on Accounting and Auditing Rules and Regulations designed to implement the provisions of Republic Act No. 7160, the Local Government Code of 1991, issued pursuant to Section 2(2), Article IX-D, of the Constitution.

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management services were actually rendered, thereby giving unwarranted benefits and advantage to himself and causing undue injury to the government and public interest in said sum of money. The prosecution evidence consists of the following:

CHECK	DISBURSEMENT VOUCHER	COA REMARKS
<p>PNB Check No. 952905-R dated December 22, 1995 in the amount of Php750,000.00, payable to "DVF CONSTRUCTION AND/OR CASH (Exhibit G)</p> <p>SIGNATORIES:</p> <p>> Face: Municipal Mayor Antonio P. Calingin and Municipal Treasurer Lourdes E. Plantas</p> <p>> Dorsal: Municipal Mayor Antonio P. Calingin</p>	<p>Disbursement Voucher No. 4 (Exhibit G-1)</p> <p>PAYING OFFICE: Municipal Treasury</p> <p>CLAIMANT: DVF CONSTRUCTION AND/OR CASH -MANILA</p> <p>PARTICULARS OF PAYMENT: payment of project management fee for Ticala Housing Project</p> <p>CERTIFIED (Expenses/Cash Advance necessary, lawful, and incurred under my direct supervision) : Municipal Mayor Antonio P. Calingin</p> <p>CERTIFIED (Adequate available funds/budgetary allotment in the amount of xxx; expenditure properly certified, supported by documents marked (x) per checklist on back hereof; account codes proper; previous cash advance liquidated/accounted for):</p> <p><i>no signature of Municipal Accountant Estrellita L. Ballecast</i></p> <p>APPROVED: Municipal Mayor Antonio P. Calingin</p> <p>RECIPIENT: Municipal Mayor Antonio P. Calingin</p>	<ul style="list-style-type: none"> lacked billing statement and accomplishment report audit yielded no contractor in the name of DVF Construction Disbursement Voucher did not pass the Municipal Accountant

Apparently, the disbursement voucher is numbered "4", hence, does not follow the prescribed uniform system of numbering of vouchers under **Commission on Audit Circular No. 78-79 dated April 5, 1978**. Also, it does not bear the signature of the Municipal Accountant, thereby violating **Section 4(5) of P.D. 1445**. Hence, according to **Section 42 of Commission on Audit Circular No. 92-382, dated July 3, 1992**, the check should have not been issued. And, for failure to attach any supporting documents, in contravention of **Section 4(6) of P.D. 1445 and Section 168 of the GAAM**, it

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may be reasonably concluded that the indicated purpose was merely made up. The audit even yielded no contractor in the name of "DVF CONSTRUCTION." This explains the prosecution's assertion that no project management services were actually rendered. What precisely is a "project management fee" for which the disbursement is being made is even unknown. More importantly, the signature of accused Calingin at the back of the check, indicating that he received the proceeds thereof, accentuates the dubiety of the transaction.

Thus, indeed, accused Calingin, in evident bad faith, gave unwarranted benefits and advantage to himself; at the same time, he caused undue injury to the government.

CRIMINAL CASE NO. 25554

In this case for violation of Section 3(e), R.A. No. 3019, allegedly in conspiracy with each other were Municipal Mayor Antonio P. Calingin and Municipal Accountant Estrellita L. Ballescás, for reimbursing Municipal Mayor Calingin the sum of Ten Thousand Pesos (Php10,000.00) allegedly representing the latter's expenses for the titling of land pertaining to Balay Ticala Housing Project, although "such titling of land was not actually processed," thereby giving unwarranted benefits and advantage to said Municipal Mayor Calingin and causing undue injury to the government and public interest, in said sum of money. The evidence against them were these:

CHECK	DISBURSEMENT VOUCHER	COA REMARKS
PNB Check No. 485311-W dated January 19, 1996 payable to the order of "ANTONIO P. CALINGIN-MUN. MAYOR, CLAVERIA, MIS. OR." in the amount of Ten Thousand Pesos (Php10,000.00) Exhibits H SIGNATORIES: > Face: Municipal Mayor Antonio P. Calingin and Municipal Treasurer Lourdes E. Plantas > Dorsal: Municipal Mayor	Disbursement Voucher No. 101-01-96-38 (Exhibit H-1) PAYING OFFICE: Municipal Treasury CLAIMANT: Antonio P. Calingin PARTICULARS OF PAYMENT: reimbursement for miscellaneous expenses incurred in the processing of titling of mun. property of BALAY TICALA HOUSING PROJECT CERTIFIED (Expenses/Cash Advance necessary, lawful, and incurred under my direct supervision) : Municipal Mayor Antonio P. Calingin CERTIFIED (Adequate available funds/budgetary allotment in the amount of xxx; expenditure properly certified, supported by documents marked (x) per checklist on back hereof; account codes proper; previous cash	• not substantiated by any supporting documents

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Antonio P. Calingin	advance liquidated/accounted for): Municipal Accountant Estrellita L. Ballescas APPROVED: Municipal Mayor Antonio P. Calingin RECIPIENT: Municipal Mayor Antonio P. Calingin
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As noted by COA, no supporting documents were attached to the above voucher. Hence, the disbursement is unsubstantiated or undocumented in violation of **Section 4(6) of P.D. 1445 and Section 168 of the GAAM.**

Meanwhile, on the stand, Municipal Accountant Ballescas acknowledged her signature on the voucher but her defense was that attached to the disbursement voucher, but which was also taken away during the special audit by State Auditor Creayla, was a Reimbursement Expense Receipt (RER) allegedly executed by accused Calingin certifying the expenses he incurred for the titling of the property for the Balay Ticala Project. However, from her own testimony, it appears that the RER is the only document attached to the voucher, and for Municipal Accountant Ballescas, such RER is already sufficient to justify the disbursement:

Atty. Villarta (Counsel for Ballescas):

Q: Now, are you familiar with this document, Ms. Witness?

A: Yes, sir.

Q: Now, Ms. Witness, there is a statement here on the "Particulars of Payment" that states "as per supporting papers". What supporting paper or document is mentioned above?

A: **Antonio Calingin attached the RER, the small one, Reimbursement Expense Receipt certifying that that was his expenses incurred while processing the titling of the Balay Ticala Housing Project.**

Q: Now, where can we find the supporting papers?

A: Usually the supporting papers are attached at the back, we staple it, **the reimbursement expense receipt and the original voucher was pulled out by the audit team headed by Mrs. Creayla.**

Q: Why did Mrs. Creayala pull out the documents, Ms. Witness?

A: That was the time that they had conducted a special audit of Balay Ticala Housing Project.

Q: Now, under the box "Journal" by B., there is a Certification. There is a Certification and the name Estrellita Ballescas with signature on top of it, whose signature is that, Ms. Witness?



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A: It is my signature.

Q: And what did you certify when you released the disbursement voucher?

A: I certified to the adequacy of the allotment of the said expenditures supported by the reimbursement expenses, certified by the claimant, Antonio Calingin.

Q: Did you check whether or not the RER submitted by Antonio Calingin was correct?

A: Yes, sir.

Q: I mean, you checked behind how he spent the Ten Thousand Pesos (P10,000.00)?

A: Yes, sir. It was stated in the reimbursement expenses, sir. It says that this is the actual expenses incurred by him.¹⁰⁰

Thus, if Ballescas' claim is true, it would mean that the transaction is substantiated solely by a self-serving Reimbursement Expense Receipt (RER). Ordinary diligence in the performance of her duties should have prompted her to require other documents which could serve as basis for the alleged expenses. Such "processing of titling of property," to be sure, has paper trail.

Without sufficient evidence to support the validity of Calingin's claim for Php10,000.00 against the municipal treasury, it stands to reason that he had misappropriated said amount for his personal use or benefit.

Apparently, accused Calingin was in evident bad faith while Ballescas was grossly and inexcusably negligent. Their respective actions enabled accused Calingin to give unwarranted benefits and advantage to himself, at the same time, to cause undue injury to the government and public interest.

CRIMINAL CASE NO. 25555

For reimbursing Municipal Mayor Antonio P. Calingin the amount of One Hundred Fifty-Five Thousand Pesos (Php155,000.00) he allegedly deposited with the PNB Trust Department for the sinking fund requirement of the Balay Ticala Housing Project, although no such amount was actually deposited by accused Calingin with said bank, thereby giving unwarranted benefits and advantage to himself and causing undue injury to the government and public interest, in said sum of money, Municipal Mayor Calingin and Municipal Accountant Ballescas are charged with violation of Section 3(e), R.A. No. 3019. The details of the check and disbursement voucher follow:

¹⁰⁰ TSN, November 11, 2013, pp. 9-10.



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CHECK	DISBURSEMENT VOUCHER	COA REMARKS
<p>PNB Check No. 485319-W dated January 19, 1996 payable to the order of ANTONIO P. CALINGIN-MUN. MAYOR, CLAVERIA, MIS. OR., in the amount of One Hundred Fifty-Five Thousand Pesos (PhP155,000.00) (Exhibit I)</p> <p>SIGNATORIES:</p> <p>> Face: Municipal Mayor Antonio P. Calingin and Municipal Treasurer Lourdes E. Plantas</p> <p>> Dorsal: Municipal Mayor Antonio P. Calingin</p>	<p>Disbursement Voucher No. 101-01-96-45</p> <p>PAYING OFFICE: Municipal Treasury</p> <p>CLAIMANT: Municipal Mayor Antonio P. Calingin</p> <p>PARTICULARS OF PAYMENT: "[t]o reimburse deposit made to PNB Trust Department for Sinking Fund requirement for TICALA Housing Project, Claveria, Mis. Or. xxx"</p> <p>CERTIFIED (Expenses/Cash Advance necessary, lawful, and incurred under my direct supervision): Municipal Mayor Antonio P. Calingin</p> <p>CERTIFIED (Adequate available funds/budgetary allotment in the amount of xxx; expenditure properly certified, supported by documents marked (x) per checklist on back hereof; account codes proper; previous cash advance liquidated/accounted for): Municipal Accountant Estrellita L. Ballescas</p> <p>APPROVED: Municipal Mayor Antonio P. Calingin</p> <p>RECIPIENT: Municipal Mayor Antonio P. Calingin</p>	<ul style="list-style-type: none"> no supporting documents like deposit slip

As noted by State Auditor Creayla, this PNB Check and Disbursement Voucher "[t]o reimburse deposit made to PNB Trust Department for Sinking Fund requirement for TICALA Housing Project, Claveria, Mis. Or. xxx" have no supporting documents like deposit slip. As such, without any document to substantiate accused Calingin's claim, the validity and accuracy of the subject transaction become doubtful. Grossly insufficient in details, it is a wonder, for one, why accused Calingin had to make payment out of his own pocket.

This is precisely why **Section 4(6) of Presidential Decree 1445 and Section 168 of the GAAM** require documentation. Ultimately, the purpose is to ensure that government funds are expended for valid, proper, and legal expenses.

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In her defense, Ballescas admitted in open court that she did not know about the sinking fund requirement because it was not their usual disbursement, but there was allegedly a bank memo from the PNB attached to the disbursement voucher to reimburse Calingin's deposit with the PNB for the sinking fund requirement of the Balay Ticala Housing Project. Inexplicably, she failed to produce any copy of such bank memo.

Assuming that there was indeed a bank memo, accused Ballescas made a judicial admission of her gross inexcusable negligence. With only a bank memo to support the transaction, she affixed her signature on the voucher without even understanding what a sinking fund is and why it had to be paid by municipal treasury. The transcripts are revealing:

Atty. Villarta (Counsel for Ballescas)

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Q: Now, can you read to the Court the "Particulars of Payment?"

A: The claimant is Antonio P. Calingin, Municipal Mayor, Claveria, Misamis Oriental. Particulars of Payment is to reimburse deposit with the PNB Trust Department for sinking fund requirement for Ticala Housing Project, Claveria, Misamis Oriental in the amount of One Hundred Fifty-Five Thousand Pesos Only (P155,000.00).

Q: What is a sinking fund requirement, Ms. Witness?

A: Actually, I don't know about the sinking fund because it is not the usual disbursement in our local government unit but there is a bank memo from the PNB manager attached to this disbursement voucher.

Q: And who submitted the bank memo, Ms. Witness?

A: It was attached by this, the original voucher.

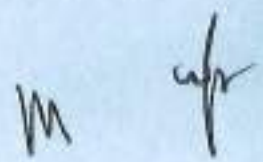
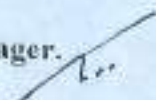
Q: So this is the supporting document, is that what you are saying?

A: Yes, that is the supporting documents attached to this disbursement voucher.

Q: What other supporting documents was attached to that voucher?

WITNESS:

A: Only the bank memo from the PNB manager.



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Q: And you approved the same even though you did not understand what the sinking fund is?

A: Yes, because there was a memo from the bank. xxx¹⁰¹

Consequently, Municipal Mayor Calingin, in evident bad faith, and Municipal Accountant Ballescas though gross, inexcusable negligence, gave unwarranted benefits and advantage to Municipal Mayor Calingin which at the same time, caused undue injury to the government and public interest.

CRIMINAL CASE NO. 25556

In violation of Section 3(e), R.A. No. 3019, Municipal Mayor Antonio P. Calingin and Municipal Accountant Estrellita L. Ballescas, allegedly caused undue injury to the government and public interest and at the same time gave unwarranted benefits and advantage to the Proprietor of Musuan Peak Resources and Development Corporation, by leasing a road grader from the said Proprietor of Musuan Peak Resources and Development Corporation, without conducting a prior public bidding among other interested lessors of heavy equipment in the municipality, and thereafter releasing and allowing payment of One Hundred Thirty One Thousand and Seventy Five Pesos (Php131,075.00) to said private person by reason of the lease. The prosecution evidence follows:

CHECK	DISBURSEMENT VOUCHER	COA REMARKS
<p>PNB Check No. 485327-W dated January 22, 1996, payable to the order of MUSUAN PEAK RESOURCES & DEVT. CORPORATION - CLAVERIA, in the amount of One Hundred Thirty-One Thousand and Seventy-Five Pesos (Php131,075) (Exhibit J)</p> <p>SIGNATORIES:</p> <p>➤ Face: Municipal Mayor Antonio P. Calingin and Municipal Treasurer Lourdes E. Plantas</p> <p>➤ Dorsal: Lucia Leonillo</p>	<p>Disbursement Voucher No. 101-01-96-54 (Exhibit J-1)</p> <p>PAYING OFFICE: Municipal Treasury</p> <p>CLAIMANT: MUSUAN PEAK RESOURCES AND DEVT. CORPORATION</p> <p>PARTICULARS OF PAYMENT: payment of rental of Road Grader used for Balay Ticala Housing Project xxx</p> <p>CERTIFIED (Expenses/Cash Advance necessary, lawful, and incurred under my direct supervision) : M.E. Designate Romeo P. Estrada</p> <p>CERTIFIED (Adequate available funds/budgetary allotment in the amount of xxx; expenditure properly certified, supported by documents</p>	<p>• without supporting documents such as official receipts, the bidding documents, accomplishment report, and the contract of lease</p>

¹⁰¹ TSN, November 11, 2013, pp. 11-12.

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marked (x) per checklist on back hereof; account codes proper; previous cash advance liquidated/accounted for):
Municipal Accountant Estrellita L. Ballescas
APPROVED: Municipal Mayor Antonio P. Calingin
RECIPIENT: MUSUAN PEAK RESOURCES & DEVT. CORPORATION

Against the express provision of **Section 4(6) of P.D. 1445** and **Section 168 of the GAAM** both requiring documentation of disbursements, municipal funds were released even though the disbursement is not supported with official receipts, the bidding documents, accomplishment report, and the contract of lease. Notably, the voucher bears the handwritten notes of Claveria Auditor-In-Charge Theodore Magtu to the following effect: "Incomplete documentation – 1. No O.R.; 2) No inspection report of agency; 3) no accomplishment report; 4) lease contract accomplished/notarized for legal reasons."

And in the absence of bidding documents, it could be reasonably concluded that no public bidding was conducted among other interested lessors of heavy equipment.

Interestingly, when deceased co-accused ME-Designate Romeo P. Estrada, testified in his defense, he explained that Musuan was the owner of the road grader rented by Blue Marlin and Macajalar Construction; *thus, the engagement of Musuan was merely a continuation of the rental of the road grader; although, he was not provided with the contract of lease.*¹⁰²

Such testimony supports the prosecution's claim that the municipality rented the road grader without the benefit of public bidding in violation of **Section 536, Chapter 3 of the GAAM**, commanding the conduct of competitive public bidding in contracts on infrastructure projects.

Moreover, the voucher was approved and payment was released without a contract of lease. It needs no stretching of the mind to consider a contract of lease a basic attachment to this transaction.

Thus, given these serious and apparent flaws, accused Calingin was in evident bad faith in approving the disbursement.

¹⁰² TSN, June 17, 2013, pp. 17, 40.

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However, reasonable doubt exists as to the participation of Municipal Accountant Ballescas considering her denial of the signature atop her name on the voucher and since there is also no showing that she authorized others to sign on her behalf in this instant.

The Court believes that the signature is not Ballescas'. It is clear from an examination of the signature atop her name that the same is not hers. There is even no attempt to simulate Ballescas' signature. *Estacio v. Jaranilla*¹⁰³ is enlightening:

It bears stressing that the trial court may validly determine forgery from its own independent examination of the documentary evidence at hand. This the trial court judge can do without resorting to experts, especially when the question involved is mere handwriting similarity or dissimilarity, which can be determined by a visual comparison of specimen of the questioned signatures with those of currently existing ones. Section 22 of Rule 132 of the Rules of Court explicitly authorizes the court, by itself, to make a comparison of the disputed handwriting with writings admitted or treated as genuine by the party against whom the evidence is offered, or proved to be genuine to the satisfaction of the judge.

Consequently, criminal liability falls only on accused Calingin for giving Musuan unwarranted benefits and advantage as well as causing injury to the government.

CRIMINAL CASE NO. 25557 and 25563

In Criminal Case No. 25557, Municipal Mayor Antonio P. Calingin, and Municipal Accountant Estrellita E. Ballescas allegedly, conspiring and confederating with each other and together with a private person, Renato C. Quiblat, caused undue injury to the government and public interest and at the same time gave unwarranted benefits and advantages to said Romeo C. Quiblat, by releasing and allowing payment to him the sum of Forty-Three Thousand and Four Hundred Twenty-Eight Pesos (Php43,428.00) for the latter's surveying services in connection with Balay Ticala Housing Project, although no surveying services were actually rendered by him, thereby causing undue injury to the government and public interest in the sum of Php43,428.00.

Criminal Case No. 25563 involves the same persons and charge, but this time, for the sum of Thirteen Thousand, Five Hundred Seventy-Four Pesos and Sixty Centavos (Php13,574.60), for the surveying services of said Romeo C. Quiblat in connection with Balay Ticala Housing Project, although no surveying services were actually rendered by him.

¹⁰³ G.R. No. 149250, December 8, 2003.

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Thus, the present indictments for violation of Section 3(e), R.A. No. 3019, with the following evidence for the prosecution:

CRIMINAL CASE NO. 25557		
CHECK	DISBURSEMENT VOUCHER	COA REMARKS
PNB Check No. 485360 dated February 7, 1996, payable to the order of ENG. RENATO C. QUIBLAT - CAGAYAN DE ORO CITY in the amount of Php43,428.00 (Exhibit K) SIGNATORIES: > Face: Municipal Mayor Antonio P. Calingin and Municipal Treasurer Lourdes E. Plantas > Dorsal: RENATO C. QUIBLAT	Disbursement No. 101-96-02-208 (Exhibit K-1) PAYING OFFICE: Municipal Treasury CLAIMANT: ENG. RENATO C. QUIBLAT - CAGAYAN DE ORO CITY PARTICULARS OF PAYMENT: payment of Surveying Services as per Survey Contract of Balay Ticala Housing Project, 15% of the total Contract Cost of THREE HUNDRED EIGHT THOUSAND PESOS (P308,000.00) as per supporting papers hereto attached in the amount of FORTY SIX THOUSAND TWO HUNDRED PESOS LESS: 6% Geodetic Engineer Tax AMOUNT: FORTY THREE THOUSAND FOUR HUNDRED TWENTY PESOS ONLY CERTIFIED (Expenses/Cash Advance necessary, lawful, and incurred under my direct supervision) : Municipal Mayor Antonio P. Calingin CERTIFIED (Adequate available funds/budgetary allotment in the amount of xxx; expenditure properly certified, supported by documents marked (x) per checklist on back hereof; account codes proper; previous cash advance liquidated/accounted for): For: Municipal Accountant Estrellita L. Ballescas APPROVED: Municipal Mayor Antonio P. Calingin RECIPIENT: ENG. RENATO C. QUIBLAT	• Without supporting documents such the surveying contract, accomplishment report, and statement of account
CRIMINAL CASE NO. 25563		
CHECK	DISBURSEMENT VOUCHER	COA REMARKS
PNB Check No. 487395-W dated April 2, 1996, in the amount of	Disbursement Voucher No. 101-96-04-429 (Exhibit N-1) PAYING OFFICE: Municipal Treasury	No supporting documents such as: billing documents, contract,

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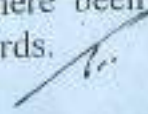
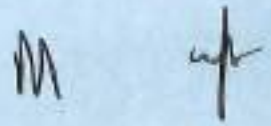
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<p>Php13,574.60, payable to the order of Romeo C. Quiblat (Exhibit N).</p>	<p>CLAIMANT: ENG. RENATO C. QUIBLAT – CAGAYAN DE ORO CITY</p>	<p>accomplishment report, inspection report, statement of account, and official receipt</p>
<p>SIGNATORIES: > Face: Municipal Mayor Antonio P. Calingin and Municipal Treasurer Lourdes E. Plantas</p>	<p>PARTICULARS OF PAYMENT: payment of Relocation & Correction Survey of Lot No. 7400, Pls -805 applied for Titling at RTC Branch 22 as per Court Order with an area of 14.7552 hectares and Submittal to Department of Environment and Natural Resources for approval</p>	
<p>> Dorsal:</p>	<p>CERTIFIED (Expenses/Cash Advance necessary, lawful, and incurred under my direct supervision) : Municipal Mayor Antonio P. Calingin</p>	
<p>RENATO C. QUIBLAT</p>	<p>CERTIFIED (Adequate available funds/budgetary allotment in the amount of xxx; expenditure properly certified, supported by documents marked (x) per checklist on back hereof; account codes proper; previous cash advance liquidated/accounted for):</p>	
	<p>Municipal Accountant Estrellita L. Ballescas</p>	
	<p>APPROVED: Municipal Mayor Antonio P. Calingin</p>	
	<p>RECIPIENT: ENG. RENATO C. QUIBLAT</p>	

Recall the following: (1) the Joint Venture Agreement (JVA) dated January 25, 1995, between Blue Marlin and the municipality was for the development of 187,357 square meters of land located at Barangay Patrocinio, Claveria, Misamis Oriental and construct thereon 1,342 housing units; (2) according to COA Engineer Pagas, survey is included in land development because that is how the developer would be able to come up with the design, plans, extent and scope of work to be undertaken. He also claimed that titling is likewise included in the land development because it is proof of ownership, adding that ownership should come first before construction; and, (3) corroborative witness for accused Municipal Accountant Ballescas, Cresencio D. Gamon alleged that in 1996, he was allegedly hired as a laborer for Macajalar, specifically as helper in surveying.

These considered, it may be inferred that surveying had already been undertaken or should have been undertaken. Thus, there is no clear justification for the engagement of accused Geodetic Engineer Renato C. Quiblat to conduct survey; or, had there been such justification, the same does not sufficiently appear on the records.

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Had accused Quiblat formally offered all the documents he mentioned and marked in the course of his testimony, to wit: Survey Contract as Exhibit 1; Scheme Plan Blue Print as Exhibit 2; and Commissioner's Report as Exhibit 3, he could have had shed light on the desired details on the subject questionable transactions. However, he did not; and what is left for the Court to consider are the foregoing subject PNB checks and disbursement vouchers *without* attachments; also, COA Engineer Pagas' report that during the ocular inspection, he looked for survey monuments, but he found none; that even the municipal engineer could not allegedly locate the survey monuments.¹⁰⁴

And as to how he was able to contract with the municipality, Quiblat's testimony on cross-examination fortified the prosecution's stand:

On cross-examination, he recalled the checks given to him as payment for mobilization fee and for the relocation survey and acknowledged his signatures on the disbursement vouchers. When asked how he was able to get the engagement from the municipality, he replied that he previously had an agreement with Blue Marlin, but since the latter and the municipality did not proceed with the contract, he was left hanging.¹⁰⁵ He also mentioned about a survey contract between him and Municipal Mayor Calingin.¹⁰⁶

Notably, he never ever mentioned having participated and winning in a public bidding. There was even no attempt to claim that he had undergone one. Also, he failed to claim and establish any other justifiable mode by which his services were procured.

Thus, it is correct to say that again, **Section 536, Chapter 3 of the GAAM**, requiring that contracts on infrastructure projects¹⁰⁷ shall be obtained through competitive public bidding, had been not been followed. And the disbursements being undocumented, were made in violation of **Section 4(6) of P.D. 1445 and Section 168 of the GAAM**

These are basic and fundamental requirements that one cannot miss. Hence, accused Municipal Mayor Calingin in approving the vouchers and issuing the checks, and Engineer Quiblat in accepting payments, are both in evident bad faith, thereby giving the latter unwarranted advantage or benefits and causing undue injury to the government.

¹⁰⁴ TSN, November 18, 2010, p. 30.

¹⁰⁵ TSN, February 18, 2013, p.22.

¹⁰⁶ TSN, February 18, 2013, pp. 8-9.

¹⁰⁷ Section 535. Definition and Scope. – Infrastructure projects are investments in capital goods by the government in the form of horizontal or vertical projects, such as roads and bridges, water supplies, flood control, irrigation systems, drainage, harbors, ports and buildings. The infusion of Government funds into these projects can be categorized into construction, betterment, improvement, rehabilitation and/or maintenance. (GAAM)

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As for Municipal Accountant Ballescas, since she denied authorship of the signature atop her name on the voucher for Criminal Case No. 25557 and since the same also appears not hers; also considering that there is no evidence that she authorized another to sign on her behalf,¹⁰⁸ she cannot, therefore, be held answerable for the subject transaction.

However, she cannot escape criminal liability for Criminal Case No. 25563. For this case, she recalled that an application for title was attached to the voucher.¹⁰⁹ To be sure, such attachment is grossly insufficient for her to affix her signature on the voucher. As such, she should be held equally liable for giving Quiblat unwarranted advantage or benefits and causing undue injury to the government in the afore-mentioned sum of money.

CRIMINAL CASE NOS. 25559 & 25560

For reimbursing Municipal Mayor Antonio P. Calingin the sum of Two Hundred Thousand Pesos (Php200,000.00) and One Hundred Thousand Pesos (Php100,000.00) both for land management development expenses although none were actually spent by him, thereby giving him unwarranted benefit and advantage and causing undue injury to the government and public interest, in said sums of money, Municipal Mayor Antonio P. Calingin and Municipal Accountant Estrellita L. Ballescas are charged in these cases with violation of Section 3(e), R.A. No. 3019. The prosecution presented the following:

CHECK	DISBURSEMENT VOUCHER	COA REMARKS
<ul style="list-style-type: none"> • Criminal Case No. 25559 ➤ PNB Check No. 485363-W dated February 7, 1996, in the amount of Php200,000.00 payable to the order of "ANTONIO P. CALINGIN-MUN. MAYOR (Exhibit L) 	Disbursement Voucher No. 101-96-02-211 (for Criminal Case No. 25559, Exhibit L-1) Disbursement Voucher No. 101-06-02-266 (for Criminal Case No. 25560, Exhibit M-1) <u>CRIMINAL CASE NOS. 25559 AND 25560</u> PAYING OFFICE: Municipal Treasury CLAIMANT: Municipal Mayor Antonio P. Calingin PARTICULARS OF PAYMENT: to "reimburse expenses related with land management development of Balay Ticala Project xxx," CERTIFIED (Expenses/Cash	<ul style="list-style-type: none"> • does not have supporting documents such as the bidding documents, accomplishment report, inspection report and statement of account • considering the amount, the money should have been made payable to the contractor
<ul style="list-style-type: none"> • Criminal Case No. 25560 ➤ PNB Check No. 		

¹⁰⁸ TSN, November 11, 2013, pp. 15.

¹⁰⁹ TSN, November 12, 2013, pp. 6-7.

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<p>437302-W dated February 20, 1996, in the amount of Php100,000.00, payable to the order of "ANTONIO P. CALINGIN-MUN. MAYOR (Exhibit M)</p>	<p>Advance necessary, lawful, and incurred under my direct supervision) : Municipal Mayor Antonio P. Calingin</p> <p>CERTIFIED (Adequate available funds/budgetary allotment in the amount of xxx; expenditure properly certified, supported by documents marked (x) per checklist on back hereof; account codes proper; previous cash advance liquidated/accounted for):</p>
<p><u>CRIMINAL CASE NOS. 25559 AND 25560</u></p>	<p>Municipal Accountant Estrellita L. Ballescas</p>
<p>SIGNATORIES:</p>	<p>APPROVED: Municipal Mayor Antonio P. Calingin</p>
<p>> Face: Municipal Mayor Antonio P. Calingin and Municipal Treasurer Lourdes E. Plantas</p>	<p>RECIPIENT: Municipal Mayor Antonio P. Calingin</p>
<p>> Dorsal: Municipal Mayor Antonio P. Calingin</p>	
<p>Note: Check No. 485363-W for deposit to Account No. 810487-9</p>	

These disbursements similarly lacked substantiation since the vouchers do not have any supporting documents. According to the COA, the same should have been supported with bidding documents, accomplishment report, inspection report and statement of account. To whom advance payment was made does not even appear from the vouchers. Moreover, recall that the Php4. Million payment to Blue Marlin as discussed above should have already covered payment for land management development

Hence, the disbursement, being undocumented was made in violation of **Section 4(6) of P.D. 1445 and Section 168 of the GAAM**. Also, for issuing the check in favor of himself, Municipal Mayor Calingin transgressed **Section 93 of P.D. 1445** which directs that checks drawn against the treasury checking account xxx shall be made payable either directly to the creditor to whom the money is due or to a disbursing officer for official disbursement.

Meanwhile, in an attempt to absolve herself, Municipal Accountant Ballescas, although acknowledging her signatures on the vouchers, claimed that attached to the vouchers were xerox copies of the logbook for the grading of the

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land. Thus, she inexplicably relied on this single document to justify the Municipal Mayor's claim for reimbursement. Without any other document establishing the basis for the supposed advance payment made and the claim for reimbursement, she should not have affixed her signature on the vouchers. This demonstrates her wanton and deliberate disregard of the demands of her duties as such Municipal Accountant.

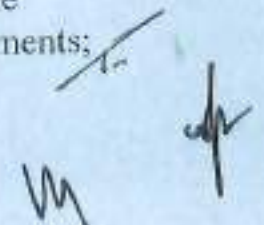
The foregoing unmistakably establish that Municipal Mayor Calingin's claims for reimbursement are baseless.

Thus, in claiming for such "reimbursement" even though no payment was actually advanced by him, accused Calingin gave unwarranted benefits to himself which, at the same time, caused undue injury to the government. Municipal Accountant Ballescas liability, on the other hand, is based on her gross inexcusable negligence in not requiring from Calingin other documents to justify the claims. Reliance on a single document which was the supposed logbook for the grading of the land is uncharacteristic of how an ordinary person of ordinary prudence, discretion and intelligence manage one's own affairs.

CRIMINAL CASE NO. 25562

Municipal Mayor Antonio P. Calingin and Municipal Accountant Estrellita L. Ballescas (with deceased Municipal Treasurer Lourdes E. Plantas, Assistant Municipal Treasurer Joaquin Dilag, and Municipal Engineer Romeo P. Estrada) are charged with violation of Section 3(e), R.A. No. 3019, together with one Rocky Calingin, the Manager of PSB Enterprises, Inc., for causing undue injury to the government and public interest and at the same time giving unwarranted benefits to said Rocky Calingin, by leasing a road grader from PSB Enterprises, Inc., to be used in the Balay Ticala Housing Project, without conducting a prior public bidding among other interested lessors of heavy equipments in the municipality, and thereafter releasing and allowing payment of Three Hundred Eighty-Six Thousand, Four Hundred Eighty-Four Pesos (Php386,484.00) to said Rocky Calingin by reason of the lease. The prosecution presented six (6) PNB checks in varying amounts and four (4) disbursement vouchers, three (3) of which all indicate:

- (1) PSB Enterprises as claimant
- (2) ME-Designate Romeo P. Estrada certifying that the expenses/Cash Advance necessary, lawful, and incurred under his direct supervision;
- (3) Municipal Accountant Ballescas certifying that there was adequate available funds/budgetary allotment; that the expenditure is properly certified, supported by documents;



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- that account codes are proper; and that previous cash advance is liquidated/accounted for;
- (4) Municipal Mayor Calingin as approving authority.

The amounts represent payment for road grader rental for Balay Ticala Housing Project. The checks and vouchers follow:

CHECK	DISBURSEMENT VOUCHER	COA REMARKS
1. PNB Check No. 487632-W dated April 2, 1996, for Php89,775. (Exhibit P)	Disbursement Voucher No. 101-96-04-435 (per journal entry)	<ul style="list-style-type: none"> a copy of such Disbursement Voucher No. 101-96-04-435 was not submitted attached to the check was a mere Statement of Account (Exhibit P-1) signed by PSB Manager Rocky S. Calingin who is allegedly the son of accused Calingin by common knowledge check was endorsed for deposit to the Account No. 810487-9 as shown by dorsal portion of the check
2. PNB Check No. 487633-W dated April 2, 1996 in the amount of Php43,225.00 (Exhibit Q)	Disbursement Voucher No. 101-96-04-436	<ul style="list-style-type: none"> does not have any supporting document check was endorsed for deposit to Account No. 810487-9 as shown by dorsal portion of the check
3. PNB Check No. 487704-W dated April 16, 1996 in the amount of Php35,000.00 (Exhibit R)	No disbursement voucher	<ul style="list-style-type: none"> No disbursement voucher amount was received by accused Calingin as shown by dorsal portion of the check
4. PNB Check No. 487351-W dated March 12, 1996 in the amount of Php70,984.00 (Exhibit S)	Disbursement Voucher No. 101-96-03-359 (Exhibit S-1)	<ul style="list-style-type: none"> does not have any supporting documents the proceeds were received by Rocky S. Calingin who is allegedly the son of accused Calingin by common knowledge
5. PNB Check No. 487350-W dated March 12, 1996, for Php47,500.00 (Exhibit T)	Disbursement Voucher No. 101-96-03-358 (Exhibit T-1)	<ul style="list-style-type: none"> does not have any supporting document the proceeds were received by Rocky S. Calingin who is allegedly the son of accused Calingin by common knowledge

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6. PNB Check No. 490437-W dated August 7, 1996 in the amount of Php100,000.00 (Exhibit U)	Disbursement Voucher No. 101-96-08-904(Exhibit U-1)	<ul style="list-style-type: none">• Disbursement voucher not accomplished• Disbursement voucher bears a notation of Municipal Accountant Ballescas to the effect that "File of check issued bearing SN 490437 dtd 8/7/96, voucher was not yet prepared."
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Several irregularities are immediately noticeable. First, one check, that for Php35,000.00 is not even supported with a disbursement voucher and the other one, the check for Php100,000.00 had an attached disbursement voucher but the same was unaccomplished and even has a notation signed by the Municipal Accountant to the following effect: "File of check issued bearing SN 490437 dtd 8/7/96, voucher was not yet prepared." This is contrary to the *fundamental principle* under **Section 4(5) of P.D. 1445** mandating that disbursements of government funds or property shall invariably bear the approval of the proper officials. Moreover, the checks should have not been issued considering the plain requirement of **Section 42 of Commission on Audit Circular No. 92-382, dated July 3, 1992:**¹¹⁰ that "checks in settlement of obligations shall be drawn only on duly approved disbursement vouchers."

As to the other vouchers, they do not have any attachments except for a single statement of account allegedly reflecting the grading hours. There is even no contract of lease to define the rights and obligations between the parties. And as to how PSB Enterprise became the lessor is unknown. Thus, it is correct to say that again, **Section 536, Chapter 3 of the GAAM**, requiring that contracts on infrastructure projects¹¹¹ shall be obtained through competitive public bidding, had been not been followed.

While no proof had been presented by the prosecution as to the real identity of "Rocky S. Calingin," it will not pass the attention of the Court that two checks (for Php89,775.00 and Php43,225.00) were deposited to Account No. Account No. 810487-9, which is accused Calingin's Account No. The check for Php35,000.00 was even encashed by him even though it is payable to PSB Enterprises.

¹¹⁰ Circular on Accounting and Auditing Rules and Regulations designed to implement the provisions of Republic Act No. 7160, the Local Government Code of 1991, issued pursuant to Section 2(2), Article IX-D, of the Constitution.

¹¹¹ Section 535. Definition and Scope. - Infrastructure projects are investments in capital goods by the government in the form of horizontal or vertical projects, such as roads and bridges, water supplies, flood control, irrigation systems, drainage, harbors, ports and buildings. The infusion of Government funds into these projects can be categorized into construction, betterment, improvement, rehabilitation and/or maintenance. (GAAM)

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The violation of basic and fundamental auditing and accounting rules and the receipt of accused Calingin of some of the proceeds indicate his evident bad faith and in so doing, he gave undue advantage and benefit to himself or to Rocky Calingin and caused undue injury to the government and public interest, to the full amount of Php386,484.00 considering that he is also a signatory to the PNB Checks.

Meanwhile, as to accused Balleascas, her gross inexcusable negligence equivalent to evident bad faith is demonstrated by the fact that she again relied on a single document – the Statement of Account. There was even no pretense or claim of any other attachments to these transactions. As such, she is likewise criminally liable for giving undue advantage and benefit to accused Calingin or to Rocky Calingin and for causing undue injury to the government and public interest in the total amount of Php161,709.00. This is the sum of the three disbursements (for Php43,225.00, Php70,984, and Php47,500.00) certified by her.

CRIMINAL CASE NO. 25566

For releasing and allowing payment to Municipal Mayor Antonio P. Calingin the sum of Three Hundred Eighty Thousand, Four Hundred Fifty Four Pesos and Fifty Five Centavos (Php380,454.55), representing the Project Management Fee of Karre and Company, in connection with the Balay Ticala Housing Project, although no project management services were actually rendered, thereby causing undue injury to the government and public interest in said sum of money, and giving unwarranted benefits and advantage to himself, the latter is indicted of violating Section 3(e), R.A. No. 3019, the evidence against him consisted of the following:

CHECK	DISBURSEMENT VOUCHER	COA REMARKS
<p>PNB Check No. 487635-W dated April 2, 1996, in the amount of Php380,454.55, payable to the order of "KARRE & COMPANY -CHICO ST., QUEZON CITY (Exhibit V)</p> <p>SIGNATORIES:</p> <p>> Face: Municipal Mayor Antonio P. Calingin and Municipal Treasurer Lourdes E. Plantas</p> <p>> Dorsal:</p>	<p>Disbursement Voucher No. 101-04-96-138 (Exhibit V-1)</p> <p>PAYING OFFICE: Municipal Treasury</p> <p>CLAIMANT: KARRE & COMPANY - CHICO ST., QUEZON CITY</p> <p>PARTICULARS OF PAYMENT: for "payment for the construction of Balay Ticala Housing Project xxx representing second billing per statement of account dated March 1, 1996xxx""</p> <p>CERTIFIED (Expenses/Cash Advance necessary, lawful, and</p>	<ul style="list-style-type: none"> bears only the signature of accused Calingin as approving authority does not have supporting documents like the bidding documents, inspection report, official receipt, and statement of account

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Municipal Mayor Antonio P. Calingin	incurred under my direct supervision) :
Note: endorsed for deposit to Account No. 810487-9	<u>No signature of ME-Designate Romeo P. Estrada</u>
	CERTIFIED (Adequate available funds/budgetary allotment in the amount of xxx; expenditure properly certified, supported by documents marked (x) per checklist on back hereof; account codes proper; previous cash advance liquidated/accounted for):
	<u>No signature of Municipal Accountant Estrellita L. Ballescas</u>
	APPROVED: Municipal Mayor Antonio P. Calingin
	RECIPIENT: no signature

With only *one signatory* to this Disbursement Voucher, that is, that of accused Calingin as approving authority, and without any supporting documents like the *bidding documents, inspection report, official receipt, and statement of account, PNB Check No. 487635-W dated April 2, 1996, payable to the order of "KARRE & COMPANY -CHICO ST., QUEZON CITY" in the amount of Php380,454.55 should not have been issued.*

Hence, **Section 4(6) of P.D. 1445 and Section 168 of the GAAM** were violated, in addition to **Section 42 of Commission on Audit Circular No. 92-382, dated July 3, 1992** mandating that "checks in settlement of obligations shall be drawn only on duly approved disbursement vouchers."

The disbursement is totally baseless and illegal. Undoubtedly, the proceeds were only pocketed by accused Calingin. Notably, the subject check payable to "Karre & Company" was endorsed by accused Calingin for deposit, again, to Account No. 810487-9. This is the very same Account No. 810487-9 to where he deposited the proceeds of other checks drawn payable to him.

Accused Calingin's bad faith is thus evident and he obviously gave unwarranted benefits and advantage to himself and caused undue injury to the government in said sum of money.

CRIMINAL CASE NO. 25568

In this case, Municipal Mayor Antonio P. Calingin and Municipal Accountant Estrellita L. Ballescas allegedly violated Section 3(h) of R.A. 3019

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(along with deceased Municipal Treasurer Lourdes E. Plantas and Municipal Engineer Romeo P. Estrada). Municipal Mayor Calingin allegedly had financial or pecuniary interest in a business, contract or transaction in connection with which said Municipal Mayor Calingin intervened or took part in his official capacity in which he is prohibited by law from having any interest, by endorsing for deposit under Account No. 810487-9, his personal account number at the Philippine National Bank, Lim Ket Kai Branch, Cagayan de Oro City, PNB Check No. 487634 amounting to Four Hundred Fifty Thousand, Three Hundred Twenty-One Pesos and Sixty Three Centavos (Php450,321.63), in payment of the materials purchased from Ristian Hardware, Cagayan de Oro City.

Section 3(h) of R.A. 3019 punishes any public officer who directly or indirectly has financial or pecuniary interest in any business, contract or transaction in connection with which he intervenes or takes part in his official capacity, or in which he is prohibited by the Constitution or by any law from having any interest.

The elements are that: 1) the accused is a public officer; 2) he has a direct or indirect financial or pecuniary interest in any business, contract or transaction; 3) he either: a) intervenes or takes part in his official capacity in connection with such interest, or b) is prohibited from having such interest by the Constitution or by law.

It was explained in *Domingo v. Sandiganbayan* that:

xxx [T]here are two modes by which a public officer who has a direct or indirect financial or pecuniary interest in any business, contract, or transaction may violate Section 3(h) of R.A. 3019. The first mode is when the public officer intervenes or takes part in his official capacity in connection with his financial or pecuniary interest in any business, contract or transaction. The second mode is when he is prohibited from having such an interest by the Constitution or by law.

In this case, Municipal Mayor Calingin in his official capacity as Municipal Mayor of Claveria violated the law via the first mode, that is, by intervening or taking part in his official capacity in connection with his financial or pecuniary interest in the transaction regarding the supply and delivery of materials for the construction of row houses for the Balay Ticala Project.

The prosecution presented the following:

CHECK	DISBURSEMENT VOUCHER	COA REMARKS
PNB Check No. 487634-W dated April	Disbursement Voucher No. 101-96-04-437 (Exhibit O-1)	• has no supporting documents such as the

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<p>2, 1996, in the amount of Php450,321.63 payable to the order of RISTIAN HARDWARE-CAGYAN DE ORO CITY" (Exhibit-O)</p>	<p>PAYING OFFICE: Municipal Treasury</p>	<p>bidding documents, purchase order, special report, and official receipt</p>
<p>SIGNATORIES:</p>	<p>CLAIMANT: RISTIAN HARDWARE-CAGYAN DE ORO CITY</p>	
<p>> Face: Municipal Mayor Antonio P. Calinginn and Municipal Treasurer Lourdes E. Plantas</p>	<p>PARTICULARS OF PAYMENT: for "payment of materials for the const. of Row House at Patrocinio, Claveria, Mis. Or.xxx"</p>	
<p>> Dorsal: Municipal Mayor Antonio P. Calingin</p>	<p>CERTIFIED (Expenses/Cash Advance necessary, lawful, and incurred under my direct supervision) : ME-Designate ROMEO P. ESTRADA</p>	
<p>Note: endorsed and approved for deposit to Account No. 810487-9</p>	<p>CERTIFIED (Adequate available funds/budgetary allotment in the amount of xxx; expenditure properly certified, supported by documents marked (x) per checklist on back hereof; account codes proper; previous cash advance liquidated/accounted for):</p>	
	<p>Municipal Accountant Estrellita L. Ballescas</p>	
	<p>APPROVED: Municipal Mayor Antonio P. Calingin</p>	
	<p>RECIPIENT: RISTIAN HARDWARE</p>	

An examination of the subject voucher however, reveals that it lacked supporting documents in violation of **Section 4(6) of P.D. 1445 and Section 168 of the GAAM.**

On the stand, Municipal Accountant Ballescas claimed that a public bidding took place as shown by a copy of the Minutes of the Pre-Qualification Bids and Awards Committee (Exhibit 1); also, attached to the voucher were the purchase request, purchase orders and the three canvass papers which were allegedly pulled out during the special audit by State Auditor Creayla along with the voucher.

Granting as true the foregoing claims, conspicuously missing from the alleged attachments is the *agency inspection report*, in the absence of which, delivery of the construction materials could not be validated.

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Despite the absence of the foregoing requirements, Municipal Accountant Ballescas and Municipal Mayor Calingin affixed their respective signatures on the voucher. Thereafter, the check, signed by Municipal Mayor Calingin despite being drawn payable to the order of RISTIAN HARDWARE-CAGYAN DE ORO CITY, was endorsed for deposit to the Account No. of Municipal Mayor Calingin – Account No. No. 810487-9.

The foregoing circumstances establish the pecuniary interest of Municipal Mayor Calingin in the subject transaction. On the other hand, Municipal Accountant Ballescas' chose to ignore all the missing supporting documents. Hence, she shares equal guilt with the Municipal Mayor Calingin for which she should be held equally liable.

CRIMINAL CASE NO. 25570

Municipal Mayor Antonio P. Calingin and Municipal Accountant Estrellita E. Ballescas, are both charged with violation of Section 3(e), R.A. 3019, for reimbursing said accused Calingin the sum of Thirty Thousand Pesos (Php30,000.00) for the alleged expenses he spent in the titling of land pertaining to the Balay Ticala Housing Project, "although such titling of land was not actually processed, thereby giving accused Calingin unwarranted benefits and advantage and causing undue injury to the government and public interest, in said sum of money. The prosecution evidence:

CHECK	DISBURSEMENT VOUCHER	COA REMARKS
PNB Check No. 487802, dated June 4, 1996, in the amount of Php30,000.00 - check details are indicated in the entries at the bottom portion of the Disbursement Voucher	Disbursement Voucher No. 101-96-06-658 (Exhibit BB) for claimant xxx" PAYING OFFICE: Municipal Treasury CLAIMANT: Municipal Mayor Antonio P. Calingin PARTICULARS OF PAYMENT: "reimbursement of miscellaneous expenses and titling of Balay Ticala" CERTIFIED (Expenses/Cash Advance necessary, lawful, and incurred under my direct supervision) : Municipal Mayor Antonio P. Calingin CERTIFIED (Adequate	<ul style="list-style-type: none"> • corresponding check was not presented to the team but entries at the bottom portion of the Disbursement Voucher indicate that accused Calingin received PNB Check No. 487802, dated June 4, 1996, in the amount of Php30,000.00 • without supporting documents like the invoices and official receipt

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available funds/budgetary allotment in the amount of xxx; expenditure properly certified, supported by documents marked (x) per checklist on back hereof; account codes proper; previous cash advance liquidated/accounted for):
Municipal Accountant Estrellita L. Ballescas
APPROVED: Municipal Mayor Antonio P. Calingin
RECIPIENT: Municipal Mayor Antonio P. Calingin

Accused Municipal Mayor Calingin, once again claimed for reimbursement of alleged miscellaneous expenses for the titling of Balay Ticala, without supporting documents. Recall that in Criminal Case No. 25554 Municipal Mayor Calingin claimed for reimbursement of the sum of Ten Thousand Pesos (Php10,000.00) representing reimbursement of miscellaneous expenses he allegedly incurred in the "processing of titling of mun. property of BALAY TICALA HOUSING PROJECT," although titling of land was not actually processed.

Without documentation, the regularity and appropriateness of the transaction could not be validated. Bad faith on the part of the signatories is evident since documentation is a basic requirement under **Section 4(6) of P.D. 1445 and Section 168 of the GAAM**, without which, the claim and disbursement is deemed to be baseless, hence, illegal, and would lead one to believe the amount has been misappropriated. By approving the instant voucher without any attachments, all the signatories gave accused Calingin unwarranted benefits and advantage and caused undue injury to the government.

Again, Municipal Accountant Ballescas could not evade liability. From her testimony, it seemed that she again merely relied on a self-serving reimbursement receipt signed by accused Calingin.¹¹² For sure, titling of property has paper trail and will yield official receipts.

CRIMINAL CASE NO. 25571

Municipal Mayor Antonio P. Calingin and Municipal Accountant Estrellita E. Ballescas, are both charged with violation of Section 3(e), R.A. 3019, for purchasing a water tank fiber glass from the Saver's Plaza Auto Parts,

¹¹² TSN, November 12, 2013, p. 9.

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without conducting a prior public bidding among others interested suppliers in the Municipality, and thereafter releasing and allowing payment of One Hundred Thousand Pesos (Php100,000.00) to said private person, thereby giving unwarranted benefits and advantage to said Proprietor of Saver's Plaza Auto Parts and causing undue injury to the government and public interest. The check and disbursement voucher follow:

CHECK	DISBURSEMENT VOUCHER	COA REMARKS
<p>PNB Check No. 487849-W dated July 9, 1996 in the amount of Php100,000.00 payable to the order of Savers' Plaza Auto Parts and/or Raul Rebolos (Exhibit AA)</p> <p>SIGNATORIES:</p> <p>> Face: Municipal Mayor Antonio P. Calingin and Municipal Treasurer Lourdes E. Plantas</p> <p>> Dorsal: Raul Rebolos and Crisanto Calingin</p>	<p>Disbursement Voucher No. 101-96-07-802</p> <p>PAYING OFFICE: Municipal Treasury</p> <p>CLAIMANT 'Savers' Plaza Auto Parts</p> <p>PARTICULARS OF PAYMENT: for "payment of one unit water tank fiber glass for Balay Ticala Housing Project xxx</p> <p>CERTIFIED (Expenses/Cash Advance necessary, lawful, and incurred under my direct supervision) :</p> <p><i>ME-Designate Romeo P. Estrada</i></p> <p>CERTIFIED (Adequate available funds/budgetary allotment in the amount of xxx; expenditure properly certified, supported by documents marked (x) per checklist on back hereof; account codes proper; previous cash advance liquidated/accounted for):</p> <p><i>Municipal Accountant Estrellita L. Ballescas</i></p> <p>APPROVED: <i>Municipal Mayor Antonio P. Calingin</i></p> <p>RECIPIENT: no signature</p>	<ul style="list-style-type: none">• without supporting documents like the bidding documents, inspection report, official receipt, statement of account• amount was received by Crisanto Calingin, allegedly a relative of accused Calingin

A scrutiny of the above documents discloses that the transaction is not supported with attachments that could have established the validity, legality and propriety of the disbursement. As with the other disbursements, the instant

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disbursement violated **Section 4(6) of P.D. 1445 and Section 168 of the GAAM**, for which the signatories thereon should be held liable.

Without any document to support the transaction, the mode by which the water tank fiber was procured is not even known.

More telling of the patent irregularity of the subject transaction were the following declarations of deceased ME-Designate Romeo P. Estrada. Interestingly, ME-Designate Estrada stated on the stand that the municipality need not even make the payment for this water tank. The transcripts reveal the following:

PROS. BALMEO

Q. Alright. So, sir, this payment for the water tank in the amount of xxx, who contacted Savers Plaza Auto Parts, sir, for this particular supply of water tank, sir, would you know?

A. It's Macajalar, sir.

Q. Macajalar. So you are trying to say that it was Macajalar and Saver's Plaza Auto Parts who were communicating relative to the delivery of this water tank, sir.

A. Yes, sir.

Q. The municipality of Claveria has nothing to do with the purchase of this water tank. It was Macajalar and Savers Plaza, did I get you right, sir? That is my understanding.

A. Yes, sir.

Q. Alright. So there was no need for the municipality to pay Saver's Plaza, am I correct, sir?

A. Yes, sir.

Q. There was no need to pay Saver's Plaza?

A. Yes, sir, because it was under Macajalar Construction, sir.

On re-direct, Estrada once again declared:

ATTY. ACOYMO

Q. Mr. witness, a while ago, the prosecution asked you that there was no need for the government to pay Saver's Plaza for the water tank, and you said yes. Why did you make that answer?

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A. Because the deliveries of water tanks was conducted by Macajalar Construction, sir.

Q. And who was the one claiming the amount?

A. The Saver's Plaza.

Q. And would you know if Saver's Plaza was paid prior to this actual amount under this Disbursement Voucher?

A. I don't know, sir.¹¹³

Thus, deceased Estrada inexplicably affixed his signature on the voucher knowing that the municipality need not pay Saver's Plaza.

The same goes with the other signatories. Thus, they should bear the consequences of their patently ill-motivated actuations which was designed to give Saver's Plaza unwarranted benefits, thereby causing undue injury to the government.

ON THE PRESENCE OF CONSPIRACY

In separate Informations, accused Municipal Mayor Calingin, Municipal Accountant Ballescas, and private individual Quiblat are charged of conspiring and confederating with one another. As to what evidence is required to support a finding of conspiracy, this Court is guided by the pronouncement in *Alvizo v. Sandiganbayan*, to wit:

Direct proof is not essential to show conspiracy. It need not be shown that the parties actually came together and agreed in express terms to enter into and pursue a common design. The existence of the assent of minds which is involved in a conspiracy may be, and from the secrecy of the crime, usually must be, inferred by the court from proof of facts and circumstances which, taken together, apparently indicate that they are merely parts of some complete whole. If it is proved that two or more persons aimed by their acts towards the accomplishment of the same unlawful object, each doing a part so that their acts, though apparently independent, were in fact connected and cooperative, indicating a closeness of personal association and a concurrence of sentiments, then a conspiracy may be inferred though no actual meeting among them to concert means is proved. Thus, the proof of conspiracy, which is essentially hatched under cover and out of view of others than those directly concerned, is perhaps most frequently made by evidence of a chain of circumstances only.

Here, (save on cases where Municipal Accountant Ballescas satisfactorily proved non-authorship of the signature on the vouchers), the separate acts of

¹¹³ TSN, June 17, 2013, pp. 46-47.



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Municipal Mayor Calingin and Municipal Accountant Ballescas contributed in the end result of defrauding the government coffers. Without their respective signatures on the vouchers, the unlawful disbursements could not have been made. When they signed the vouchers, they made it appear that the disbursements were necessary, lawful and sufficiently supported with documents, when, in fact, they were not. Since they both contributed to attain the end goal, it can be concluded that their acts, taken collectively, satisfactorily prove the existence of conspiracy among them.

The same may be said of Engineer Quiblat. Knowing fully well that the basic requirements of the laws and rules and regulations on procurement have not been followed, he should have not accepted payments, more so, for survey services he did not truly render.

Consequently, considering that all the elements of Sec. 3(e) (and 3(h) of R.A. 3019 for Criminal Case No. 25568) of R.A. No. 3019, were without doubt proved in these cases and conspiracy having been established, a moral certainty is achieved to find the three accused liable for the acts they committed.

THE PENALTY

WHEREFORE, judgment hereby is rendered as follows:

- (1) In **CRIMINAL CASE NO. 25550, ANTONIO P. CALINGIN** is found **guilty** beyond reasonable doubt of having violated Sec. 3(e), R.A. No. 3019, and is sentenced to suffer the indeterminate penalty of six (6) years and one (1) month, as minimum to eight (8) years, as maximum; perpetual disqualification from public office; and, to indemnify the Government of the Republic of the Philippines in the amount of Two Million Seven Hundred, Ninety-Three Thousand, One Hundred Forty-Five Pesos and Thirty Centavos (Php2,793,145.30).
- (2) In **CRIMINAL CASE NO. 25551, ANTONIO P. CALINGIN** is found **guilty** beyond reasonable doubt of having violated Sec. 3(e), R.A. No. 3019, and is sentenced to suffer the indeterminate penalty of six (6) years and one (1) month, as minimum to eight (8) years, as maximum; perpetual disqualification from public office; and, to indemnify the Government of the Republic of the Philippines in the amount of One Million Five Hundred Thousand Pesos (Php1,500,000.00).

M *[Signature]*

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- (3) In **CRIMINAL CASE NO. 25552, ANTONIO P. CALINGIN** is found **guilty** beyond reasonable doubt of having violated Sec. 3(e), R.A. No. 3019, and is sentenced to suffer the indeterminate penalty of six (6) years and one (1) month, as minimum to eight (8) years, as maximum; perpetual disqualification from public office; and, to indemnify the Government of the Republic of the Philippines in the amount of Seven Hundred Fifty Thousand Pesos (Php750,000.00).
- (4) In **CRIMINAL CASE NO. 25554, ANTONIO P. CALINGIN** and **ESTRELLITA L. BALLESCAS** are found **guilty** beyond reasonable doubt of having violated Sec. 3(e), R.A. No. 3019, and is each is sentenced to suffer the indeterminate penalty of six (6) years and one (1) month, as minimum, to eight (8) years, as maximum; perpetual disqualification from public office; and, to indemnify, jointly and severally, the Government of the Republic of the Philippines in the amount of Ten Thousand Pesos (Php10,000.00).
- (5) In **CRIMINAL CASE NO. 25555, ANTONIO P. CALINGIN** and **ESTRELLITA L. BALLESCAS** are found **guilty** beyond reasonable doubt of having violated Sec. 3(e), R.A. No. 3019, and each is sentenced to suffer the indeterminate penalty of six (6) years and one (1) month, as minimum to eight (8) years, as maximum; perpetual disqualification from public office; and, to indemnify, jointly and severally, the Government of the Republic of the Philippines in the amount of One Hundred Fifty Five Thousand Pesos (Php155,000.00).
- (6) In **CRIMINAL CASE NO. 25556, ANTONIO P. CALINGIN** is found **guilty** beyond reasonable doubt of having violated Sec. 3(e), R.A. No. 3019, and is each is sentenced to suffer the indeterminate penalty of six (6) years and one (1) month, as minimum to eight (8) years, as maximum; perpetual disqualification from public office; and, to indemnify the Government of the Republic of the Philippines in the amount of One Hundred Thirty One Thousand and Seventy-Five Pesos (Php131,075.00).

ESTRELLITA L. BALLESCAS is hereby acquitted. 

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(7) In **CRIMINAL CASE NO. 25557**, **ANTONIO P. CALINGIN** and **RENATO C. QUIBLAT** are found **guilty** beyond reasonable doubt of having violated Sec. 3(e), R.A. No. 3019, and each is sentenced to suffer the indeterminate penalty of six (6) years and one (1) month, as minimum to eight (8) years, as maximum; perpetual disqualification from public office; and, to indemnify, jointly and severally, the Government of the Republic of the Philippines, in the amount of Forty-Three Thousand and Four Hundred Twenty-Eight Pesos (Php43,428.00).

ESTRELLITA L. BALLESCAS is hereby **acquitted**.

(8) In **CRIMINAL CASE NO. 25559**, **ANTONIO P. CALINGIN** and **ESTRELLITA L. BALLESCAS** are found **guilty** beyond reasonable doubt of having violated Sec. 3(e), R.A. No. 3019, and each is sentenced to suffer the indeterminate penalty of six (6) years and one (1) month, as minimum to eight (8) years, as maximum; perpetual disqualification from public office; and, to indemnify, jointly and severally, the Government of the Republic of the Philippines in the amount of Two Hundred Thousand Pesos (Php200,000.00).

(9) In **CRIMINAL CASE NO. 25560**, **ANTONIO P. CALINGIN** and **ESTRELLITA L. BALLESCAS** are found **guilty** beyond reasonable doubt of having violated Sec. 3(e), R.A. No. 3019, and each is sentenced to suffer the indeterminate penalty of six (6) years and one (1) month, as minimum to eight (8) years, as maximum; perpetual disqualification from public office and to indemnify, jointly and severally, the Government of the Republic of the Philippines in the amount of One Hundred Thousand Pesos (Php100,000.00).

(10) In **CRIMINAL CASE NO. 25562**, **ANTONIO P. CALINGIN** and **ESTRELLITA L. BALLESCAS** are found **guilty** beyond reasonable doubt of having violated Sec. 3(e), R.A. No. 3019, and each is sentenced to suffer the indeterminate penalty of six (6) years and one (1) month, as minimum to eight (8) years, as maximum; perpetual disqualification from public office; and, to indemnify, jointly and severally, the Government of the Republic of the Philippines in the amount of Php386,484.00, but Ballesc

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shall be jointly and severally liable only to the extent of One Hundred Sixty-One Thousand and Seven Hundred Nine Pesos (Php161,709.00).

(11) In **CRIMINAL CASE NO. 25563, ANTONIO P. CALINGIN, ESTRELLITA L. BALLESCAS, and RENATO C. QUIBLAT** are found **guilty** beyond reasonable doubt of having violated Sec. 3(e), R.A. No. 3019, and each is sentenced to suffer the indeterminate penalty of six (6) years and one (1) month, as minimum to eight (8) years, as maximum; perpetual disqualification from public office; and, to indemnify, jointly and severally, the Government of the Republic of the Philippines in the amount of Thirteen Thousand, Five Hundred Seventy-Four Pesos and Sixty Centavos (Php13,574.60).

(12) In **CRIMINAL CASE NO. 25566, ANTONIO P. CALINGIN** is found **guilty** beyond reasonable doubt of having violated Sec. 3(e), R.A. No. 3019, and is sentenced to suffer the indeterminate penalty of six (6) years and one (1) month, as minimum to eight (8) years, as maximum; perpetual disqualification from public office; and, to indemnify the Government of the Republic of the Philippines in the amount of Three Hundred Eighty Thousand, Four Hundred Fifty-Four Pesos and Fifty-Five Centavos (Php380,454.55).

(13) In **CRIMINAL CASE NO. 25568, ANTONIO P. CALINGIN and ESTRELLITA L. BALLESCAS** are found **guilty** beyond reasonable doubt of having violated Sec. 3(h), R.A. No. 3019, and each is sentenced to suffer the indeterminate penalty of six (6) years and one (1) month, as minimum to eight (8) years, as maximum; perpetual disqualification from public office; and, to indemnify, jointly and severally, the Government of the Republic of the Philippines in the amount of Four Hundred Fifty Thousand, Three Hundred Twenty-One Pesos and Sixty-Three Centavos (Php450,321.63).

(14) In **CRIMINAL CASE NO. 25570, ANTONIO P. CALINGIN and ESTRELLITA L. BALLESCAS** are found **guilty** beyond reasonable doubt of having violated Sec. 3(e), R.A. No. 3019, and each is sentenced to suffer the indeterminate penalty of six (6) years and one (1) month, as minimum, to eight (8) years, as maximum; perpetual

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disqualification from public office; and, to indemnify, jointly and severally, the Government of the Republic of the Philippines in the amount of Thirty Thousand Pesos (Php30,000.00).

- (15) In **CRIMINAL CASE NO. 25571, ANTONIO P. CALINGIN** and **ESTRELLITA L. BALLESCAS** are found **guilty** beyond reasonable doubt of having violated Sec. 3(e), R.A. No. 3019, and each is sentenced to suffer the indeterminate penalty of six (6) years and one (1) month, as minimum to eight (8) years, as maximum; perpetual disqualification from public office; and, to indemnify, jointly and severally, the Government of the Republic of the Philippines in the amount of One Hundred Thousand Pesos (Php100,000.00).


SO ORDERED.


LORIFEL L. PAHIMNA

Associate Justice


WE CONCUR:


OSCAR C. HERRERA, JR.
Chairperson


MICHAEL FREDERICK L. MUSNGI
Associate Justice

ATTESTATION

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


OSCAR C. HERRERA, JR.
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above

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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
Presiding Justice

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