



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
QUEZON CITY

FIFTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

RENE MONDEJAR,
Municipal Mayor
ARNALDO PARTISALA,
Vice Mayor
FRANCISCO TOLENTINO,
SB Secretary
ILDEFONSO ESPEJO,
MARGARITA GUMAPAS,
MANUEL PIOLO
ROBERTO B. VELASCO
SB Members
All of Maasin, Iloilo
HELEN EDITH LEE TAN
Private Individual
President/Proprietor of Int'l.
Builders Corporation (IBC)
Iloilo City

Accused.

Crim. Case No. 25674

FOR: Violation of Section 3(e) of R.A. 3019

Crim Case No. 25675

FOR: Falsification of Public Document
(Art. 171 of the RPC)

Present:

Mendoza-Arcega, J. Acting
*Chairperson**

Musngi, J.**

Cruz, J.***

Promulgated:

November 23, 2018 *Jal*

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DECISION

MENDOZA-ARCEGA, J.:

* Sitting as such pursuant to Administrative Order No. 086-2017 dated March 10, 2017.

** Sitting as Special Member per Administrative Order No. 088-2017 dated March 13, 2017.

*** Sitting as Special Member per Administrative Order No. 025-2017 dated February 1, 2017.

[Handwritten signatures]

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Accused Arnaldo Partisala (Partisala) then Vice Mayor of Maasin, Iloilo has been charged with Violation of Section 3(e) of Republic Act No. 3019¹ and Falsification of Public Documents under Article 171 of the Revised Penal Code (RPC). He was charged along with then Municipal Mayor, Rene Mondejar, Sangguniang Bayan Secretary, Francisco Tolentino, Sangguniang Bayan Members, Ildefonso Espejo, Margarita Gumapas, Manuel Piolo, Roberto Velasco, and in conspiracy with Helen Edith Lee Tan.

INFORMATION

Herein accused were charged under the Informations which reads as follows:

In Criminal Case No. 25674
(For Violation of Section 3(e) of R.A. No. 3019)

That on or about the 27th day of June 1996, and for sometime prior to or subsequent thereto, in the Municipality of Maasin, Province of Iloilo, Philippines and within the jurisdiction of this Honorable Court, above-named accused, public officers, having been duly elected, appointed and qualified to such public positions above-mentioned, in such capacity and committing the offense in relation to Office, and while in the performance of their official functions, conniving, confederating and mutually helping with each other and with accused HELEN EDITH LEE TAN, a private individual and President/Proprietor of International Builders Corporation, (IBC) Iloilo City with deliberate intent, with manifest partiality and evident bad faith, did then and there willfully, unlawfully and feloniously make it appear that Resolution No. 30-B, series of 1996, was validly enacted by the Sangguniang Bayan of Maasin, Iloilo, authorizing Mayor Rene M. Modejar to exercise his emergency powers as in fact accused RENE M. MONDEJAR, entered into a Memorandum of Agreement with accused HELEN EDITH LEE TAN of IBC authorizing the said IBC to engage in massive quarrying in the guise of rechanneling the Tigum River in Maasin, Iloilo, thus accused in the performance of their official functions had given unwarranted benefits, advantage, and preference to Edith Lee Tan and themselves, to the damage and prejudice of the government, particularly the Municipality of Maasin.

CONTRARY TO LAW.

In Criminal Case No. 25675
(For Falsification of a Public Document
under Article 171 of the Revised Penal Code)

That on or about the 21th day of June 1996, and for sometime prior or subsequent thereto, in the Municipality of Maasin, Province of Iloilo, Philippines and within the jurisdiction of this Honorable Court, above-named accused, public officers, being incumbent Municipal officials of the aforementioned municipality, having been duly elected, appointed and qualified to such public positions above-mentioned, in such capacity and

¹ Anti-Graft and Corrupt Practices Act as amended.

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committing the offense in relation to Office, taking advantage of their official positions, conspiring and confederating together and mutually helping one another with deliberate intent to defraud and falsify, did then and there willfully, unlawfully and feloniously falsify a Public Document consisting of the Minutes of the Regular Session of the Sangguniang Bayan of Maasin, Iloilo on 21 June 1996, by making it appear therein that the Sangguniang Bayan of Maasin, Iloilo validly enacted and passed Resolution Nos. 30-A and 30-B entitled “A Resolution Strongly Endorsing Resolution No. 9 of Barangay NASLO and Resolution No. 9, Series of 1996, of the Municipal Development Council” and “A Resolution Authorizing Mayor Rene M. Mondejar To Exercise His Emergency Powers” thereby making untruthful statements in a narration of facts and causing it to appear that persons participated in an act when they did not in fact so participate, when in truth and in fact, as above-named accused, very well knew, that Resolution No. 30-A and Resolution No. 30-B were never taken-up, deliberated nor acted upon by the Sangguniang Bayan of Maasin on its 21 June 1996 regular session.

CONTRARY TO LAW.

On October 15, 1999, the Court issued an order of arrest for the above named accused together with accused Partisala². On even date, accused Partisala voluntarily surrendered before this Court³. Upon motion, he was granted reduction of the amount of bail and was issued a waiver of appearance⁴. Records disclose that orders by the court including subpoena duces tecum/ad testificandum for accused Partisala had been coursed thru his brother-in-law, John Cepeda⁵, however for failure to appear in the arraignment scheduled on September 1, 2003, despite due notice, the court ordered for his arrest and the cash bond posted for his provisional liberty was confiscated in favor of the government⁶.

Trial ensued insofar as all other accused of these cases are concerned, thus, on November 7, 2013, this Court rendered a Decision⁷ convicting all the accused, except Arnaldo Partisala, who remained at large when the said judgment was promulgated. The dispositive portion⁸ of which reads as follows:

² Record, Volume 1, page 52, Order of Arrest.

³ Id, page 80, Certification.

⁴ Id, pages 55, Minutes of the proceedings dated October 19, 1999; and page 64, Waiver of Appearance.

⁵ Record, Volume 2, page 149, Indorsement letter of the Chief of Police of Maasin, Iloilo.

⁶ Id, page 231, Order dated September 1, 2003.

⁷ Record, Volume 7, pages 110-152.

GR 219692 (Rene Mondejar vs. People of the Philippines) Supreme Court Resolution dated June 27, 2016. The Court resolves to deny the Motion for Reconsideration of the Sandiganbayan’s Resolution dated December 2, 2015.

⁸ Record, Volume 7, pages 150-151.



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Wherefore, premises considered, the Court hereby rules as follows:

1. In Criminal Case No. 25674, the Court finds the accused (MONDEJAR), (TOLENTINO), (ESPEJO), (GUMAPAS), (PIOLO), (VELASCO), AND (TAN) GUILTY beyond reasonable doubt of the offense of Violation of Section 3(e) of R.A. 3019, as amended, and sentences each of them to suffer an indeterminate penalty of six (6) years and one (1) month, as minimum, to ten (10) years, as maximum; and to suffer perpetual disqualification from public office. Insofar as (PARTISALA) is concerned, since he is still at large up to the present, let the case be ARCHIVED and let an alias warrant of arrest issue against him.
2. In Criminal Case No. 25675, the Court finds the accused (MONDEJAR), (TOLENTINO), (ESPEJO), (GUMAPAS), (PIOLO) AND (VELASCO) GUILTY beyond reasonable doubt of Falsification defined under Article 171 of the RPC and sentences each of them to suffer the penalty of imprisonment of six (6) months and one (1) day of prision correccional, as minimum, to eight (8) years and one (1) day of prision mayor, as maximum in the absence of any mitigating and aggravating circumstance in accordance with the provisions of the Indeterminate Sentence Law; to pay a fine of Five Thousand Pesos (P5,000) and to further suffer temporary absolute disqualification and that of perpetual special disqualification from the right of suffrage. Insofar as (PARTISALA) is concerned, since he is still at large up to the present, let the case be ARCHIVED and an alias warrant of arrest issue against him.

The accused separately filed their Motion for Reconsideration, which the Court denied in its Resolution dated 30 June 2015. Thereafter, accused Helen Edith Lee Tan questioned this Court's decision and resolution to the Supreme Court via a Petition for Review on Certiorari under Rule 45, insofar as Criminal Case No. 25674 is concerned, the High Court reversed the Sandiganbayan's decision and resolution. Thus, accused Tan was acquitted⁹ from the charge of Violation of Section 3(e) of RA 3019.

In the same way, accused Rene Mondejar filed before the Supreme Court a Petition for Review on Certiorari assailing the Sandiganbayan's Decision dated November 7, 2013, whereby, the Court resolved to affirm with modification the said decision. Thus, accused Rene Mondejar was sentenced to suffer the penalty of imprisonment of six (6) years and one (1) month as minimum to ten (10) years as maximum and perpetual disqualification from public office for violation of Section 3(e) of R.A. 3019. However, the penalty imposed by the Sandiganbayan for violation of Article 171 of the RPC is amended to the indeterminate penalty of two (2) years, four (4) months and one (1) day to four (4) years and two (2) months as minimum to eight (8) years and one (1) day to ten (10) years as maximum penalty, fine of P5,000 and perpetual special disqualification from the right of suffrage.¹⁰

⁹ Helen Edith Lee Tan vs. People of the Philippines, G.R. No. 218902, 17 October 2016.

¹⁰ Rene Mondejar vs. People of the Philippines, G.R. No. 219692, 2 December 2015.

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On the other hand, insofar as accused Partisala is concerned, an “Alias” Order of Arrest¹¹ was issued dated November 22, 2013. On December 23, 2013, through an order issued by the Office of Executive Judge of the 6th Judicial Region, Iloilo City, this Court was informed of Partisala’s apprehension and detention by the CIDG-Western Visayas, Iloilo City¹². The accused was allowed temporary liberty after posting his bail. However, due to medical concerns, his arraignment only proceeded on September 29, 2014 in Iloilo City where he pleaded not guilty.

During the preliminary conference¹³, the prosecution manifested that it will adopt the Prosecution’s Formal Offer of Exhibit dated March 21, 2004, and the Supplemental Formal Offer of Exhibits. In the same way, the defense also manifested that Partisala will adopt the admitted exhibits contained in the formal offer of exhibits of accused Tolentino, Espejo, Gumapas, Piolo, Velasco, Tan, and Mondejar. Furthermore, the documentary evidence listed in the pre-trial order dated September 2, 2003, are also adopted by the defense. Upon stipulation, it is admitted that the accused Partisala was holding an official position in the government being then the Municipal Vice Mayor of Maasin, Iloilo at the time material to this case¹⁴.

Trial against accused Partisala followed and the prosecution moved to adopt the witnesses already presented, however, upon objection of accused Partisala, the witnesses admitted were limited only to those whom he cross-examined. Thus, the prosecution presented and adopted the testimonies of the following witnesses: (1) Mrs. Elisa L. Trojillo¹⁵; (2) Dr. Vicente Albacete¹⁶; (3) Mrs. Imelda Maderada¹⁷; (4) Mrs. Solidad Sucaldito¹⁸; and (5) Engr. Rogelio Rentoy. The testimony of witnesses Mr. Darell A. Cabanero¹⁹ and Rogelio Trinidad²⁰, are also adopted but the defense waived its right to cross-examine them. The Court finds it appropriate to restate the pertinent portions of the Decision promulgated on 7 November 2013, in addition to the defense counsel’s cross-examination. Thus:

¹¹ Record, Volume 7, pages 162-163.

¹² Record, Volume 7, page 362.

¹³ Record, Volume 8, pages 205-210, Preliminary Conference dated September 29, 2014.

¹⁴ Record, Volume 8, page 208.

¹⁵ TSN dated April 25, 2005 is adopted; TSN dated March 17, 2015.

¹⁶ TSN dated April 27, 2005 is adopted; TSN dated May 20, 2015.

¹⁷ TSN dated May 31, 2004; TSN dated June 1, 2004; and TSN dated June 2, 2004 are adopted; TSN dated May 21, 2015.

¹⁸ TSN dated September 27, 2004; TSN dated September 28, 2004; and TSN dated September 29, 2004 are adopted; TSN dated September 29, 2015.

¹⁹ TSN dated May 20, 2015 pages 27-28 stating no further cross-examination for the defense.

²⁰ TSN dated August 4, 2015.

EVIDENCE FOR THE PROSECUTION

I. Mrs. Elisa L. Trojillo

“She served as a member of the Sangguniang Bayan of the Municipality of Maasin, Iloilo, from 1992 to 2001.

“She was asked by Vice-Mayor Partisala to sign a document described as the “Minutes of the Regular Session of the Sangguniang Bayan of the Municipality of Maasin, Iloilo, held in the Municipal Session hall on June 21, 1996 in the afternoon”²¹. The vice-mayor explained that the said minutes will be submitted to the Ad Hoc Committee of the Sangguniang Panlalawigan of Iloilo as evidence in connection with the complaint filed by Mrs. Maderada. She did not read the other minutes²² and believed that the document shown to her by the vice-mayor was a true copy.

“When she discovered that the minutes she signed contained insertions, she consulted Atty. Aguadera who drafted her “Affidavit of Retraction”²³ dated December 19, 1997.

“Sometime in October 1995, their province was hit by typhoon “Pepang” which caused an erosion of the bank of the Tigum River in Barangay Naslo. In fact, the flood created by said typhoon almost reached the bank of the cockpit in the said barangay. In order to protect Barangay Naslo, the Sangguniang Bayan requested IBC to rechannel the Tigum River. The rechanneling of the Tigum River was actually done by IBC.

“She obtained the alleged true minutes of the regular session on June 21, 1996²⁴ from Mrs. Maderada, who gave her a photocopy thereof. She does not know where Mrs. Maderada obtained the minutes she gave her.

“The municipal mayor does not participate in the session of the Sangguniang Bayan. It is the municipal secretary who prepares the minutes of their sessions. The resolutions and ordinances enacted by the body are signed by the vice-mayor then forwarded to the office of the mayor for approval.”²⁵

²¹ Exhibit “F”.

²² Exhibit “B”.

²³ Exhibit “Z”.

²⁴ Exhibit “B”.

²⁵ Decision dated November 7, 2013.

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During cross-examination²⁶, she admitted that they corrected the Minutes of the June 24, 1996 meeting, however, they were not able to sign the same. She reiterated that she was approached by Vice Mayor Partisala to sign the minutes of the regular session of June 21, 1996 because that minutes will be presented to the Ad Hoc Committee of the Sangguniang Panlalawigan of Iloilo City. She claimed that there was an insertion in the minutes which the Vice Mayor presented. It was only after Mrs. Maderada filed the case when the true minutes was given to her. The Minutes²⁷, alleged to be genuine, was not signed by Vice Mayor Partisala, the Presiding Officer for that session. Upon inspection, her copy of the said Minutes is also the same copy given to her by Mrs. Maderada.

During re-direct²⁸, witness explained that the Ad Hoc Committee to whom the falsified minutes was submitted, was the investigating committee for the complaint filed by Mrs. Maderada. The Ad Hoc Committee referred to is also composed of the Sangguniang Panlalawigan of Iloilo.

II. Dr. Vicente Albacete

“He is 47 years old, a physician and a resident of Poblacion, Maasin, Iloilo. In 1996, he was elected as a member of the Sangguniang Bayan of Maasin, Iloilo. On June 21, 1996, he attended the session of the Sangguniang Bayan but he cannot recall if the subject matter of the rechanneling of the Tigum River was taken up that day. There was a minutes prepared for their regular session on June 21, 1996²⁹. There was another minutes³⁰ that was prepared for the same date but this minutes contained items³¹ which were never taken up by the body.

“On April 29, 1998, he executed an affidavit relative to the rechanneling of the Tigum River and in connection with the aforementioned minutes of the Sangguniang Bayan for their regular session on June 21, 1996³². It was Mrs. Imelda Maderada who prompted him to execute said affidavit and even prepared the same for him. Before signing his affidavit, he verified the records of Mr. Malaga, a Sangguniang Bayan Member, but these records were likewise given to him by Mrs. Maderada.”³³

²⁶ TSN dated March 17, 2015, pages 5-15.

²⁷ Exhibit “B”.

²⁸ TSN dated March 17, 2015, pages 16-17.

²⁹ Exhibit “B”.

³⁰ Exhibit “F”.

³¹ Nos. 9-12 Exhibit “F-A”

³² Exhibit “D”.

³³ Supra note 25.

During cross examination, he acknowledged that during the time of SB (Vice Mayor) Partisala, the Members of the Sanggunian were not used to signing the Minutes of the meeting even though it was approved and they were authorized to make corrections before approving them. It is also the Sangguniang Bayan's practice that after approval of the Minutes the same remains in the custody of Mr. Seth Casco.³⁴

Upon inspection of Exhibit "8" for the defense/Exhibit "F" for the prosecution, it was shown that the Exhibit "F" was certified by the former SB Secretary, Francisco Tolentino while, Exhibit "8" was shown to be certified by Mr. Seth Casco. Witness Albacete claims to have a personal knowledge of Seth Casco's signature since the latter is the SB Secretary for nine (9) years while the former was the Vice Mayor of the Municipality of Maasin.

During re-direct examination, he could not recall Item No. 11 of the Minutes which states that "Resolution No. 9, a resolution requesting for the rechanneling of the Tigum River of Maasin Development Council." However, he admitted that they had an ocular inspection with respect to this item.³⁵

During re-cross, it was shown that there is no signature of the Presiding Officer in Exhibit "F" but there appears a signature of the Vice Mayor Arnaldo Partisala on Exhibit 8.³⁶

III. Mrs. Imelda Maderada

"She is the clerk of court of the 12th MCTC, Cabatuan, Iloilo, and a resident of Barangay Madriz, Maasin, Iloilo.

"She and other concerned citizens filed a petition dated September 25, 1997³⁷ before the Office of the Municipal Mayor and the Sangguniang Bayan calling the attention of these public officers about the massive quarrying of the Tigum River, Barangay Naslo, Maasin. Their petition was ignored by the then incumbent mayor, Rene Mondejar, while Ildefonso Espejo, a member of the Sangguniang Bayan, challenged them to hire a lawyer who can stop the quarrying.

"They approached the other members of the Sangguniang Bayan, namely Messrs. Malaga and Navarra, and they were furnished with a copy of the Memorandum of Agreement³⁸ executed between the municipality of Maasin, Iloilo, and



³⁴ TSN dated May 20, 2015, pages 6-18.

³⁵ TSN dated May 20, 2015, pages 19-24.

³⁶ TSN dated May 20, 2015, pages 25-28.

³⁷ Exhibit "N".

³⁸ Exhibit "A".


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International Builders Corporation (IBC). They also obtained a copy of the minutes of the session³⁹ of the Sangguniang Bayan held on June 21, 1996, from Mr. Malaga and it was then that they discovered that the body never passed Resolutions No. 30-A and 30-B, which authorized Mayor Mondejar to contract with IBC.

“In the complaint she filed against Mayor Mondejar before the Sangguniang Panlalawigan of Iloilo, the latter filed an answer⁴⁰ with an attachment marked as Annex “A” thereof and described as “Minutes of the Regular Session of the Sangguniang Bayan of Maasin, Iloilo, held in the Municipal Session Hall on June 21, 1996 in the afternoon”⁴¹. Paragraphs 9, 10, 11, and 12 of this minutes submitted by the Mayor contained items not found in the minutes furnished to him by Mr. Malaga. Hence, she filed another complaint for grave misconduct against Mayor Mondejar but the same was rendered moot and academic when his term expired.

“She filed another complaint against Mayor Mondejar before the Governor of Iloilo of the continued massive quarrying of sand and gravel at the Tigum. In response, the Governor formed a task force headed by Atty. Teofilo Leonides, Jr., of the Provincial Legal Office and Soledad R. Sucaldito the OIC-PENRO (Provincial Environment and Natural Resources Office) to conduct an investigation into her complaint.

“On October 21, 1997, Ms. Sucaldito indorsed to Atty. Leonides her investigation report addressed to the Governor of Iloilo, confirming that there was unauthorized quarrying of sand and gravel in the municipality of Maasin, Iloilo⁴² and recommending that the rechanneling project of the municipality be temporarily suspended. On October 24, 1997, Governor Arthur Defensor issued a memorandum addressed to Supt. Pedro Sanchez, PNP Provincial Director, suspending all sand and gravel concessions/extraction activities along the Tigum River⁴³.

“On November 28, 1997, the task force investigating the subject quarrying submitted its final investigation report⁴⁴ to the Governor, which report stated that the Memorandum of Agreement executed between Mayor Mondejar and IBC suffers from some infirmity.

³⁹ Exhibit “B”.

⁴⁰ Exhibit “O”.

⁴¹ Exhibit “F”.

⁴² Exhibit “P”.

⁴³ Exhibit “Q”.

⁴⁴ Exhibit “R”.

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“The task force formed by the Governor to investigate the alleged quarrying in the Tigum River conducted an ocular inspection of the said river but she was not present during that ocular inspection. She does not know the present condition of Barangay Naslo, not even the area affected by the passage of the Tigum River.

“She was not present at the June 21, 1996 session of the Sangguniang Bayan. Neither was she present during the preparation of Resolution No. 30-A and 30-B. Her basis in saying that these resolutions were never passed was the minutes given to her by Mr. Malaga, which came from the latter’s files. She wrote letters to Mr. Tolentino, the Sangguniang Secretary⁴⁵, and Vice-Mayor Partisala⁴⁶ requesting for certified copies of these resolutions and the 1996 minutes of the sessions of the Sangguniang Bayan but her requests were not acted upon. She also found out that the records of the minutes of the 1995-1996 regular session of the Sangguniang Bayan were missing from the Office of the Sangguniang Bayan⁴⁷.

“She filed an administrative complaint⁴⁸, dated November 7, 1997, for grave misconduct against Engineer Ariel Gloria, Charisse Majella Catellano and Stella Tipanan, all personnel of DENR, Iloilo, who were responsible for issuing the Ocular Inspection Report dated July 10, 1997⁴⁹ favouring the rechanneling of the Tigum River. It was this Ocular Inspection Report, which became the basis of Directors Raul Geollegue, OIC, Regional Executive Director, DENR, Iloilo, Rogelio Trinidad, PENRO, Iloilo, and Rosario N. Pangahas, OIC, Regional Technical Director, DENR, Iloilo, in the issuance of Environmental Compliance Certificate (ECC) No. 0697-0714-250-120A in favour of Mayor Mondejar and IBC. She also filed an administrative complaint⁵⁰ against Directors Geollegue, Trinidad and Pangahas for the issuance of the said ECC. He also filed criminal cases against these aforementioned DENR officials before the Ombudsman of Cebu but the cases were dismissed.”⁵¹

⁴⁵ Exhibit “S”.

⁴⁶ Exhibit “T”.

⁴⁷ Exhibit “V”.

⁴⁸ Exhibit “7”.

⁴⁹ Exhibit “6”.

⁵⁰ Exhibit “8”.

⁵¹ Supra note 25.

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During cross examination⁵², she added that she asked SB Malaga for a copy of the minutes, the latter said that he will verify his records, thereafter he gave her a photocopy of the minutes. She was not able to verify the documents given by Malaga when the other SB members failed to furnish her a copy.

Witness Maderada reiterated that she requested to then SB Secretary Tolentino and Vice Mayor Partisala for copies of the Minutes of the June 21, 1996 session, but the same were never acted upon. In the same way that she requested from SB Secretary Casco the Minutes of 1996 and Resolution No. 30 and 31. In the latter case, she was issued a certified true copy of the records of the Sanggunian.

She was the one who composed and typed the affidavit of Dr. Albacete, SB Malaga, and Abad since they requested her to prepare the said affidavits. She also gave the copy of Malaga's affidavit to the other witnesses. When she learned that some of the SB Members signed the falsified Minutes, she gave them the copies of the affidavit for their information. After receiving the same, Elsa Trojillo executed an Affidavit of Retraction taking back her signature to the Minutes which was submitted by SB Partisala to the Sangguniang Panlalawigan. She claimed that it was Vice Mayor Partisala who approached SB Trojillo to sign the falsified Minutes.

On re-direct examination⁵³, she testified that after she secured a copy of the Minutes, she found out that there was no subject taken about Resolution 30-A as reflected in the MOA.

Witness Maderada believed that Exhibit "F" as attached to the letter of then Mayor Mondejar was a falsified copy of the Resolution because of the following badges of falsity (1) they changed the absences in the names of Bienvenido Espino and Annalisa M. Garrido instead of Roberto Velasco, Jr. and Margarita Gumapas; (2) there were insertions of phrases and words in items No. 9, 10, 11, and 12 of Exhibit "8"; (3) the absence of Item No. 17 which states in part; "SB Member Espino commented that the amount of P40,000.00 program for service vehicles of barangay will be used for the acquisition of dump truck x x x"; and (4) in the falsified Minutes, there appear the signature of some of the SB members and the same was signed by the SB members, except Elisa L. Trojillo, who executed her Affidavit of Retraction while only Secretary Tolentino signed the original Minutes.

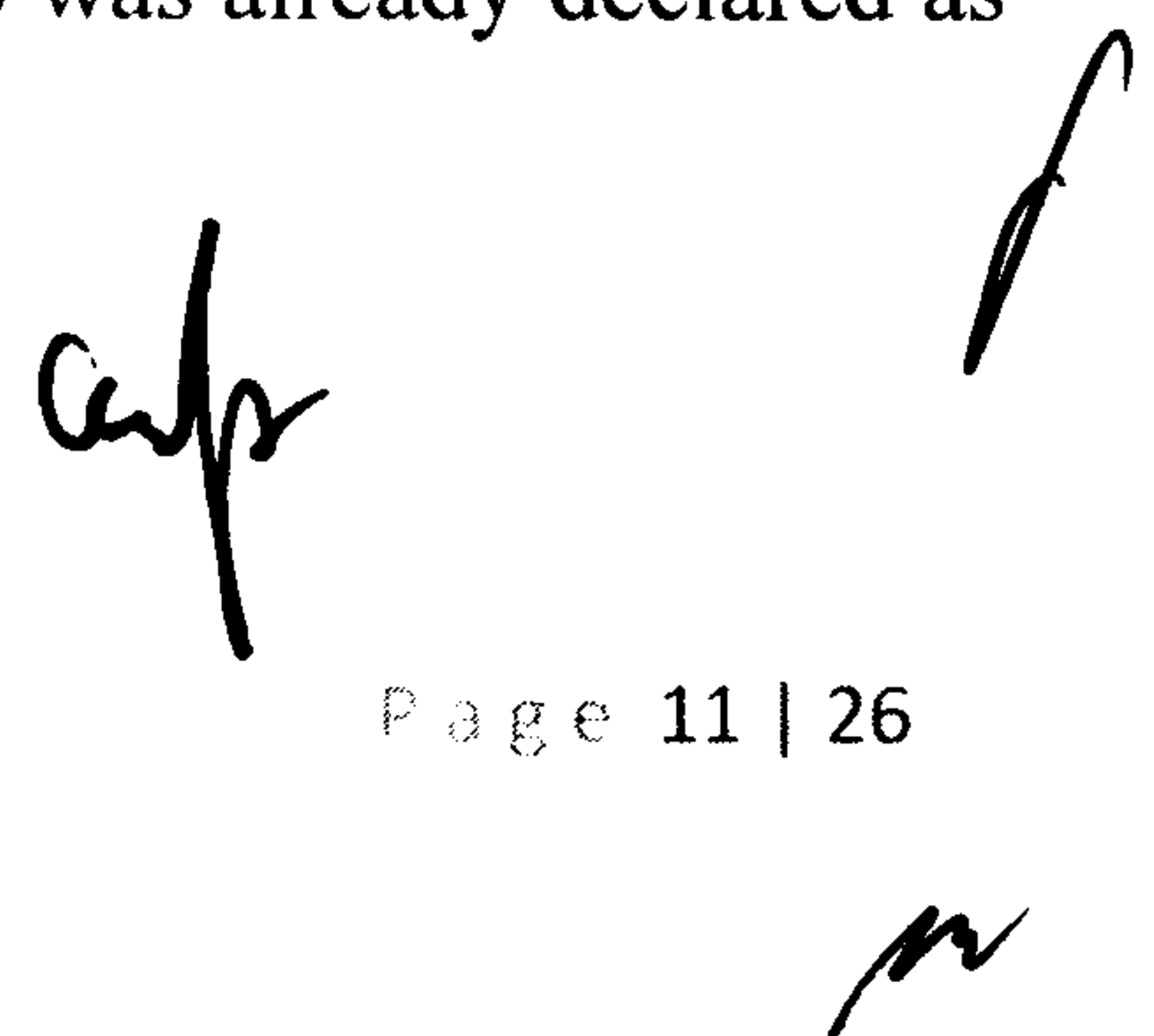
In the original document⁵⁴, both SB Members Espino and Espejo were present however, in the falsified document⁵⁵, Espino was already declared as

⁵² TSN, 21 May 2015.

⁵³ TSN, 21 May 2015.

⁵⁴ Exhibit "B".

⁵⁵ Exhibit "F".

The block contains several handwritten marks. On the left, there is a signature that appears to be 'Carp'. To its right, there is a large, stylized checkmark or signature. At the bottom right, there is another signature that looks like 'm'.

absent. Bienvenido P. Espino was declared absent since at the time the falsified Minutes was prepared, Espino was declared dead.

IV. Soledad R. Sucaldito

“She is 44 years old, married, and the Provincial Environment and Natural Resources Officer (PENRO) of the Iloilo Provincial Government.

“Sometime in October 1997, she was directed by the provincial governor of Iloilo, Arthur D. Defensor, to conduct an investigation on the reported ecological imbalance caused by the massive quarrying of sand and gravel in the municipality of Maasin, Iloilo. Pursuant to the directive, she and her team, composed of Benedicto Montiague, Chief of Mines Unit, Rogel Juanitas, photographer-draftsman, and Leni Supena, records keeper, proceeded to inspect the subject area in Barangay Naslo, Maasin. They determined from their inspection that 1) the dike constructed by IBC, which was supposed to be 950 meters as stipulated in the ECC issued to IBC, was only 315 meters; 2) that IBC extracted 18,100 cubic meters of sand and gravel from the Tigum River when they were allowed to extract only 6,000 cubic meters thereof, in accordance with the ECC granted to them. They further discovered that the materials extracted by IBC were hauled to their crushing plant then disposed in favour of private persons.

“They conducted their investigation for a week. Thereafter, she prepared her report⁵⁶ which she indorsed to the provincial governor, with a copy furnished to the provincial legal officer. Upon receiving a copy of her report, the provincial governor ordered her and the provincial legal officer to conduct a reinvestigation on the matter for purposes of affirming her first report. She and Atty. Leonides, together with the barangay captain and barangay chairman of Naslo, then proceeded with the inspection of the project site, the crushing plant of IBC and the unfinished bridge. They confirmed that the materials extracted by IBC were more than what IBC had officially reported. They also observed that the river bed was not even, indicating that there was uneven extraction done thereon. Based on their findings, they recommended the cancellation of the Memorandum of Agreement between IBC and the municipality of Maasin, Iloilo⁵⁷, and the cancellation of the permit of IBC.

⁵⁶ Exhibit “P”.

⁵⁷ Exhibit “A”.

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“Rechanneling a river means directing the flow of the water and reinforcing the weakest points of its embankment by pushing the sand and gravel from the center. In quarrying, one extracts then hauls the materials from the river for private or public purpose.

“It is only the provincial governor who has the power to issue quarrying permits. In this case, the municipality of Maasin, never obtained any quarrying permit from the governor.

“The memorandum of agreement between IBC and the municipality of Maasin, Iloilo⁵⁸, was actually implemented.

“Her statement that IBC pushed the sand and gravel from the Tigum River to the dike, then carried the same to its crushing plant was based on information she obtained from the barangay captains of Barangay Naslo and her other informants.

“As PENRO of the province of Iloilo, she issued quarrying permits to several entities, particularly, Sand and Quarry Permit No. CP-0027 (97) – (PI) (MA)⁵⁹ to Allencon Corporation, which is a sister company of IBC, and Quarry Permit No. CP-008(97) (PI) (ma)⁶⁰ to IBC. There was also a quarrying permit granted to a certain Robles. The area where the rechanneling project was undertaken was not covered by a quarrying permit because it is within the one (1)-kilometer buffer zone area and the provincial government is prohibited by law from issuing a permit within said area.

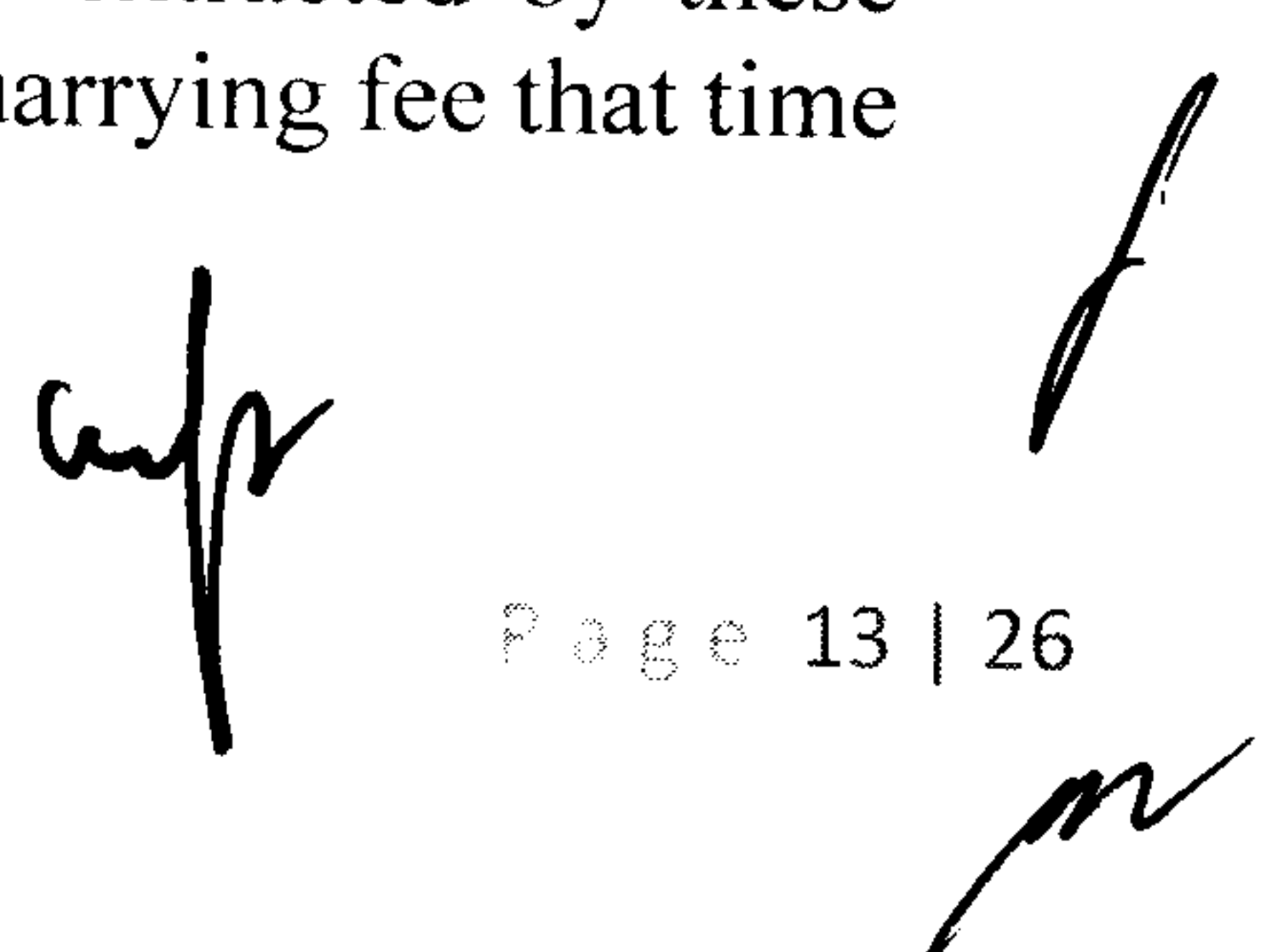
“They did not personally determine the exact volume of sand and gravel extracted by IBC from the Tigum River. Her statement that IBC extracted 18,000 cubic meters of sand and gravel from the Tigum River is based on the report provided to her by the Save Naslo Movement, which consists of a record of the plate number of the trucks, the date of the extraction and the volume hauled by each truck from the subject area.

“Based on the quarrying permits presented by the defense, IBC, Allencon and Robles were allowed only to extract 5,000, 5,000, and 1,000 cubic meters respectively, of materials from the quarrying site. According to the report of the Save the Naslo Movement, the actual volume of materials extracted by these grantees was more than 18,000. Since the quarrying fee that time

⁵⁸ Exhibit “A”.

⁵⁹ Exhibit “1-Tan”.

⁶⁰ Exhibit “2-Tan”.



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was P8.00 per cubic meter, the IBC owes the provincial government P56,000.00 representing quarrying fees on the 7,000 cubic meters which it extracted in excess of the volume allowed in their permits. They concluded that it was IBC who was responsible for these excess extraction because when they measured the length of the temporary dike constructed by IBC on the Tigum river, it was only 315 cubic meters, and since they did not construct the 950 cubic meters of the temporary dike as required in their ECC, this implies that the materials they extracted from the river were hauled or transported, instead of being used to construct the dike along the embankment.”⁶¹

During cross examination, she testified that she was designated by Governor Arthur Dy Defensor in 1992 and became the PENRO in 2001. He was only informed that prior to 1995, there were rechanneling activities in the barangay. Correspondingly, she conducted two (2) investigations. The first investigation was with her staff and some Barangay chairmen and the second was with Atty. Chopenil Leonidas and representatives of IBC and Alencon.

It was also reiterated that apart from IBC, Alencon is also a permittee in the area, and both of them failed to submit their August 1997 production report. It was emphasized that her report was based on the submissions made by the Save Naslo Movement together with the production reports submitted by the permittees.

In allowing the quarrying, the Barangay should install their own monitoring team and from time to time, the PENRO conducts spot monitoring, however, since the office has only a few staff, she only relied on the Barangay Chairman and Barangay Tanod to monitor the quarrying activity in their area of jurisdiction.

She testified that as protocol for monitoring the quarrying activities, the Barangay Captain or the Chairman acts as deputies of the governor in regulating the instruction at their area of jurisdiction. They have to have a copy of their requirement of compliance certificate and permit. The granted volume in the permit is stipulated in the permit and the SCC commissions. As a standard operating procedure when the Governor grants a permit, the Barangays, the Municipal Mayor, the PNP Personnel, and the Barangay Captain are immediately informed that the Governor has issued a cerographic permit and the volume was stipulated in the regional sales and the term of the permit.

⁶¹ Supra note 25.

The Barangay Captain of Barangay Naslo did not submit the report to the PENRO as to the extraction volume, thus, she had to base her reports⁶² as to the volume stated on the report of Save Naslo Movement.

The four (4) permittees as of October 1997 were Alencon IBC, Robles, and Korea. And the 18,000 cubic meters extracted materials were for the areas of Alencon and IBC as based on the Save Naslo Movement report. The granted volume of Alencon was 5,000 cubic meters and it has only extracted 730 cubic meters based on their production report. Correspondingly, based on the said report, she was aware of the Memorandum of Agreement of IBC and the Municipality.

The said Memorandum of Agreement was actually and partially implemented. Based on the compliance certificate of the Municipality, the Municipality should conduct the re-channelling activity and they should have a temporary dike to be constructed near the embankment, 2x3 meters by 950 meters in length, however, the construction was only partially accomplished, as compared to the 950-meter stipulated length.

V. Darell A. Cabanero

“He is 39 years old, married, and has been a resident of Barangay Naslo, Maasin, Iloilo, since birth. He is the Chairman of the Save Naslo Movement, which was created in August, 1996, to stop the massive quarrying being done on the Tigum River, Barangay Naslo. It was in the early part of 1996, before forming Save Naslo Movement, that he noticed the quarrying being done by International Builders Corporation on the river. Their organization wrote a letter complaint⁶³ to Governor Defensor about the said quarrying and in response, the latter appointed Sol Sucaldito to conduct an ocular inspection at the subject site.

“They accompanied Mrs. Sucaldito and her team to the river. Mrs. Sucaldito used a measuring tape to measure the dike constructed there while he took photographs⁶⁴.

“Their house is adjacent to the Tigum River so they were able to observe and monitor the IBC dump trucks hauling the sand and gravel from the IBC crusher plant near the river to the

⁶² Exhibit “P” for the prosecution, Exhibit “P-1”, “P-2”, “P-3”, “P-4”

⁶³ Exhibit “AA”.

⁶⁴ Exhibit “BB”, “BB-1” to “BB-5”.

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direction of Iloilo City. He, his mother, Benedicta, and his wife, Violy, listed these trucks going out of the quarrying site⁶⁵.

“On September 23, 1996, he wrote Vice Mayor Arnaldo Partisala asking him to include in the agenda for the coming regular session of the Sangguniang Bayan the problem of the Save Naslo movement regarding the rechanneling of the Tigum River⁶⁶

“The trucks used by the IBC to haul the sand and gravel from the Tigum River have a capacity of 12 cubic meters more or less.”⁶⁷

VI. Rogelio Trinidad

“He is 58 years old, married and Director III, DENR, Iloilo.

“The parties stipulated on the existence of the following documents and the fact that the witness prepared them: 1) letter dated October 21, 1997 addressed to Arthur D. Defensor, governor of the province of Iloilo⁶⁸; 2) 2nd Indorsement dated October 21, 1997⁶⁹. ”⁷⁰

EVIDENCE FOR THE DEFENSE

Seth Emmanuel Tolentino Casco⁷¹

He is 44 years old, married, and presently the Sangguniang Bayan Secretary of Maasin, Iloilo, residing at No. 008 Hughes Street, Maasin, Iloilo; the incumbent custodian of the official records of the Sangguniang Bayan and the SB Secretary from 1998 to the present.

He produced a document which appears to be the original copy of the Minutes of the Regular Session held in the afternoon of June 21, 1996, consisting of four (4) pages. It is a certified true copy of the Regular session

⁶⁵ Exhibit “CC”, “CC-1” to “CC-10”.

⁶⁶ Exhibit “DD”.

⁶⁷ Supra note 25.

⁶⁸ Exhibit “Y”.

⁶⁹ Exhibit “Y-1”.

⁷⁰ Supra note 25.

⁷¹ TSN dated June 29, 2016.

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of the Sangguniang Bayan on June 21, 1996 and the same is marked as Exhibit "8". There is a stamp mark or rubber stamp, with the certified copy with the name Seth Emmanuel T. Casco as SB Secretary with his signature above it.

He examined the Minutes⁷², presented by the prosecution, which allegedly is the Official Minutes for June 21, 1996, and testified that they are not basically the same. He confirmed that Exhibit "8" is the only record of the Minutes in his possession and custody. Finally, he confirmed that there were no moves to correct or change the Minutes of the session for June 21, 1996, during his term.

During cross examination, he testified that he is a relative of Mr. Tolentino. However, when the Resolution was enacted, he was not connected with the Sangguniang Bayan. Thus, he would not know if the circumstances surrounding the execution of the resolution are correct. And he does not know if the persons, specifically the SB members, who were listed as present on that time actually attended the meeting. He also does not know if the contents of the resolution were actually the subject matter of the resolution that was taken up on June 21, 1996. He would not know these because he was not present at that time.

He only testified before the Court based on the record that Exhibit "8" is the copy of the resolution that is on file with his office, during which, Mayor Mondejar was still the incumbent Mayor of Municipality of Maasin. In sum, he testified as to the existence of a Resolution on file with the Sangguniang Bayan.

REBUTTAL WITNESS FOR THE PROSECUTION

Imelda Yabut Maderada⁷³

The witness is 57 years old, widow, Clerk of Court II of the 12th Municipal Circuit Trial Court Cabatuan and Maasin Cabatuan, Iloilo, residing at 043 Confesor Subdivision, Rizal Street, Barangay Mabini Rizal, Maasin, Iloilo.

As the private complainant in these cases, she is familiar with the cases filed. The documents that were allegedly falsified are the Minutes of June 21, 1996 with the Sangguniang Bayan of Maasin, Iloilo; Resolution No. 30-A; and Resolution No. 30-B.

⁷² Exhibit "B"

⁷³ TSN dated October 12, 2016.

The minutes were allegedly falsified because there were insertions of phrases and paragraphs particularly in items numbered 9, 10, 11, and 12. She claims that there has been insertions in the said Minutes to make it appear or to justify that Resolution 30-A and 30-B had been enacted by the Sangguniang Bayan of Maasin, Iloilo on June 21, 1996.

In Exhibit “B” for the prosecution, which she claims as the original minutes, these paragraphs are not present. This is different from the Minutes submitted as falsified because items numbered 9, 10, 11, and 12 are absent. She was also able to get the personal file of SB member Ernie Jesus Malaga, which she conferred with the other SB members, Navarra, Trojillo, and Albacete, regarding the Minutes given to her by SB Malaga and they confirmed that said Minutes is the true and original Minutes. The attendance coincided or jived with the attendance of tardiness and absenteeism of the SB members for the Year 1996. Resolutions 30 and 31, have the same attendance with the original Minutes.

She pointed out that in the June 21, 1996 SB Session, Bienvenido P. Espino, and Annalisa M. Garido, were not present in the falsified minutes, whereas, in the original and true minutes, Roberto Velasco, Jr. and Margarita Gumapas were absent. While, as reflected in the said tardiness and absenteeism sheet as of January to December 1996, in the June 21 session, the absent were marked as (x), namely: Elisa L. Trojillo; Roberto V. Velasco, Jr.; and Margarita Gumapas.

In her testimony, she claimed that she knows a person by the name of Mr. Seth Tolentino Casco, because he is presently the Sangguniang Bayan Secretary of Maasin, Iloilo in replacement of his retired uncle, Francisco Tolentin. On January 26, 1998, she wrote the Sangguniang Bayan Secretary, Seth Casco, requesting the public to comment particularly on Resolution No. 30, Series of 1996 of the Sangguniang Bayan of Maasin, Iloilo.

She presented before the Court an original copy of the letter⁷⁴ addressed to Sangguniang Bayan Secretary with a signature on top of the date 1-26-98, signed by Seth Tolentino Casco, since he was the one who received it when she handed it to him.

On the same date, he responded⁷⁵ to the letter in writing that he could not give out any official documents since the official transfer of the document has been executed by the retired SB Secretary. The retired SB Secretary who was being alluded to in the letter was Francisco T. Tolentino, the same accused in this case.

⁷⁴ Exhibit “HH”

⁷⁵ Exhibit “HH-1”



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After receipt of this letter, the witness replied⁷⁶ reminding Mr. Casco of his duties and responsibilities and if he could not give her such document, she is compelled to file a case against him before the Civil Service Commission. And then, he did not receive the letter, instead he gave her Resolution No. 30 of the June 21, 1996, the certified copy of the same.

She filed a letter complaint⁷⁷ against Mr. Casco before the Civil Service Commission, because during that time, he was very arrogant in dealing with her when she requested for the said documents.

The requested copy of Resolution No. 30, series of 1996 is significant since when she filed a case before the Sangguniang Panlalawigan of Iloilo, the accused submitted the Minutes, which are different from that in her possession. When she requested these copies from Mr. Francisco Tolentino, the SB Secretary at that time, the latter failed to give the said documents despite the series of demand letters to give access and to have such copies. So, she tried to request from Mr. Seth Casco, to compare the documents with the documents they have submitted before the Sangguniang Panlalawigan. The comparison is necessary to know whether Resolution 30-A and 30-B is different from the mother Resolution No. 30. Accordingly, she found out that the Minutes given to her by Malaga and the Resolution given by Mr. Casco are the same as reflected in the attendance.

Resolution No. 30 must be the mother resolution of Resolution No. 30-A and 30-B. But it is very different. It is not in any way related to the mother resolution.

During cross examination, she confirmed that she acquired Exhibit "B" from Mr. Malaga. She personally acquired the same when she requested for it but she returned the same after she photocopied it. She also acquired Exhibit "8" or Exhibit "F" of the prosecution from Mr. Seth Casco.

On October 17, 2016, the prosecution filed its supplemental formal offer of documentary evidence consisting of Exhibits "HH-1" to "HH-3" and "II" to "II-1" with all its sub-markings, which the Court admitted over the objection of accused Partisala that the same are hearsay⁷⁸.

⁷⁶ Exhibit "HH-2"

⁷⁷ Exhibit "HH-3"

⁷⁸ Record, Volume 10, page 86.

ISSUES

This Court confines the issues of these cases to the following:

1. Whether or not, the act of SB Members, including herein accused Partisala, in authorizing then Mayor Rene Mondejar to enter in the Memorandum of Agreement, has given unwarranted benefit and/or advantage to Helen Edith Lee Tan in violation of R.A. 3019.
2. Whether or not accused Partisala, with his co-accused public officers, conspired with each other in falsifying the Minutes of the Regular Session of the SB of Maasin, Iloilo.

DISCUSSION

The prosecution asserts that through falsification of the Minutes of the June 21, 1996 Session of the Sangguniang Bayan, herein accused, together with other officials, passed upon Resolution 30-A and 30-B in order to provide legal basis for the execution of the Memorandum of Agreement which authorized the massive quarrying in the guise of rechanneling the river. Thus, it is proper for this Court to settle the issue of falsification of public document since the latter is necessary for committing the violation under Section 3(e) of R.A. 3019. In this light, we shall first discuss Criminal Case No. 25675 on falsification.

Criminal Case No. 25675

The charge for falsification under paragraph 2, Article 171 of the Revised Penal Code (RPC) is committed by causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate. The elements of this crime are as follows: (1) that the offender is a public officer, employee or notary public; (2) that he takes advantage of his official position; (3) that he falsifies a document by causing it to appear that a person or persons have participated in any act or proceedings when they did not in fact so participate.

As to the first element, it has been stipulated during the preliminary conference that accused Partisala was a public officer, holding an official position in the government being then the Municipal Vice Mayor of Maasin, Iloilo at the time material to this case.

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As to the second and third elements, the prosecution necessarily relied on the testimony of witnesses Trojillo and Albacete that the items⁷⁹ were unlawfully inserted to the Minutes and these were not specifically deliberated upon in the said session. Significantly, Exhibit “B” for the prosecution, which the latter claims as the true and genuine minutes, do not contain the said items. We give due credence to the testimony of the aforementioned witnesses, for one, both of them admitted that the true Minutes was not signed by accused Partisala, the presiding officer of the Sangguniang Bayan. To corroborate this fact, Albacete testified that during the time of Partisala, the Members of the Sangguniang Bayan were not used to signing the minutes of the meeting. Upon inspection of the documentary exhibit, it is more accurate to sustain the genuineness of Exhibit “B” as it manifests the SB’s customary practice of not signing the prepared minutes. Likewise, the Court cannot find any motive on the part of these witnesses to perjure themselves in denying the authenticity of Exhibit “8”. Accordingly, it has been settled that in the absence of evidence manifesting any ill motive on the part of the witnesses for the prosecution, it logically follows that no such improper motive could have existed and that, corollarily, their testimonies are worthy of full faith and credit⁸⁰. There is no reason for these witnesses to falsely testify as to the authenticity or falsity of the said documents, therefore, it is proper to assume that their testimony are given in good faith and in the natural order of events.

On the part of the defense, accused Partisala raised the fact that the documents presented are hearsay or inadmissible in evidence. In as much as witness Maderada maintains that Exhibit “B”, the alleged “true” minutes was not her own copy and as alleged, her copy was only given by one Ernie

⁷⁹

9. Item No. 3. A resolution Strongly Endorsing No. 9 of Barangay Naslo and Res. No. 9 Series of 1996 of Municipal Devt. Council.

Res. 9 stated that A Resolution Requesting the International Builders Corporation for Re-channelling of the Tigum River Path at Barangay Naslo.

10. SB Piolo commented that due to exigency of re-channelling the Brgy. has come up with a Resolution in order to save lives and properties of Brgy. Naslo and neighboring barangays.

Since it has no comment on the floor SB Piolo move to indorse the said resolution.

11. Res. No. 9, A Resolution Requesting For Re-channelling of the Tigum River at Brgy. Naslo by Maasin Development Council.

SB Piolo explained further that said MDC Resolution embraced the same intention and purpose and it should incorporated (sic) in the same indorsement.

12. Item No. 4. A Resolution Authorizing Mayor Rene M. Mondejar to Exercise His Emergency Powers.

SB Espejo commented that the Office of the Mayor presented this agenda as urgent due to the heavy rains and threat of floods on the coming month. He said that we need to re-channel the river path in order to have a course of water directed and could not anymore pause (sic) a major threat to the Brgy.

SB Gumapas moved and duly unanimously seconded that the Sanggunian resolved to grant emergency powers to the Municipal Mayor.

⁸⁰ People vs. Jumamoy, G.R. No. 101584, April 7, 1993.

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Malaga. The accused claims that Exhibit “B” was never identified by the source, Mr. Malaga, the one who owned the same and the one who actually knows as to how it came to his possession. The Court is not convinced. Under the rules, a witness can testify only to those facts which he knows of his personal knowledge; that is, which are derived from his own perception, except those recognize by the rules.⁸¹ Based on this rule, any evidence oral or documentary is hearsay if its probative value is not based on the personal knowledge of the witness, but of some other person who is not on the witness stand.⁸² For failure of the accused to timely object to the admissibility of the documentary evidence, the Court is beyond reproach in admitting Exhibit “B” as part of the prosecution’s evidence. Failure to make a formal offer within a considerable period of time shall be deemed a waiver to submit it. Established in the rule of evidence that objection to evidence must be made after the evidence is formally offered. In case of documentary evidence, offer is made after all the witnesses of the party making the offer have testified, specifying the purpose for which the evidence is being offered. It is only at this time, and not at any other, that objection to the documentary evidence may be made. Upon scrutiny of the records, it appears that accused was given ample opportunity to file his Comment/Opposition to the offer of evidence, specifically to Exhibit “B”, but he chose not to raise this objection.

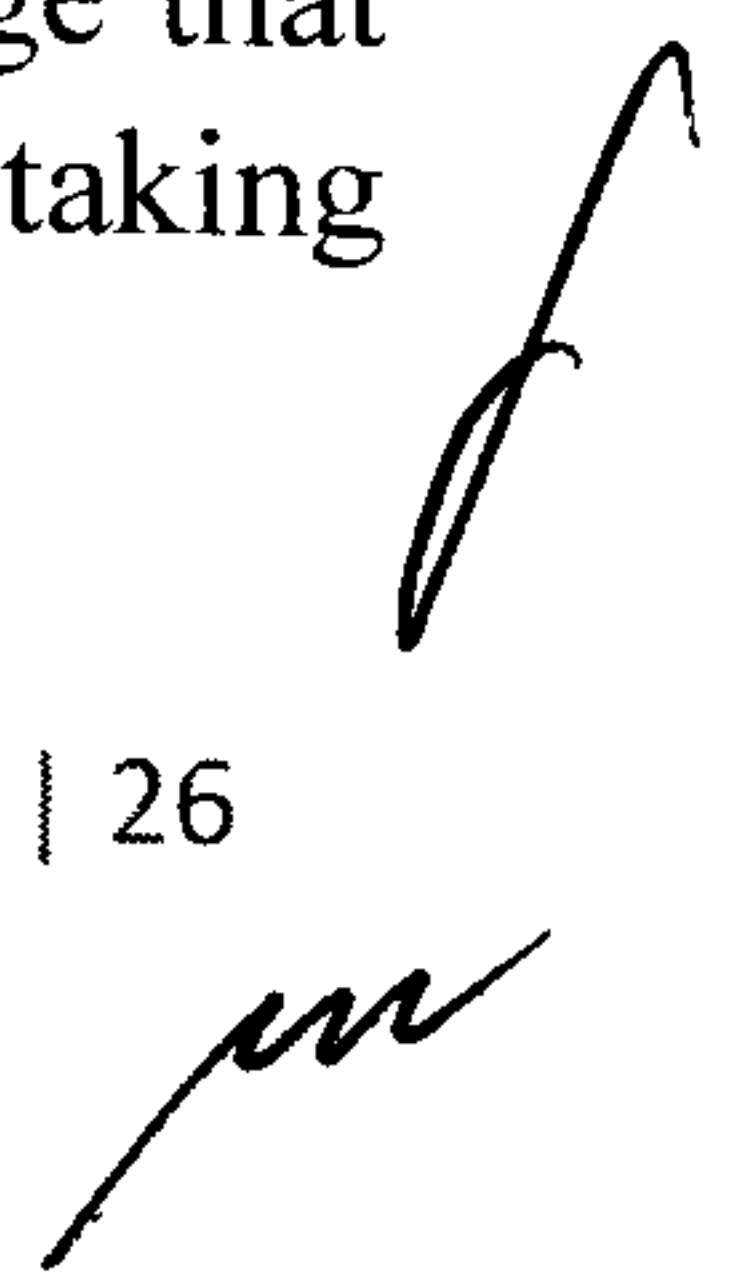
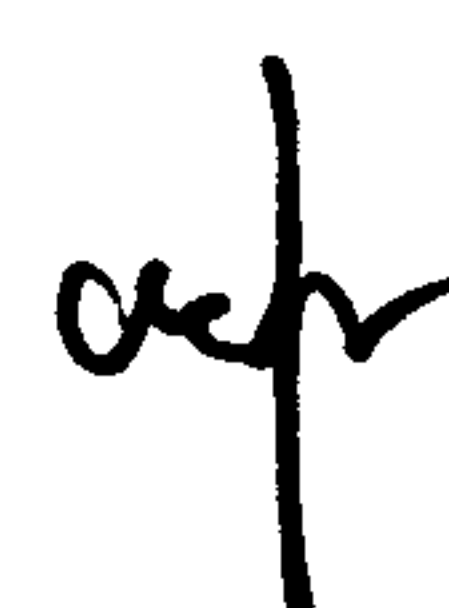
The presentation of Emmanuel Seth Casco as defense witness does not refute any of the prosecution’s evidence since he only maintained that Exhibit “8” is the authentic copy of the Minutes for being in the custody of his office. His certification of the record was only his ministerial duty to attest as to the presence of the document in his possession and custody, as the incumbent Sangguniang Bayan Secretary. However, he admitted that during the enactment of the questioned Resolutions, he was not in any case connected to nor a part of the Sangguniang Bayan. Therefore, he has no personal knowledge of the proceedings that was recorded in the questioned document.

Finally, the testimony of Mrs. Maderada pointed out some falsity in the Minutes. In the original document (Exhibit “B”), both Espino and Espejo were present. However, in the falsified document (Exhibit “8”/Exhibit “F”) Espino was already declared as absent. Espino was declared absent in the latter document since he was already dead at the time the falsified Minutes was prepared.

Indeed, the foregoing proof are sufficient to hold that Exhibit “8” or Exhibit “F” for the prosecution was executed and signed by the accused Partisala only after the supposed enactment of Resolution 30-A and 30-B. In the same way, herein accused executed the same even upon knowledge that the items therein were not discussed and/or deliberated upon, thereby taking

⁸¹ Section 36, Rule 130, Rules of Court.

⁸² Bayani vs. People, G.R. No. 155619, August 14, 2007.



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advantage of his official function as the presiding officer of the Sangguniang Bayan.

Criminal Case No. 25674

The accused was charged for violation of Section 3(e) of R.A. No. 3019, as amended, and Article 171 of the Revised Penal Code, to wit:

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

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(e) causing any undue injury to any party, including the Government, or giving any private party any unwarranted 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.

To be convicted for the crime under Sec. 3(e) of R.A. 3019, the prosecution must prove that the following elements are present:

- (a) The offender must be a public officer discharging administrative, judicial, or official functions;
- (b) He must have acted with manifest partiality, evident bad faith, or gross inexcusable negligence; and
- (c) 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.

As to the first element, it is settled that at the time material to the allegations in the Information, accused Partisala was then the Vice Mayor of the Municipality of Maasin, Iloilo.

The Supreme Court has expounded Section 3(e) of R.A. 3019 in the Case of *Sison v. People of the Philippines*⁸³:

⁸³ G.R. No. 170339; 170398-403, March 9, 2010.

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The second element may be committed in three ways, namely, through manifest partiality, evident bad faith or gross inexcusable negligence. Proof of any of these three in connection with the prohibited acts is sufficient for conviction. In determining the mode of commission by the accused, the Court's definition these three ways are significant: "partiality" is synonymous with "bias" which excites a disposition to see and report matters as they are wished for rather than as they are"; "bad faith does not simply connote bad judgment or negligence; it imputes a dishonest purpose or some moral obliquity and conscious doing of a wrong; a breach of sworn duty through some motive or intent or ill will; it partakes of the nature of fraud"; and "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 willfully 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."⁸⁴

Here, the element of evident bad faith has been established after the prosecution has shown that herein accused participated in the falsification of the Resolution which granted then Mayor Mondejar to exercise his emergency powers. The falsification was deliberately plotted in order to guise the extraction of sand and gravel by the IBC at the Tigum River. Without such act, IBC would not have the authority to haul any and all "excess" sand and gravel from the river. In contemplation of this Court, there was intent of falsifying the document to perpetrate their aim of quarrying sand and gravel from the Tigum River, thus affirmatively operating their furtive design and motive of self-interest, ill will for some ulterior purpose.

To support the presence of the third element, the prosecution through witness Sucaldito was able to establish that it is only the provincial governor who has the power to issue quarrying permits. IBC was already granted a quarrying permit by the province of Iloilo. However, through the memorandum of agreement between the Municipality of Maasin and IBC, the latter was granted the rechanneling project. Through this project, the accused with other public officials, gave IBC the liberty to engage in quarrying activities even beyond the scope granted to it by the provincial government and in the guise of performing a service for the people by constructing a dike and rechanneling the river.

The Court has defined the word "unwarranted" as lacking adequate or official support; unjustified; unauthorized or without justification or adequate reason. "Advantage" means a more favorable or improved position or

⁸⁴ Id, cited in Ampil vs. Ombudsman, G.R. No. 192685, July 31, 2013.

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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.⁸⁵ Certainly, the accused participated in giving unwarranted advantage and preference by undertaking of memorandum of agreement between the Municipality and IBC, to bypass the provincial government in its right to issue a quarrying permit.

In sum, giving unwarranted benefits to IBC with evident bad faith is sufficient to convict herein accused for violation of Section 3(e) of R.A. 3019. It is settled that there are two (2) ways of committing the offense: a.) by causing undue injury to a party, including the government; or b.) by giving any private party unwarranted benefit, advantage, or preference. Thus, it is not necessary to discuss whether the municipality suffered undue injury in the commission of the offense

WHEREFORE, premises considered, Accused **ARNALDO PARTISALA** is found **GUILTY** beyond reasonable doubt for the crime of violation of Section 3(e) of Republic Act 3019 and for the crime of Falsification defined under Article 171 of the Revised Penal Code. Thus, he is hereby sentenced to suffer the following:

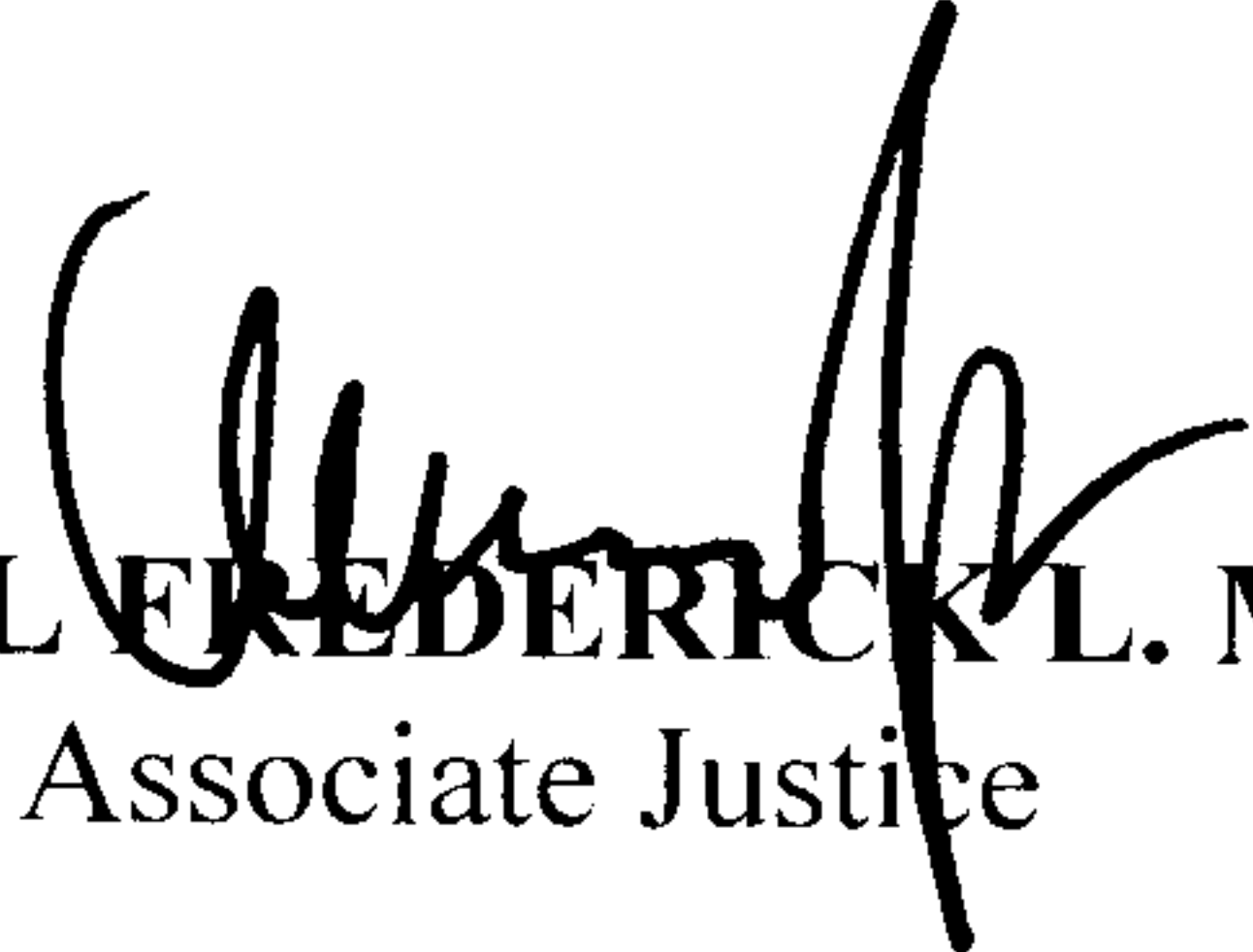
1. The indeterminate penalty of imprisonment for six (6) years and one (1) month as minimum and ten (10) years as maximum and to suffer perpetual disqualification from public office for violation of Section 3(e) of R.A. 3019 under Criminal Case No. 25674; and
2. The imprisonment for two (2) years, four (4) months and one (1) day to four (4) years and two (2) months as minimum to eight (8) years and one (1) day to ten (10) years as maximum penalty in the absence of mitigating and aggravating circumstances in accordance with the provisions of the Indeterminate Sentence Law, to pay a fine amounting to Five Thousand Pesos (Php5,000), and perpetual special disqualification from the right of suffrage.

SO ORDERED.


MARIA THERESA V. MENDOZA-ARCEGA
Acting Chairperson

⁸⁵ Ampil vs. Ombudsman, G.R. No. 192685, July 31, 2013.

WE CONCUR:


MICHAEL FREDERICK L. MUSNGI
Associate Justice


REYNALDO P. CRUZ
Associate Justice

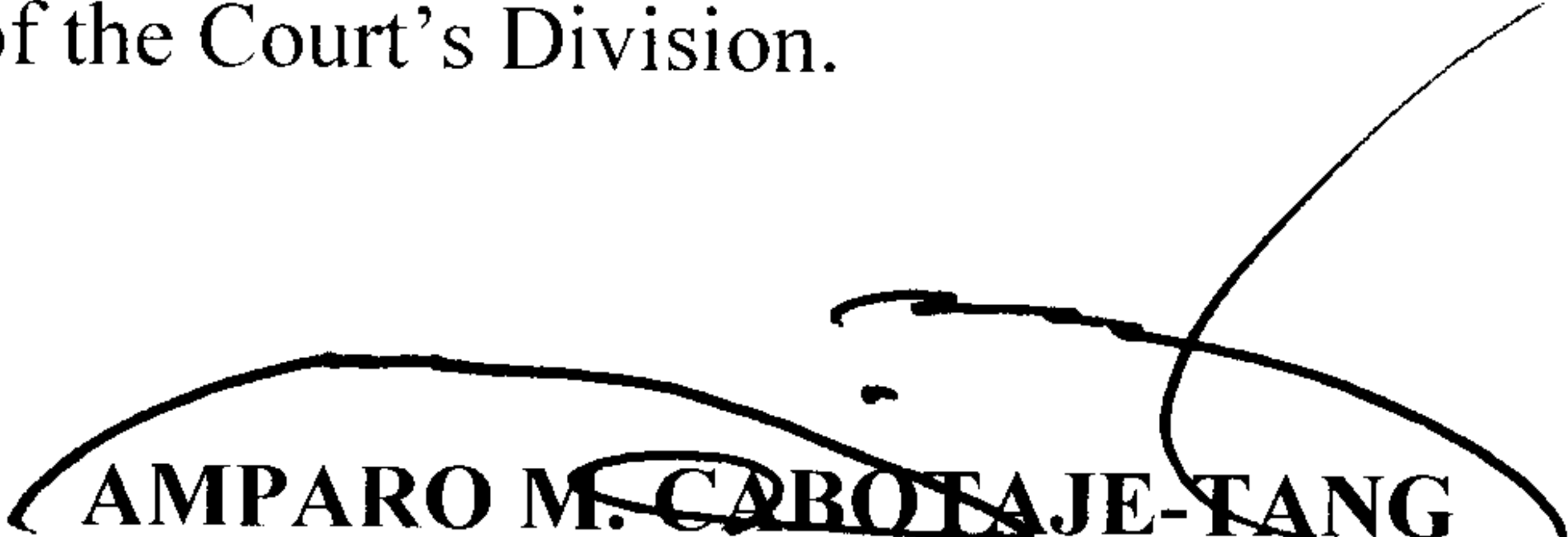
ATTESTATION

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


MARIA THERESA V. MENDOZA-ARCEGA
*Acting Chairperson
Fifth Division*

CERTIFICATION

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


AMPARO M. CAROTAJE-TANG
Presiding Justice