



REPUBLIC OF THE PHILIPPINES  
**Sandiganbayan**  
Quezon City

SIXTH DIVISION

**PEOPLE OF THE PHILIPPINES,** **SB-15-CRM-0296-0307**  
Plaintiff, For: Violation of Section 3(e)  
of R.A. 3019

**SB-15-CRM-0308-0319**  
For: Technical Malversation  
(Art. 220 of the RPC)

*Present*

- versus -

**JOSE T. VILLAROSA, ET AL.**  
Accused.

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

*Promulgated:*

November 28, 2018 

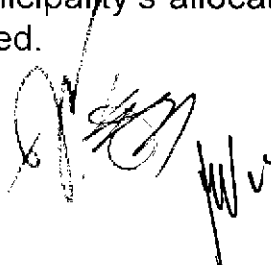
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**DECISION**

**FERNANDEZ, SJ, J.**

Accused Jose T. Villarosa, Pablo I. Alvaro and Carlito T. Cajayon, then Mayor, Accountant and Treasurer, respectively, of the Municipality of San Jose, Occidental Mindoro, are charged with twelve (12) counts of Violation of Sec. 3(e) of Republic Act No. 3019 (R.A. No. 3019) and twelve (12) counts of Technical Malversation under Art. 220 of the Revised Penal Code (RPC) for allegedly using the tobacco excise tax funds for purposes not falling under Sec. 8 of Republic Act No. 8240 (R.A. No. 8240).

The Information in SB-15-CRM-0296 to 0307, and in SB-15-CRM-0308 to 0319, are similarly worded, except for the dates of the alleged commission of the crimes, the amounts involved, and the purposes for which the municipality's allocation in the tobacco excise tax funds were allegedly used.



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Accused Cajayon is charged only in SB-15-CRM-0296, 0298, 0308, and 0310, while accused Villarosa is the sole accused in SB-15-CRM-307 and 319.

The accusatory portion of the Information in SB-15-CRM-0296 reads:

On 29 September 2010, or sometime prior or subsequent thereto, in the Municipality of San Jose, Occidental Mindoro, Philippines, and within this Honorable Court's jurisdiction; accused public officers of the municipality of San Jose, Occidental Mindoro, namely:

1. **JOSE T. VILLAROSA**, Municipal Mayor (SG-27);
2. **PABLO I. ALVARO**, Municipal Accountant (SG-24);
3. **CARLITO T. CAJAYON**, Municipal Treasurer (SG-24);

while in the performance of their administrative and/or official functions; conspiring with one another; acting with manifest partiality, evident bad faith and/or gross inexcusable negligence; did then and there willfully, unlawfully, and criminally cause undue injury to the government and the intended farmer beneficiaries under Republic Act No. 8240 by applying the amount of TWO MILLION ONE HUNDRED FIFTEEN THOUSAND PHILIPPINE PESOS (P2,115,000.00) of the municipality's allocation of the tobacco excise tax, to the purchase of ten multi-cab vehicles, despite said purchase not being a purpose for which the fund was appropriated by law.

CONTRARY TO LAW.

The accusatory portion of the Information in SB-15-CRM-0308 reads:

On 29 September 2010, or sometime prior or subsequent thereto, in the Municipality of San Jose, Occidental Mindoro, Philippines, and within this Honorable Court's jurisdiction; accused public officers of the municipality of San Jose, Occidental Mindoro, namely:

1. **JOSE T. VILLAROSA**, Municipal Mayor (SG-27);
2. **PABLO I. ALVARO**, Municipal Accountant (SG-24);
3. **CARLITO T. CAJAYON**, Municipal Treasurer (SG-24);

who as such and by reason of their positions and duties were accountable for public funds under their administration; while in the performance of their functions; conspiring with one another; did then and there willfully, unlawfully, and feloniously, without lawful authority, apply the amount of TWO MILLION ONE HUNDRED FIFTEEN

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THOUSAND PHILIPPINE PESOS (P2,115,000.00) which amount was part of the funds derived from the tobacco excise tax allocated to the said municipality under Republic Act No. 8240, to the purchase of ten multi-cab vehicles; a purpose other than that for which said fund was appropriated by law, to the damage and prejudice of public service.

CONTRARY TO LAW.

For convenience, the particulars of the twenty-four (24) Informations are summarized as follows:

SB-15-CRM-	Accused	Date the offenses were allegedly committed	Amount involved	Purpose for which the municipality's allocation in the tobacco excise tax was allegedly used
0296 and 0308	Villarosa, Alvaro, Cajayon	Sept. 29, 2010	P2,115,000.00	Purchase of ten multi-cab vehicles
0297 and 0309	Villarosa, Alvaro	Oct. 22, 2010	P87,500.00	Payment of mixed gravel and sand for the maintenance of Barangay Road San Roque, San Jose, Occidental Mindoro
0298 and 0310	Villarosa, Alvaro, Cajayon	Nov. 18, 2010	P94,500.00	Reimbursement of the amount paid by accused Villarosa for the purchase of medicines
0299 and 0311	Villarosa, Alvaro	Dec. 9, 2010	P30,000.00	Reimbursement of transportation expenses incurred for the purchase of Christmas lights
0300 and 0312	Villarosa, Alvaro	Dec. 10, 2010	P94,500.00	Payment of meals and snacks served by Jakefat Catering Services during the oathtaking of newly-elected Barangay Captains and SK Chairmen
0301 and 0315	Villarosa, Alvaro	Dec. 30, 2010	P89,780.00	Payment of bus rental to Narpin Bus Liner during the 60 <sup>th</sup> Founding Anniversary of Occidental Mindoro for the period 11-16 November 2010
0302 and 0314	Villarosa, Alvaro	Dec. 30, 2010	P56,000.00	Payment of meals and snacks served by Jakefat Catering Services during various activities of the municipality
0303 and 0313	Villarosa, Alvaro	Dec. 30, 2010	P23,304.50	Purchase of fuel and lubricants from Barrientos

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				Caltex Station for the maintenance of a Philippine National Police service vehicle
0304 and 0316	Villarosa, Alvaro	Jan. 14, 2011	₱95,110.40	Reimbursement to accused Villarosa of the amount paid for the repair and maintenance of the service vehicle (Land Cruiser) with License Plate No. SGR-464
0305 and 0318	Villarosa, Alvaro	Jan. 14, 2011	₱70,000.00	Payment of snacks served by NRV Catering Services for the oathtaking of Barangay Captains and SK Chairmen
0306 and 0317	Villarosa, Alvaro	Jan. 14, 2011	₱94,950.00	Reimbursement of the amount paid by accused Villarosa for the purchase of medicines
0307 and 0319	Villarosa	Jan. 17, 2011	₱70,000.00	Payment of bus rental to Narpin Bus Liner for the use of the members of the Pentecostal Missionary Church of Christ in traveling from San Jose, Occidental Mindoro to Manila, covering the period 20-21 November 2010

The present cases were dismissed as to accused Alvaro by reason of his death.<sup>1</sup>

When arraigned, accused Villarosa and Cajayon entered their pleas of "Not Guilty".<sup>2</sup>

The present cases, originally raffled to the Fourth Division of the Sandiganbayan, were unloaded to the Sixth Division pursuant to the special raffle on July 29, 2016.<sup>3</sup>

During the Pre-trial,<sup>4</sup> the parties stipulated as follows:<sup>5</sup>

<sup>1</sup> Resolution dated September 26, 2018

<sup>2</sup> Record, Vol. 1, pp. 227-229 (accused Cajayon); pp. 341-347 (accused Villarosa)

<sup>3</sup> Resolution dated September 14, 2016; Record, Vol. 1, p. 493

<sup>4</sup> Pre-trial Order dated April 17, 2017; Record, Vol. 2, pp. 155-171

<sup>5</sup> Pre-trial Order dated April 17, 2017, pp. 13-14; Record, Vol. 2, pp. 167-168

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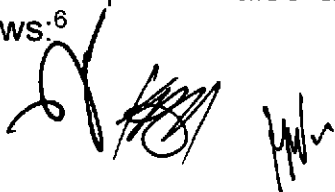
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**A. STIPULATED FACTS**

1. That whenever referred to orally or in writing by the Honorable Court, counsels, and witnesses, accused Jose Tapales Villarosa and accused Carlito Torreliza Cajayon admit that Jose Tapales Villarosa is the same accused in Criminal Cases Nos. SB-15-CRM-0296 to 0319 and Carlito Torreliza Cajayon is the same accused in Criminal Cases Nos. SB-15-CRM-0296 & 0298 and SB-15-CRM-0308 & 0310.
2. That accused Jose Tapales Villarosa, being then the Municipal Mayor of the Municipality of San Jose, Occidental Mindoro is a public officer at the time material to this case.
3. That the funds used for the transactions covered by the following disbursement vouchers and their corresponding checks were sourced from the tobacco excise tax allocation of the Municipality of San Jose, Occidental Mindoro:

DISBURSEMENT VOUCHER	CHECK NO.
300-2010-09-211	Philippine Veterans Bank (PVB) Check No. 9955
300-2010-10-286	PVB Check No. 9382
300-2010-11-941	PVB Check No. 9721
300-2010-12-80	Land Bank of the Philippines (LBP) Check No. 8484
300-2010-12-1115	PVB Check No. 9928
300-2010-12-159	LBP Check No. 8569
300-2010-12-1435	PVB Check No. 60263
300-2010-12-153	Development Bank of the Philippines (DBP) Check No. 8563
300-2011-01-057	LBP Check No. 8659
300-2011-04-38	LBP Check No. 8638
300-2011-01-26	LBP Check No. 8626
300-2011-01-12	PVB Check No. 60311

The parties also agreed that the issues to be resolved are as follows:<sup>6</sup>



<sup>6</sup> Pre-trial Order dated April 17, 2017, p. 15; Record, Vol. 2, p. 169

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V. ISSUES

Taking into account the admissions already made in the parties' stipulation of facts and documents, the issues to be resolved in these cases are as follows:

- A. Whether the accused, while in the performance of their official public functions and in conspiracy with one another, acted with evident bad faith, manifest partiality, and/or gross inexcusable negligence, criminally caused undue injury to the government and/or to the intended beneficiaries under Republic Act No. 8240 by applying public funds sourced from the Municipality of San Jose, Occidental Mindoro's allocation of the tobacco excise tax for purposes other than those for which the said public funds were appropriated by law.
- B. Whether the accused, who were accountable public officers under their administration by reason of their positions and duties and in conspiracy with one another, willfully, unlawfully, feloniously, and without lawful authority, applied public funds derived from the Municipality of San Jose, Occidental Mindoro's allocation of the tobacco excise tax under Republic Act No. 8240 for purposes other than those for which the said public funds were appropriated by law.
- C. Whether the accused are guilty for violating Section 3(e) of Republic Act No. 3019.
- D. Whether the accused are guilty for violating Article 220 of the Revised Penal Code (Technical Malversation).

EVIDENCE FOR THE PROSECUTION

The prosecution presented as witnesses **Rolando C. Basilio**,<sup>7</sup> **Jocelyn B. Ante**,<sup>8</sup> and **Josielee M. Seco**.<sup>9</sup>

In his *Judicial Affidavit* dated April 4, 2017, **Rolando C. Basilio** declared:

- 1. He has been a farmer for almost thirty (30) years. He has also been an investigative broadcaster at DWDO Heart FM 102.5 since 2009.<sup>10</sup>

<sup>7</sup> TSN, April 17, 2017; *Judicial Affidavit* dated April 4, 2017 (Record, Vol. 2, pp. 104-149)

<sup>8</sup> TSN, August 9, 2017; *Judicial Affidavit* dated June 8, 2017 (Record, Vol. 2, pp. 180-219)

<sup>9</sup> TSN, September 26, 2017; *Judicial Affidavit* dated September 8, 2017 (Record, Vol. 4, pp. 33-42)

<sup>10</sup> *Judicial Affidavit* dated April 4, 2017, pp. 1-2 (Record, Vol. 2, pp. 104-105)

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2. On September 23, 2011, he executed a Complaint (Exhibit HHH) against accused Villarosa, Alvaro and Cajayon, in connection with the misuse of the tobacco excise tax funds.<sup>11</sup>
3. He learned about the alleged misuse of said funds from tobacco farmers who went to his radio station, seeking help. According to the farmers, the Municipality of San Jose did not share with them the tobacco excise tax funds.<sup>12</sup>
4. Thereafter, he secured from the Municipal Accountant of San Jose copies of the Disbursement Vouchers (Exhibits X to II) pertaining to the transactions subject of the present cases.<sup>13</sup>
5. None of the funds released under the subject Disbursement Vouchers were for the benefit of tobacco farmers.<sup>14</sup>
6. A certain Atty. Sarah Avila advised him to file a complaint with the Office of the Ombudsman.<sup>15</sup>
7. On September 30, 2011, he filed with the Office of the Ombudsman said Complaint dated September 23, 2011.<sup>16</sup>

### He further testified:

1. He does not know if DWDO Heart FM 102.5 has a permit from the National Telecommunications Commission (NTC).<sup>17</sup>
2. He is not a tobacco farmer.<sup>18</sup>
3. He did not inform the Office of the Ombudsman that he filed with the *Sangguniang Panlalawigan* substantially the same complaint on October 6, 2011.<sup>19</sup>
4. The copies of the Disbursement Vouchers he secured from the Municipal Accountant were not certified copies.<sup>20</sup>
5. He has no personal knowledge of the purpose for which funds were released under the subject Disbursement Vouchers.<sup>21</sup>

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<sup>11</sup> Judicial Affidavit dated April 4, 2017, p. 2 (Record, Vol. 2, p. 105)

<sup>12</sup> Judicial Affidavit dated April 4, 2017, p. 2 (Record, Vol. 2, p. 105)

<sup>13</sup> Judicial Affidavit dated April 4, 2017, pp. 2-6 (Record, Vol. 2, pp. 105-109)

<sup>14</sup> Judicial Affidavit dated April 4, 2017, p. 9 (Record, Vol. 2, p. 112)

<sup>15</sup> Judicial Affidavit dated April 4, 2017, p. 9 (Record, Vol. 2, p. 112)

<sup>16</sup> Judicial Affidavit dated April 4, 2017, p. 10 (Record, Vol. 2, p. 113)

<sup>17</sup> TSN, April 17, 2017, pp. 16-17

<sup>18</sup> TSN, April 17, 2017, pp. 18-19

<sup>19</sup> TSN, April 17, 2017, pp. 19-23

<sup>20</sup> TSN, April 17, 2017, p. 36

<sup>21</sup> TSN, April 17, 2017, p. 43

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In her *Judicial Affidavit* dated June 8, 2017, **Jocelyn B. Ante** declared:

1. She has held the position of State Auditor III at the Commission on Audit (COA) since September 18, 2007.<sup>22</sup>
2. In 2011, she was assigned to the Office of the Supervising Auditor, Audit Group C, Regional Offices (National and Corporate) Outside the Regional Center, COA Regional Office No. IV.<sup>23</sup>
3. The COA-Central Office received a letter-complaint from a certain Mr. Alex Robles del Valle, requesting for the conduct of a fraud audit, and an investigation of highly suspicious transactions involving the Mayor and other officials of the Municipality of San Jose.<sup>24</sup>
4. She was part of the audit team created by Office Order No. 2011-086 dated May 27, 2011 (Exhibit NN) of the COA Regional Office No. IV. Said audit team conducted an audit of certain transactions of the Municipality of San Jose, Occidental Mindoro.<sup>25</sup>
5. The audit team went to the Municipality of San Jose on June 13, 2011. Soon thereafter, the members of the audit team had an initial conference (Exhibit OO) with the Vice Mayor, Municipal Administrator, Municipal Accountant, Municipal Treasurer, SB Secretary and Administrative Assistant II/OIC-MBO.<sup>26</sup>
6. Mayor Jose T. Villarosa was not present during the initial conference. The audit team had a courtesy meeting with him on the next day.<sup>27</sup>
7. After the initial conference, they went to the Auditor's Office to gather the documents involved in the letter-complaint of Alex del Valle.<sup>28</sup>
8. Among the documents they gathered were the twelve (12) Disbursement Vouchers subject of the present cases, including the attached supporting documents (Exhibits X to II).<sup>29</sup>

<sup>22</sup> *Judicial Affidavit* dated June 8, 2017, p. 1 (Record, Vol. 2, p. 180)

<sup>23</sup> *Judicial Affidavit* dated June 8, 2017, p. 2 (Record, Vol. 2, p. 181)

<sup>24</sup> *Judicial Affidavit* dated June 8, 2017, p. 2 (Record, Vol. 2, p. 181)

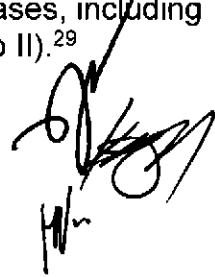
<sup>25</sup> *Judicial Affidavit* dated June 8, 2017, pp. 2-3 (Record, Vol. 2, pp. 181-182)

<sup>26</sup> *Judicial Affidavit* dated June 8, 2017, p. 2 (Record, Vol. 2, p. 181)

<sup>27</sup> *Judicial Affidavit* dated June 8, 2017, p. 5 (Record, Vol. 2, p. 184)

<sup>28</sup> *Judicial Affidavit* dated June 8, 2017, pp. 3-4 (Record, Vol. 2, pp. 182-183)

<sup>29</sup> *Judicial Affidavit* dated June 8, 2017, pp. 6-32 (Record, Vol. 2, pp. 185-211)





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9. There are two (2) DV numbers indicated in certain Disbursement Vouchers because, according to the auditor assigned to the municipality, the Municipal Accountant's Office committed mistakes in the numbering of said vouchers. The numbers on top are the correct DV numbers.<sup>30</sup>
10. From the documents (Exhibits B to V) they examined, and from Republic Act No. 8240 and DBM, BIR and NTA Joint Circular No. 2009-1 dated November 3, 2009 (Exhibit W), it appeared that the trust fund sourced from the tobacco excise tax should be used solely for the benefit of tobacco farmers.<sup>31</sup>
11. The words "charged to excise tax" appearing in the Disbursement Vouchers means that they were sourced from the excise tax funds. The Disbursement Vouchers are illegal on their face because funds from the trust fund were transferred to the general fund. The trust fund should be used only for the purpose for which it was created.<sup>32</sup>
12. The audit team concluded the audit sometime in September 2011. They prepared the audit highlights (Exhibit PP) containing their observations and findings during the audit. Among their findings and observations were the following:<sup>33</sup>
  - a. Disbursed funds amounting to ₱100,230,488.79, covering various expenses, were charged by the Municipality of San Jose against the municipality's share in the tobacco excise tax funds, in violation of the applicable laws, rules and regulations.
  - b. There was a discrepancy between the total amount of the tobacco excise tax, as recorded in the subsidiary ledger, and the actual receipts for the year 2010.
  - c. Several disbursements sourced from the tobacco excise tax funds, such as the financial assistance granted in favor of the Municipality of Mamburao, in the amount of ₱10 million, and the disbursement for religious purposes in the amount of ₱70,000.00, were in violation of existing laws, rules and regulations.<sup>34</sup>
13. Thereafter, they furnished the Municipality of San Jose a copy of said audit highlights.<sup>35</sup> The municipality submitted its

<sup>30</sup> *Judicial Affidavit* dated June 8, 2017, p. 7 (Record, Vol. 2, p. 186, etc.)

<sup>31</sup> *Judicial Affidavit* dated June 8, 2017, p. 7 (Record, Vol. 2, pp. 186-189)

<sup>32</sup> *Judicial Affidavit* dated June 8, 2017, pp. 10-32 (Record, Vol. 2, p. 189-211)

<sup>33</sup> *Judicial Affidavit* dated June 8, 2017, p. 32 (Record, Vol. 2, p. 211)

<sup>34</sup> *Judicial Affidavit* dated June 8, 2017, p. 32 (Record, Vol. 2, p. 211)

<sup>35</sup> *Judicial Affidavit* dated June 8, 2017, p.32 (Record, Vol. 2, p. 211)

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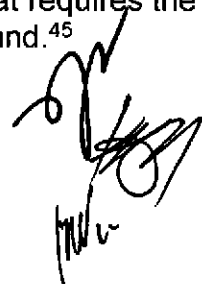
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Comment dated September 11, 2010 (Exhibit QQ). The date is supposed to be September 11, 2011.<sup>36</sup>

14. After the team evaluated the management's comment, they scheduled an exit conference, wherein they discussed the audit team's findings and recommendations.<sup>37</sup>
15. The audit team received the municipality's Supplemental Comment (Exhibit RR) on February 16, 2012.<sup>38</sup>
16. The audit team then prepared the *Report on the Preliminary Investigation on the Various Irregularities Allegedly Committed by Mayor Jose T. Villarosa and Other Officials of the Municipality of San Jose, Occidental Mindoro* dated May 9, 2012 (Exhibit SS-1).<sup>39</sup> Said report was submitted to the Fraud Audit Office, COA Central Office.<sup>40</sup>
17. Special Audit Notices of Disallowance (Exhibits YY to FFF) were issued for the disbursements charged to the tobacco excise tax funds.<sup>41</sup> Later, they received the municipality's separate Consolidated Appeal Memoranda both dated October 29, 2013 (Exhibits GGG and GGG-1).<sup>42</sup>

She further testified:

1. They did not conduct an in-depth audit because the fraud audit office required them to issue Notices of Disallowance for the expenses charged to the tobacco excise tax funds.<sup>43</sup>
2. Under Sec. 8 of R.A. No. 8240, the tobacco excise tax fund should be utilized for cooperative projects for the enhancement of better quality agricultural products to enhance the income of the farmers.<sup>44</sup>
3. There is no specific provision in R.A. No. 8240 that requires the tobacco excise tax funds to be placed in a trust fund.<sup>45</sup>



<sup>36</sup> *Judicial Affidavit* dated June 8, 2017, p. 31 (Record, Vol. 2, p. 212)

<sup>37</sup> *Judicial Affidavit* dated June 8, 2017, p. 33 (Record, Vol. 2, p. 212)

<sup>38</sup> *Judicial Affidavit* dated June 8, 2017, pp. 33-34 (Record, Vol. 2, pp. 212-213)

<sup>39</sup> *Judicial Affidavit* dated June 8, 2017, p. 34 (Record, Vol. 2, p. 213)

<sup>40</sup> *Judicial Affidavit* dated June 8, 2017, p. 35 (Record, Vol. 2, p. 214)

<sup>41</sup> *Judicial Affidavit* dated June 8, 2017, p. 35 (Record, Vol. 2, p. 214)

<sup>42</sup> *Judicial Affidavit* dated June 8, 2017, p. 37 (Record, Vol. 2, p. 216)

<sup>43</sup> TSN, August 9, 2017, p. 24

<sup>44</sup> TSN, August 9, 2017, p. 26

<sup>45</sup> TSN, August 9, 2017, p. 30

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- 4. Accused Cajayon was not present during the initial conference.<sup>46</sup>
- 5. Her conclusion, that the disbursements were illegal, was based on Sec. 4.2 of Joint Circular No. 2009-001.<sup>47</sup>
- 6. The phrase “exclusively for the benefit of tobacco farmers” does not appear in Joint Circular No. 2009-001.<sup>48</sup>

In her *Judicial Affidavit* dated September 8, 2017, **Josielee M. Seco**, Administrative Officer V and officer-in-charge of the Municipal Human Resources Management Office (HRMO) at the Local Government of San Jose, Occidental Mindoro, identified the Service Records of accused Jose T. Villarosa (Exhibit A-1) and accused Carlito T. Cajayon (Exhibit A-2).

All the documentary exhibits offered by the prosecution (Exhibits A to HHH and sub-markings) were admitted in evidence.<sup>49</sup>

Exhibit	Document
A	Letter dated March 3, 2016 of Leah A. Gonzales
A-1	Service Record of Villarosa Jose Tapales
A-2	Service Record of Cajayon Carlito Torreliza
B	Letter dated February 22, 2010 of Ma. Amelita Calimbas-Villarosa
C	Letter dated June 10, 2010 of Ma. Amelita Calimbas-Villarosa
D	Releases from the Share of LGUs from the Burley and Tobacco Excise Tax under RA 8240
E	Special Allotment Release Order No. SARO-ROIVB-10-0031825 dated December 30, 2010
F	Advice of NCA Issued for NCA No. NCA-ROIVB-11-0004387 dated March 7, 2011
G	Notice of Funding Check Issued dated March 8, 2011
H	Advice of NCA Issued for NCA No. NCA-ROIVB-11-0014973 dated August 10, 2011
I	Notice of Funding Check Issued dated August 15, 2011
J	Advice of NCA Issued for NCA No. NCA-ROIVB-11-0019671 dated October 24, 2011
K	Notice of Funding Check Issued dated October 26, 2011
L	Special Allotment Release Order No. SARO-ROIVB-11-0027173 dated November 17, 2011
M	Advice of NCA Issued for NCA No. NCA-ROIVB-11-0020981 dated November 17, 2011
N	Notice of Funding Check Issued dated November 28, 2011

<sup>46</sup> TSN, August 9, 2017, p. 33

<sup>47</sup> TSN, August 9, 2017, p. 34

<sup>48</sup> TSN, August 9, 2017, pp. 35-36

<sup>49</sup> Resolution dated December 15, 2017; Record, Vol. 7, pp. 41-42

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O	Special Allotment Release Order No. SARO-ROIVB-12-0023977 dated October 16, 2012
P	Advice of NCA Issued for NCA No. NCA-ROIVB-12-0019249 dated October 16, 2012
Q	Notice of Funding Check Issued dated October 19, 2012
R	Special Allotment Release Order No. SARO-ROIVB-12-0024561 dated October 19, 2012
S	Advice of NCA Issued for NCA No. NCA-ROIVB-12-0019625 dated October 19, 2012
T	Notice of Funding Check Issued dated October 31, 2012
U	Advice of NCA Issued for NCA No. NCA-ROIVB-12-0020210 dated November 5, 2012
V	Notice of Funding Check Issued dated November 7, 2012
W	Department of Budget and Management (DBM), Bureau of Internal Revenue (BIR) and National Tobacco Administration (NTA) Joint Circular No. 2009-1 dated November 3, 2009
X, X-1 and X-2	Disbursement Voucher No. 300-2010-09-211 and its attachments
Y, Y-1 to Y-13	Disbursement Voucher No. 300-2010-10-286 and its attachments
Z, Z-1 to Z-10	Disbursement Voucher No. 300-2010-11-941 and its attachments
AA, AA-1 to AA-10	Disbursement Voucher No. 300-2010-12-80 and its attachments
BB, BB-1 to BB-10	Disbursement Voucher No. 300-2010-12-1115 and its attachments
CC, CC-1 to CC-10	Disbursement Voucher No. 300-2010-12-159 and its attachments
DD, DD-1 to DD-14	Disbursement Voucher No. 300-2010-12-1435 and its attachments
EE, EE-1 to EE-10	Disbursement Voucher No. 300-2010-12-153 and its attachments
FF, FF-1 to FF-7	Disbursement Voucher No. 300-2011-01-057 and its attachments
GG, GG-1 to GG-12	Disbursement Voucher No. 300-2011-04-38 and its attachments
HH, HH-1 to HH-10	Disbursement Voucher No. 300-2011-01-26 and its attachments
II, II-1 to II-4	Disbursement Voucher No. 300-2011-01-12 and its attachments
NN	Commission on Audit Regional Office No. IV Office Order No. 2011-086 dated May 27, 2011
OO	Attendance Sheet for the Initial Conference held at the Municipality of San Jose, Occidental Mindoro on June 13, 2011
PP	Preliminary report prepared by the audit team created pursuant to Office Order No. 2011-086
QQ	Management's comments dated September 11, 2010 from the Office of the Mayor of the Municipality of San Jose, Occidental Mindoro

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RR	Supplemental Management's Comments dated February 10, 2012 from the Office of the Mayor of the Municipality of San Jose, Occidental Mindoro
SS	Letter of Ma. Gracia M. Pulido Tan
SS-1	Report on the Preliminary Investigation on the Various Irregularities Allegedly Committed by Mayor Jose T. Villarosa and Other Officials of the Municipality of San Jose, Occidental Mindoro
YY	Special Audit Notice of Disallowance No. 12-010-TF-(10)
ZZ	Special Audit Notice of Disallowance No. 12-028-TF-(10)
AAA	Special Audit Notice of Disallowance No. 12-060-TF-(10)
BBB	Special Audit Notice of Disallowance No. 12-055-TF-(10)
CCC	Special Audit Notice of Disallowance No. 12-041-TF-(10)
DDD	Special Audit Notice of Disallowance No. 12-068-TF-(11)
EEE	Special Audit Notice of Disallowance No. 12-063-TF-(11)
FFF	Special Audit Notice of Disallowance No. 12-065-TF-(11)
GGG and GGG-1	Two (2) separate Consolidated Appeal Memoranda, both dated October 29, 2013
HHH	Complaint dated September 23, 2011 of Rolando C. Basilio

The Court denied accused Villarosa and Cajayon's respective motions for leave to file demurrer to evidence.<sup>50</sup>

EVIDENCE FOR THE DEFENSE

The defense presented as witnesses **Joseph E. Salgado**<sup>51</sup> (for accused Villarosa), and accused **Carlito T. Cajayon**.<sup>52</sup>

In his Judicial Affidavit, **Joseph E. Salgado** declared:

1. He was the Municipal Planning and Development Coordinator, and the designated Municipal Administrator of San Jose, Occidental Mindoro at the time material to these cases.<sup>53</sup>
2. As the designated Municipal Administrator, he received requests for payment of procured items (Exhibits X to II). After reviewing said requests, he forwarded them to Mayor Villarosa for approval.<sup>54</sup>
3. Said requests went through the regular accounting process for proper charging of fund, and pre-audit, if necessary, before they

<sup>50</sup> Resolution dated January 19, 2018; Record, Vol. 7, pp. 75-76

<sup>51</sup> TSN, February 5, 2018; *Judicial Affidavit of Joseph E. Salgado* dated January 27, 2018

<sup>52</sup> TSN, March 8, 2018; *Judicial Affidavit (To Form Part of the Direct Testimony of CARLITO T. CAJAYON)* dated March 2, 2018

<sup>53</sup> *Judicial Affidavit of Joseph E. Salgado* dated January 27, 2018, p. 1 (Record, p. 90)

<sup>54</sup> *Judicial Affidavit of Joseph E. Salgado* dated January 27, 2018, p. 2 (Record, p. 91)

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were approved by Mayor Villarosa. Thus, Mayor Villarosa could not have acted with manifest partiality, evident bad faith or gross inexcusable negligence when he approved such requests.<sup>55</sup>

4. Pre-audit determines, among others, whether the proposed expenditure complies with the purpose for which the funds were appropriated. Likewise, pre-audit reasonably ensures that such proposed expenditure is not illegal, irregular, extravagant, excessive, unconscionable or unnecessary.<sup>56</sup>
5. The tobacco excise tax fund was used for purposes for which the same was appropriated.
  - a. The purchase of ten (10) multi-cabs redounded to the benefit of the tobacco farmers because said vehicles, which were distributed to tobacco farming barangays, were used to transport the farmers' harvest from farms to the warehouses.<sup>57</sup>
  - b. Disbursement Voucher No. 300-2010-09-211 (Exhibit X) only authorized the release of funds from the trust fund to the general fund. The release of the funds to the supplier was covered by another voucher.<sup>58</sup>
  - c. At the time, the trust fund account of the Local Government of San Jose was maintained with the Philippine Veterans Bank (PVB). The check was issued to transfer the amount to the general fund account maintained with the Land Bank of the Philippines (LBP) because the supplier was reluctant about receiving payment from a check drawn against the PVB.<sup>59</sup>
  - d. The purchase of the mixed gravel and sand for the maintenance of barangay roads redounded to the benefit of the farmers because their use of said roads resulted in shorter travel times.<sup>60</sup>
  - e. The procured medicines were distributed to farming barangays. Therefore, said procurement redounded to the benefit of the farmers.<sup>61</sup>
  - f. Tobacco products were prominently featured in the trade fair held as part of the 60<sup>th</sup> founding anniversary. Thus,

<sup>55</sup> *Judicial Affidavit of Joseph E. Salgado* dated January 27, 2018, p. 2 (Record, p. 91)

<sup>56</sup> *Judicial Affidavit of Joseph E. Salgado* dated January 27, 2018, pp. 2-3 (Record, pp. 91-92)

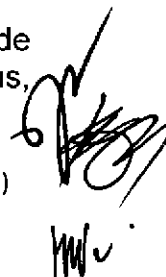
<sup>57</sup> *Judicial Affidavit of Joseph E. Salgado* dated January 27, 2018, p. 3 (Record, p. 92)

<sup>58</sup> *Judicial Affidavit of Joseph E. Salgado* dated January 27, 2018, p. 3 (Record, p. 92)

<sup>59</sup> *Judicial Affidavit of Joseph E. Salgado* dated January 27, 2018, p. 3-4 (Record, p. 92-93)

<sup>60</sup> *Judicial Affidavit of Joseph E. Salgado* dated January 27, 2018, p. 4 (Record, p. 93)

<sup>61</sup> *Judicial Affidavit of Joseph E. Salgado* dated January 27, 2018, p. 4 (Record, p. 93)



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the payment for the rent of the vehicle used in connection with said 60<sup>th</sup> founding anniversary redounded to the benefit of the farmers.<sup>62</sup>

- g. The expenses for meals and snacks during the oath-taking ceremony of the barangay captains redounded to the benefit of the farmers because twenty-eight (28) of the thirty-eight (38) barangays were dependent on the agriculture sector.<sup>63</sup>
- h. The purchase of fuel and lubricants for the maintenance of the Philippine National Police (PNP) service vehicle redounded to the benefit of the farmers because said vehicle was used to maintain peace and order within agricultural barangays.<sup>64</sup>
- i. The expense incurred for the repair and maintenance of Mayor Villarosa's service vehicle redounded to the benefit of the farmers because Mayor Villarosa used said vehicle to visit the tobacco farming barangays.<sup>65</sup>
- j. The expenses incurred for the transport of the Christmas lights redounded to the benefit to the farmers because said lights were used to decorate the Municipal Town Plaza where farmers sold tobacco products during the Christmas season.<sup>66</sup>
- k. The payment for the rent of the bus used by members of the Pentecostal Missionary Church of Christ redounded to the benefit of the farmers because a majority of the members who attended the annual convention were farmers.<sup>67</sup>

He further testified:

- 1. Three (3) to four (4) copies of each Disbursement Voucher were prepared. Said copies are under the custody of the Resident COA Auditor, the Accounting Department and the Treasury Department.<sup>68</sup>
- 2. He was tasked with reviewing the documents pertaining to the use of the tobacco excise tax funds. He was also tasked with

<sup>62</sup> Judicial Affidavit of Joseph E. Salgado dated January 27, 2018, p. 4 (Record, p. 93)

<sup>63</sup> Judicial Affidavit of Joseph E. Salgado dated January 27, 2018, p. 5 (Record, p. 94)

<sup>64</sup> Judicial Affidavit of Joseph E. Salgado dated January 27, 2018, p. 5 (Record, p. 94)

<sup>65</sup> Judicial Affidavit of Joseph E. Salgado dated January 27, 2018, p. 5 (Record, p. 94)

<sup>66</sup> Judicial Affidavit of Joseph E. Salgado dated January 27, 2018, pp. 5-6 (Record, pp. 94-95)

<sup>67</sup> Judicial Affidavit of Joseph E. Salgado dated January 27, 2018, p. 6 (Record, p. 95)

<sup>68</sup> TSN, February 5, 2018, pp. 37-38

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assisting in the coordination of the different offices of the municipal government.<sup>69</sup>

3. He did not affix his signature or initials on disbursement vouchers after reviewing the same. He usually just attached post-it notes which stated "for your action and approval."<sup>70</sup>
4. At the time he reviewed the vouchers, there was only one DV No. indicated for each voucher.<sup>71</sup>
5. The words "charge to excise tax" and Mayor Villarosa's signature already appeared on the vouchers when he reviewed them.<sup>72</sup>
6. It was the Mayor, upon the recommendation of the accounting office, who ultimately decided if the expense covered by the voucher will be charged against the tobacco excise tax funds.<sup>73</sup>
7. He reviewed the vouchers for completeness of attachments. He then forwarded the same to the Office of the Mayor for final approval.<sup>74</sup>
8. The Office of the Mayor had a retained lawyer, a certain Atty. Rolando Zubiri. They consulted Atty. Zubiri on matters such as COA circulars.<sup>75</sup>
9. In connection with COA Circular No. 2009-002, and in particular, the use of the tobacco excise tax, Atty. Zubiri advised them that the fund should be used for the welfare and benefit of the farmers.<sup>76</sup>
10. Atty. Zubiri advised them that the use of the tobacco excise tax funds should always be in accordance with R.A. No. 8240.<sup>77</sup>
11. He (Salgado) recommended the purchase of multi-cabs for the use of farmers in transporting their produce, especially tobacco, from the farms to the warehouses.<sup>78</sup>
12. Prior to making said recommendation, he attended a meeting of barangay captains wherein the need for multi-cabs was

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<sup>69</sup> TSN, February 5, 2018, p. 49

<sup>70</sup> TSN, February 5, 2018, p. 66

<sup>71</sup> TSN, February 5, 2018, p. 68

<sup>72</sup> TSN, February 5, 2018, p. 69

<sup>73</sup> TSN, February 5, 2018, pp. 69-70

<sup>74</sup> TSN, February 5, 2018, p. 40

<sup>75</sup> TSN, February 5, 2018, p. 41

<sup>76</sup> TSN, February 5, 2018, pp. 41-42

<sup>77</sup> TSN, February 5, 2018, p. 48

<sup>78</sup> TSN, February 5, 2018, p. 49





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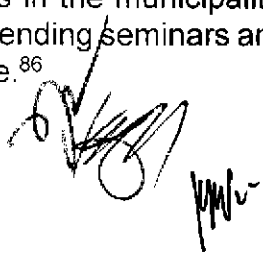
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discussed. He supported the request of the barangay captains because he was convinced that there was a need for multi-cabs.<sup>79</sup>

13. Aside from the purchase of the multi-cabs, he did not make any other recommendation in connection with the subject transactions. There were times when the Mayor appeared to have decided to grant certain requests because the Mayor instructed the concerned offices to process such requests.<sup>80</sup>
14. His basis for the use of the tobacco excise tax funds was Sec. 8 of R.A. No. 8240.<sup>81</sup>
15. The theme of the 60<sup>th</sup> founding anniversary of Occidental Mindoro was agro-tourism, as shown by the slogan of the provincial government.<sup>82</sup>
16. Around 80% to 90% of the attendees in the oath-taking ceremony for municipal officials and barangay captains were from farming barangays.<sup>83</sup>
17. There were times when the PNP's funds were insufficient for the purchase of fuel and lubricants. The PNP did not show that it did not have sufficient funds but it made written requests to the Mayor.<sup>84</sup>

In his Judicial Affidavit, accused **Carlito T. Cajayon** declared:

1. He was the Assistant Treasurer of the Municipality of San Jose, Occidental Mindoro from 1982 until his retirement in November 2010. From April 2010 until his retirement, he was the OIC-Municipal Treasurer.<sup>85</sup>
2. The multi-cabs were procured because of various requests from the different agricultural sectors, specifically the areas with tobacco farmers. Said vehicles were instrumental in servicing the tobacco farmers in the municipality. They were also used by the farmers in attending seminars and conventions within and outside the province.<sup>86</sup>



<sup>79</sup> TSN, February 5, 2018, pp. 50-51

<sup>80</sup> TSN, February 5, 2018, p. 50

<sup>81</sup> TSN, February 5, 2018, pp. 51-52

<sup>82</sup> TSN, February 5, 2018, pp. 56-57

<sup>83</sup> TSN, February 5, 2018, p. 56

<sup>84</sup> TSN, February 5, 2018, pp. 58-60

<sup>85</sup> *Judicial Affidavit* dated March 2, 2018, p. 3; Record, Vol. 7, p. 138

<sup>86</sup> *Judicial Affidavit* dated March 2, 2018, pp. 3-4; Record, Vol. 7, pp. 138-139

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3. His only participation in the purchase of the subject multi-cabs was his acts of certifying the availability of funds and paying for the vehicles.<sup>87</sup>
4. He certified the availability of funds on the basis that there was an existing fund for the requisitioned purchases.<sup>88</sup>
5. When the documents pertaining to the purchases covered by the subject Disbursement Vouchers were forwarded to his office, the same had already passed through (a) the Accounting Department for inspection of the completeness of supporting documents, and (b) the Mayor's Office for approval. Releasing funds for payment is a ministerial duty.<sup>89</sup>
6. Similarly, his participation in the transaction involving the reimbursement for the purchase of medicines was limited to the release of funds.<sup>90</sup>
7. On February 9, 2012, he submitted a Counter-Affidavit with Annexes (Exhibits 2 to 6) to the Office of the Ombudsman.<sup>91</sup>

On cross-examination, he further testified that as OIC-Municipal Treasurer of the Municipality of San Jose, Occidental Mindoro, he was the custodian of the funds of the municipality. He was likewise in charge of the disbursement of said funds.<sup>92</sup>

The following documentary exhibits offered by accused Cajayon were admitted in evidence:<sup>93</sup>

<b>Exhibit</b>	<b>Document</b>
2	<i>Counter-Affidavit</i> dated February 9, 2012 of Carlito T. Cajayon
3	Letter dated February 22, 2010 of Ma. Amelita Calimbas-Villarosa
4	Letter dated March 17, 2010 of Ma. Amelita Calimbas-Villarosa
5	Letter dated June 10, 2010 of Ma. Amelita Calimbas-Villarosa
6	<i>Complaint</i> dated September 23, 2011 of Rolando C. Basilio

Accused Villarosa failed to file his formal offer of exhibits despite being given sufficient time, and was deemed to have waived his right to do so.<sup>94</sup>



<sup>87</sup> *Judicial Affidavit* dated March 2, 2018, p. 4; Record, Vol. 7, p. 139

<sup>88</sup> *Judicial Affidavit* dated March 2, 2018, p. 4; Record, Vol. 7, p. 139

<sup>89</sup> *Judicial Affidavit* dated March 2, 2018, p. 4; Record, Vol. 7, p. 139

<sup>90</sup> *Judicial Affidavit* dated March 2, 2018, p. 5; Record, Vol. 7, p. 140

<sup>91</sup> *Judicial Affidavit* dated March 2, 2018, pp. 5-6; Record, Vol. 7, pp. 140-141

<sup>92</sup> TSN, March 8, 2018, p. 9

<sup>93</sup> Resolution dated April 23, 2018; Record, Vol. 7, p. 229

<sup>94</sup> Resolution dated April 23, 2018; Record, Vol. 7, p. 229

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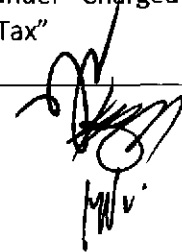
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## THE FINDINGS OF FACTS

From around September 29, 2010 to January 17, 2011, funds from the tobacco excise tax fund<sup>95</sup> were released under the following Disbursement Vouchers:

Disbursement Voucher No.	Description	Participation of the accused
300-2010-09-211 (Exh. X)	Transfer from trust fund to general fund for the payment for the purchase of ten (10) multi-cabs	<ul style="list-style-type: none"><li>• Accused Villarosa signed Box C (Approved for Payment)</li><li>• Accused Cajayon signed Box B (Certified: Funds Available)</li></ul>
300-2010-10-286 (Exh. Y)	Payment for mixed gravel and sand purchased for the maintenance of barangay roads in San Roque	Accused Villarosa signed Box C and under "Charged to Excise Tax"
300-2010-11-941 (Exh. Z)	Reimbursement of the amount paid for medicines	<ul style="list-style-type: none"><li>• Accused Villarosa signed Box C and under "Charge to Excise Tax"</li><li>• Accused Cajayon signed Box B</li></ul>
300-2010-12-80 (Exh. AA)	Reimbursement of the amount paid for the transportation of Christmas lights	Accused Villarosa signed Box C and under "Charged to Excise Tax"
300-2010-12-1115 (Exh. BB)	Meals and snacks for the oath-taking of newly elected Barangay Captains & SK Chairpersons	Accused Villarosa signed Box C and under "Charged to Excise Tax"
300-2010-12-159 (Exh. CC)	Payment for the rental of a service vehicle used during the 60 <sup>th</sup> Founding Anniversary of Occidental Mindoro dated Nov. 11-16, 2010	Accused Villarosa signed Box C and under "Charged to Excise Tax F.A."
300-2010-12-1435 (Exh. DD)	Payment for meals and snacks for various activities	Accused Villarosa signed Box C and under "Charged to Excise Tax F.A."
300-2010-12-153 (Exhibit EE)	Payment for fuel and lubricants for the maintenance of the PNP service vehicle	Accused Villarosa signed Box C and under "Charge to Excise Tax"
300-2011-01-057 (Exh. FF)	Reimbursement of the amount paid for the service vehicle (Land Cruiser with Plate No. SGR-464)	Accused Villarosa signed Box C and under "Charged to Excise Tax"



<sup>95</sup> Pre-trial Order dated April 17, 2017, p. 13; Record, Vol. 2, p. 167

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300-2011-04-38 (Exh. GG)	Snacks for the oath-taking of Barangay Captains and SK Chairpersons dated Nov. 26, 2010	Accused Villarosa signed Box C and under "Charged to Excise Tax F.A."
300-2011-01-26 (Exh. HH)	Reimbursement of the amount paid for assorted medicines	Accused Villarosa signed Box C and under "Charged to Excise Tax-F.A."
300-2011-01-12 (Exh. II)	Payment for the rental of a bus, covering the period of Nov. 20-21, 2010	Accused Villarosa signed Box C and under "Charge to Excise Tax – Financial Assistance"

Accused Villarosa, as the local chief executive, approved all the aforementioned Disbursement Vouchers by signing Box C thereof. His signature also appears below "Charged to Excise Tax" for all the subject vouchers except for Disbursement Voucher No. (DV No.) 300-2010-09-211 (Exhibit X). Accused Cajayon, on the other hand, certified the availability of funds in DVs No. 300-2010-09-211 and 300-2010-11-941 (Exhibit Z) by signing Box B thereof. Thereafter, the checks were released.<sup>96</sup>

DISCUSSION

**I. Violation of Sec. 3(e) of R.A. No. 3019**

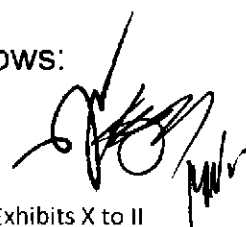
Sec. 3(e) of R.A. No. 3019 reads:

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

x x x

(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 elements of the offense are as follows:



<sup>96</sup> Pre-trial Order dated April 17, 2017, p. 13; Record, Vol. 2, p. 167; Exhibits X to II

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1. The accused must be a public officer discharging administrative, judicial or official functions;
2. The accused must have acted with manifest partiality, evident bad faith or gross inexcusable negligence; and
3. Such act caused any undue injury to any party, including the government, or giving any private party unwarranted benefits, advantage or preference in the discharge of the accused' functions.<sup>97</sup>

### *First element*

The first element of violation of Sec. 3(e) of R.A. No. 3019 is present for both accused Villarosa and Cajayon. At the time material to the present cases, accused Villarosa and Cajayon were public officers. Accused Villarosa was the Mayor,<sup>98</sup> and accused Cajayon<sup>99</sup> was the Treasurer, both of the Municipality of San Jose, Occidental Mindoro. Their respective acts in causing the release of the subject amounts were done in the performance of their official functions.

### *Second element*

The second element is present when the accused acted with evident bad faith, manifest partiality or gross inexcusable negligence. These terms were defined in *Luspo v. People*<sup>100</sup> as follows:

The second element provides the different modes by which the crime may be committed, which are manifest partiality, evident bad faith, or gross inexcusable negligence. Manifest partiality and evident bad faith connote that the crime is committed by *dolo*, while gross inexcusable negligence indicates its commission through *culpa*. In the recent *Albert v. Sandiganbayan*, we reiterated the definitions of such modalities, *viz.*:

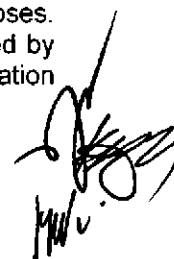
There is **manifest partiality** when there is a clear, notorious, or plain inclination or predilection to favor one side or person rather than another. "**Evident bad faith**" connotes not only bad judgment but also palpably and patently fraudulent and dishonest purpose to *do moral obliquity* or conscious wrongdoing for some perverse motive or ill will. "Evident bad faith" contemplates a state of mind affirmatively operating with furtive design or with some motive of self-interest or ill will or for ulterior purposes. "**Gross inexcusable negligence**" refers to negligence characterized by the want of even the slightest care, acting or omitting to act in a situation

<sup>97</sup> Please see *People v. Sandiganbayan*, G.R. No. 160619, September 9, 2015

<sup>98</sup> Pre-trial Order dated April 17, 2017, p. 13; Record, Vol. 2, p. 167; Exhibit A-1

<sup>99</sup> Exhibit A-2

<sup>100</sup> G.R. Nos. 188487, 188541 and 188556, February 14, 2011



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where there is a duty to act, not inadvertently but willfully and intentionally, with conscious indifference to consequences insofar as other persons may be affected.

The Information in SB-15-CRM-0296 to 0307 allege that the accused acted with manifest partiality, evident bad faith and/or gross inexcusable negligence by applying the municipality's allocation of the tobacco excise tax funds to the subject transactions despite them not being in connection with the purpose for which the fund was appropriated by law. The prosecution proved this allegation beyond reasonable doubt.

Sec. 344 of the Republic Act No. 7160 (R.A. No. 7160) provides for the requirements for the disbursement of local government funds.<sup>101</sup> Under the provision, certain municipal officials, including the local treasurer and the local chief executive, are given collective custody of local funds, and are required to act together to disburse said funds. viz.:

**Sec. 344. Certification, and Approval of, Vouchers.** – No money shall be disbursed unless the local budget officer certifies to the existence of appropriation that has been legally made for the purpose, the local accountant has obligated said appropriation, and the local treasurer certifies to the availability of funds for the purpose. Vouchers and payrolls shall be certified to and approved by the head of the department or office who has administrative control of the fund concerned, as to validity, propriety, and legality of the claim involved. Except in cases of disbursements involving regularly recurring administrative expenses such as payrolls for regular or permanent employees, expenses for light, water, telephone and telegraph services, remittances to the government creditor agencies such as the GSIS, SSS, LDP, DBP, National Printing Office, Procurement Service of the DBM and others, approval of the disbursement voucher by the local chief executive himself shall be required whenever local funds are disbursed.

x x x

(underscoring supplied)

Here, the accused, in the performance of their official functions as provided in Sec. 344 of R.A. No. 7160, caused the release of funds under the subject Disbursement Vouchers (Exhibits X to II). Accused Cajayon certified the availability of funds in DVs No. 300-2010-09-211

<sup>101</sup> R.A. No. 7160. Sec. 305. (d) All monies officially received by a local government officer in any capacity or on any occasion shall be accounted for as local funds, unless otherwise provided by law; x x x

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and 300-2010-11-941, while accused Villarosa approved said vouchers. Accused Villarosa (all checks) and Cajayon (checks pertaining to DVs No. 300-2010-09-211 and 300-2010-11-941) thereafter signed the checks issued for the payment of the expenses subject of the Disbursement Vouchers. The subject funds could not have been released without the respective acts of the accused.

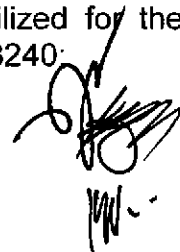
It is undisputed that the funds used for the subject transactions were from the tobacco excise tax allocation of the Municipality of San Jose, Occidental Mindoro.<sup>102</sup> Sec. 8 of R.A. No. 8240, which provides for the purpose for which said tobacco excise tax funds may be used, reads:

**Sec. 8.** Fifteen percent (15%) of the incremental revenue collected from the excise tax on tobacco products under this Act shall be allocated and divided among the provinces producing burley and native tobacco in accordance with the volume of tobacco leaf production. The fund shall be exclusively utilized for programs in pursuit of the following objectives:

- (a) Cooperative projects that will enhance better quality of agricultural products and increase income and productivity of farmers;
- (b) Livelihood projects particularly the development of alternative farming system to enhance farmer's income;
- (c) Agro-industrial projects that will enable tobacco farmers to be involved in the management and subsequent ownership of projects such as post-harvest and secondary processing like cigarette manufacturing and by-product utilization.

This was echoed in Department of Budget and Management (DBM), Bureau of Internal Revenue (BIR) and National Tobacco Administration (NTA) Joint Circular No. 2009-1<sup>103</sup> dated November 3, 2009, Section 4.3 of which reads:

4.3 The respective shares of the LGUs shall be utilized for the following projects consistent with Section 8 of RA No. 8240:



<sup>102</sup> Stipulated in the Pre-trial Order

<sup>103</sup> Guidelines and Procedure on the Release of the Share of Local Government Units Producing Burley and Native Tobacco Products from the Fifteen Percent (15%) of the Incremental Revenue Collected from the Excise Tax on Tobacco Products.

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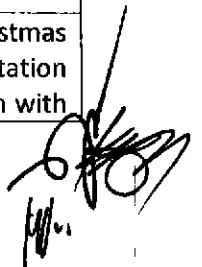
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- a. Cooperative projects that will enhance better quality of agricultural products and increase income and productivity of farmers;
- b. Livelihood projects particularly the development of alternative farming system to enhance farmer's income;
- c. Agro-industrial projects that will enable tobacco farmers to be involved in the management and subsequent ownership of projects such as post harvest and secondary processing like cigarette manufacturing and by-product utilization.

Sec. 8 of R.A. No. 8240 provides that the tobacco excise tax funds should be used **exclusively** for **programs** in pursuit of (a) cooperative projects that will enhance the quality of agriculture products and increase the income and productivity of farmers; (b) livelihood projects, in particular, the development of alternative farming systems that will enhance the farmers' income; and (c) agro-industrial projects that will enable tobacco farmers to be involved in the management, and eventually, ownership of projects such as post-harvest and secondary processing.

As shown below, this Court finds that none of the transactions subject of the present cases had any relation to any program in pursuit of paragraphs (a), (b) or (c) of Sec. 8 of R.A. No. 8240.

DV No.	Description	The Court's findings
300-2010-09-211 (Exh. X)	Payment for ten (10) multi-cabs	It does not appear that the vehicles were purchased as part of a program in pursuit of any of the objectives enumerated in Sec. 8 of R.A. No. 8240.
300-2010-10-286 (Exh. Y)	Payment for mixed gravel and sand purchased for the maintenance of barangay roads in San Roque	There is nothing in the Disbursement Voucher and the attached supporting documents that shows that said maintenance of roads is related to any specific program in pursuit of any of the objectives enumerated in Sec. 8 of R.A. No. 8240.
300-2010-11-941 (Exh. Z)	Reimbursement of the amount paid for medicines	It does not appear that the medicines were part of a program in pursuit of any of the objectives enumerated in Sec. 8 of R.A. No. 8240.
300-2010-12-80 (Exh. AA)	Reimbursement of the amount paid for the	It does not appear that such Christmas lights and the related transportation expense incurred are in connection with





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	transportation of Christmas lights	a program in pursuit of any of the objectives enumerated in Sec. 8 of R.A. No. 8240.
300-2010-12-1115 (Exh. BB)	Meals and snacks for the oath-taking of newly elected Barangay Captains & SK Chairpersons	It does not appear that the oath-taking ceremony had any relation to a program in pursuit of any of the objectives enumerated in Sec. 8 of R.A. No. 8240.
300-2010-12-159 (Exh. CC)	Payment for the rental of a service vehicle used during the 60 <sup>th</sup> Founding Anniversary of Occidental Mindoro dated Nov. 11-16, 2010	It does not appear that the ceremony and the related vehicle rental expense incurred had any relation to a program in pursuit of any of the objectives enumerated in Sec. 8 of R.A. No. 8240.
300-2010-12-1435 (Exh. DD)	Payment for meals and snacks for various activities	It does not appear that any of the activities for which the meals and snacks were bought were part of a program in pursuit of any of the objectives enumerated in Sec. 8 of R.A. No. 8240.  The activities being referred to in the voucher are: <ol style="list-style-type: none"> <li>1. "Pacquiao Fight Event" held on November 14, 2010 (Exhibit DD-11);</li> <li>2. Seminar on Personal Security Measures for Media Practitioners held on November 22, 2010 (Exhibits DD-12 and DD-13); and</li> <li>3. An activity wherein the topic discussed was indicated as "withholding" held on December 8, 2010. The participants appear to be various local government officials and employees (Exhibit DD-14).</li> </ol>
300-2010-12-153 (Exh. EE)	Payment for fuel and lubricants for the maintenance of the PNP service vehicle	It does not appear that the fuel and lubricants for the PNP service vehicle had any relation to a program in pursuit of any of the objectives enumerated in Sec. 8 of R.A. No. 8240.
300-2011-01-057 (Exh. FF)	Reimbursement of the amount paid for the service vehicle (Land Cruiser with Plate No. SGR-464)	It does not appear that the expenses incurred in connection with the service vehicle assigned to accused Villarosa had any relation to a program in pursuit of any of the objectives enumerated in Sec. 8 of R.A. No. 8240.

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		The amount paid represents the cost of labor and materials for the repairs, as well as the replacement parts for the vehicle (Exhibits FF-4 and FF-5).
300-2011-04-38 (Exh. GG)	Snacks for the oath-taking of Barangay Captains and SK Chairpersons dated Nov. 26, 2010	It does not appear that the oath-taking ceremony had any relation to a program in pursuit of any of the objectives enumerated in Sec. 8 of R.A. No. 8240.
300-2011-01-26 (Exh. HH)	Reimbursement of the amount paid for assorted medicines	It does not appear that the medicines were part of a program in pursuit of any of the objectives enumerated in Sec. 8 of R.A. No. 8240.
300-2011-01-12 (Exh. II)	Payment for the rental of a bus, covering the period of Nov. 20-21, 2010	It does not appear that the rental expense incurred had any relation to a program in pursuit of any of the objectives enumerated in Sec. 8 of R.A. No. 8240.  The bus was used for the transportation of members of the Pentecostal Missionary Church of Christ (4 <sup>th</sup> Watch) from San Jose to Manila for its annual international convention (Exhibit II-4).

To be sure, the purpose stated in Sec. 8 will ultimately redound to the benefit of the tobacco industry and the tobacco farmers. However, it is not enough that the expenses for which the tobacco excise tax funds were used redounded to the benefit of tobacco farmers. The word “exclusively” means that the funds should be used only for the purpose stated in Sec. 8. If the expense incurred redounded to the benefit of the tobacco farmers—whether intentionally or incidentally—but does not fall within any of the kinds of programs under paragraphs (a), (b) and (c) of Sec. 8, then the requirement that the funds be used exclusively for said purpose is not satisfied.

Accused Villarosa’s reliance on the fact that the transactions passed through pre-audit<sup>104</sup> does not persuade. Of the twelve (12) Disbursement Vouchers subject of the present cases, the words “Pre-audited pursuant to Circular No. 2009-002” appear only in DV No. 300-2010-10-286 (Exhibit Y).

<sup>104</sup> Memorandum For Accused Jose T. Villarosa, pp. 5-7; Record, Vol. 7, pp. 281-283

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His reliance on the supposed legal opinion of a certain Atty. Zubiri<sup>105</sup> similarly deserves scant consideration. Atty. Zubiri's purported legal opinion is hearsay because he was not presented as a witness. Furthermore, no documentary evidence was adduced to prove Atty. Zubiri's purported legal opinion.

Accused Cajayon, on the other hand, never denied his participation in causing the release of the funds under DVs. No. 300-2010-09-211 and 300-2010-11-941. However, he contends that such acts were ministerial in character.<sup>106</sup> This contention is also untenable.

Sec. 342 of R.A. No. 7160 provides for the liability of local government officials for the illegal or improper use or application of local government funds. To wit:

**Sec. 342. Liability for Acts Done Upon Direction of Superior Officer, or Upon Participation of Other Department Heads or Officers of Equivalent Rank.** – Unless he registers his objection in writing, the local treasurer, accountant, budget officer, or other accountable officer shall not be relieved of liability for illegal or improper use or application or deposit of government funds or property by reason of his having acted upon the direction of a superior officer, elective or appointive, or upon participation of other department heads or officers of equivalent rank. The superior officer directing, or the department head participating in such illegal or improper use or application or deposit of government funds or property, shall be jointly and severally liable with the local treasurer, accountant, budget officer, or other accountable officer for the sum or property so illegally or improperly used, applied or deposited.

(underscoring supplied)

Sec. 342 expressly includes the local treasurer in the enumeration of the local government officials who are responsible for preventing the illegal or improper use or application of government funds. To be relieved of liability, a Municipal Treasurer must object to the improper use or application of government funds in writing. Accused Cajayon does not appear to have made any objection, whether oral or in writing, to the use of the tobacco excise tax funds for the transactions in DVs. No. 300-2010-09-211 and 300-2010-11-941

<sup>105</sup> Memorandum For Accused Jose T. Villarosa, p. 15; Record, Vol. 7, p. 291

<sup>106</sup> Memorandum (for Accused Carlito T. Cajayon), p. 2; Record, Vol. 7, p. 296

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A cursory examination of the face of the subject Disbursement Vouchers would show that none of the purposes stated therein are in accordance with Sec. 8 of R.A. No. 8240. Accused Villarosa and Cajayon, as public officers entrusted with the custody and control of local funds, were duty-bound to ensure that such funds were used in accordance with the purpose for which they were appropriated.

Accused Villarosa and Cajayon's acts, which caused the release of tobacco excise tax funds for purposes not falling within the ambit of Sec. 8 of R.A. No. 8240, constitute gross inexcusable negligence, at the very least. Hence, the second element of violation of Sec. 3(e) of R.A. No. 3019 is present as to both accused Villarosa and Cajayon.

*Third element*

The third element is present if the acts of the accused, done with manifest partiality, evident bad faith or gross inexcusable negligence, caused undue injury to any party including the government, or the giving of unwarranted benefits, advantage or preference to any private party.

Here, the accused are charged with causing undue injury to the government and to the intended farmer beneficiaries of R.A. No. 8240. In *Cabrera v. Sandiganbayan*,<sup>107</sup> the term "undue injury" was explained as follows:

x x x. In *Pecho v. Sandiganbayan*, the Court *en banc* defined injury as any wrong or damage done to another, either in his person, or in his rights, reputation or property; the invasion of any legally protected interests of another. It must be more than necessary or are excessive, improper or illegal. It is required that the undue injury caused by the positive or passive acts of the accused be quantifiable and demonstrable and proven to the point of moral certainty. Undue injury cannot be presumed even after a wrong or a violation of a right has been established.

The Court finds that the prosecution failed to prove that the acts of the accused caused undue injury to the government and the intended farmer beneficiaries. It does not appear that the government suffered any injury, considering that the tobacco excise tax funds were used for public purposes, albeit not in accordance with Sec. 8 of R.A. No. 8240, as will be discussed later.

<sup>107</sup> G.R. Nos. 162314-17, October 25, 2004

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Neither did the prosecution prove that the accused' acts caused undue injury to the intended farmer beneficiaries. According to witness Basilio, he learned of the misuse of the tobacco excise tax fund when farmers, claiming that the Municipality of San Jose did not share with them the tobacco excise tax funds, sought his help.<sup>108</sup> But this does not establish the third element of Violation of Sec. 3(e) of R.A. No. 3019. First, the claim that the Municipality did not share the tobacco excise tax funds with the farmers is hearsay because none of the complaining farmers were presented as witnesses. Second, assuming that tobacco farmers indeed complained that they did not receive any benefits pursuant to programs under Sec. 8 of R.A. No. 8240, there is nothing in the evidence on record to show that they did not receive such benefits as a result of the acts of accused Villarosa and Cajayon. It was not shown that the use of the tobacco excise tax funds for purposes other than those in Sec. 8 of R.A. No. 8240 rendered the Municipality of San Jose unable to implement its programs under Sec. 8 of R.A. No. 8240, if any.

II. Technical Malversation

The Court finds that the prosecution proved all the elements of Illegal use of Public Funds or Property, also known as Technical Malversation.

Art. 220 of the Revised Penal Code (RPC) provides:

**Art. 220. Illegal use of public funds or property.** – Any public officer who shall apply any public fund or property under his administration to any public use other than for which such fund or property were appropriated by law or ordinance shall suffer the penalty of *prisión correccional* in its minimum period or a fine ranging from one-half to the total of the sum misapplied, if by reason of such misapplication, any damages or embarrassment shall have resulted to the public service. In either case, the offender shall also suffer the penalty of temporary special disqualification.

If no damage or embarrassment to the public service has resulted, the penalty shall be a fine from 5 to 50 percent of the sum misapplied.

The elements of Technical Malversation are as follows:

<sup>108</sup> Rolando C. Basilio's *Judicial Affidavit* dated April 4, 2017, p. 2 (Record, Vol. 2, p. 105)

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1. The offender is an accountable officer;
2. The offender applies public funds or property under his or her administration to some public use; and
3. The public use for which such funds or property were applied is different from the purpose for which they were originally appropriated by law or ordinance<sup>109</sup>

*First element*

The first element of Technical Malversation is present. Sec. 340 of R.A. No. 7160 provides for the persons accountable for local government funds. To wit:

**Sec. 340. Persons Accountable for Local Government Funds.**

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

From the aforequoted provision, local government officials become accountable public officers either (1) because of the nature of their functions; or (2) on account of their participation in the use or application of public funds.<sup>110</sup>

As previously discussed, accused Villarosa and Cajayon, as Municipal Mayor and Treasurer, respectively, had collective custody and control of the municipality's funds. The funds of the Municipality of San Jose could not have been disbursed without their approval and certification, respectively.

*Second element*

The second element of Technical Malversation is present when the offender applies public funds or property under his or her administration to some public use.

<sup>109</sup> Please see *Ysidoro v. People*, G.R. No. 192330, November 14, 2012

<sup>110</sup> Please see *Zoleta v. Sandiganbayan*, G.R. No. 185224, July 29, 2015

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“Public use” has been understood in its traditional sense as “available to the general public as a matter of right.” In *Yap v. Commission on Audit*,<sup>111</sup> the Supreme Court discussed that the meaning of “public use” has been expanded to include purposes designed to promote social justice. viz.:

In this regard, it is necessary for this Court to elaborate on the nature and meaning of the term “public purpose,” in relation to disbursement of public funds. As understood in the traditional sense, public purpose or public use means any purpose or use directly available to the general public as a matter of right. Thus, it has also been defined as “an activity as will serve as benefit to [the] community as a body and which at the same time is directly related function of government. However, the concept of public use is not limited to traditional purposes. Here as elsewhere, the idea that “public use” is strictly limited to clear cases of “use by the public” has been discarded. In fact, this Court has already categorically stated that the term “public purpose” is not defined, since it is an elastic concept that can be hammered to fit modern standards. It should be given a broad interpretation; therefore, it does not only pertain to those purposes that which are traditionally viewed as essentially government functions, such as building roads and delivery of basic services, but also includes those purposes designed to promote social justice. Thus, public money may now be used for the relocation of illegal settlers, low-cost housing and urban or agrarian reform. In short, public use is now equated with public interest, and that it is not unconstitutional merely because it incidentally benefits a limited number of persons.

Here, the tobacco excise tax funds were used for the following transactions:

DV No.	Description	Public use/purpose
300-2010-09-211 (Exh. X)	Payment for ten (10) multi-cabs	Relevant in the municipality's delivery of basic services.
300-2010-10-286 (Exh. Y)	Payment for mixed gravel and sand purchased for the maintenance of barangay roads in San Roque	For public use.
300-2010-11-941 (Exh. Z)	Reimbursement of the amount paid for medicines	Relevant in the municipality's delivery of basic services.
300-2010-12-80 (Exh. AA)	Reimbursement of the amount paid for the transportation of Christmas lights	Promotion of the general welfare.

<sup>111</sup> G.R. No. 158562, April 23, 2010

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300-2010-12-1115 (Exh. BB)	Meals and snacks for the oath-taking of newly elected Barangay Captains & SK Chairpersons	Relevant in the municipality's delivery of basic services.
300-2010-12-159 (Exh. CC)	Payment for the rental of a service vehicle used during the 60 <sup>th</sup> Founding Anniversary of Occidental Mindoro dated Nov. 11-16, 2010	Promotion of the general welfare.
300-2010-12-1435 (Exh. DD)	Payment for meals and snacks for various activities	Promotion of the general welfare.
300-2010-12-153 (Exhibit EE)	Payment for fuel and lubricants for the maintenance of the PNP service vehicle	Relevant in the municipality's delivery of basic services.
300-2011-01-057 (Exh. FF)	Reimbursement of the amount paid for the service vehicle (Land Cruiser with Plate No. SGR-464)	Relevant in accused Villarosa's performance of his official functions.
300-2011-04-38 (Exh. GG)	Snacks for the oath-taking of Barangay Captains and SK Chairpersons dated Nov. 26, 2010	Relevant in the municipality's delivery of basic services.
300-2011-01-26 (Exh. HH)	Reimbursement of the amount paid for assorted medicines	Relevant in the municipality's delivery of basic services.
300-2011-01-12 (Exh. II)	Payment for the rental of a bus, covering the period of Nov. 20-21, 2010	Promotion of the general welfare.

The aforementioned transactions fall within the definition of "public use," both in the traditional sense, *i.e.*, any purpose or use directly available to the general public as a matter of right" or "use by the public"; and in its expanded meaning, *i.e.*, "an activity as will serve as benefit to the community as a body and which at the same time is directly related function of government," or "public interest."

*Third element*

The third element of Technical Malversation is present when the public use for which the funds or property were applied is different from the purpose for which they were originally appropriated by law or ordinance.

As discussed earlier, the tobacco excise tax funds were used for purposes not in connection with that provided in Sec. 8 of R.A. No. 8240.

The prosecution proved all the elements of Technical Malversation. Inasmuch as it was not shown that damage or embarrassment to the public service resulted from accused Villarosa



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and Cajayon's misapplication of the tobacco excise tax funds, the proper penalty shall be a fine from 5 to 50 percent of the sums misapplied.

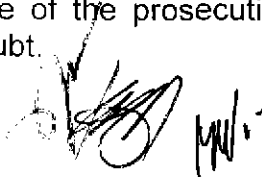
CONCLUSION

In SB-15-CRM-0296 to 0307, the prosecution failed to prove the third element of violation of Sec. 3(e) of R.A. No. 3019, and hence, the accused should be acquitted.

On the other hand; in SB-15-CRM-0308 to 0319, the prosecution proved beyond reasonable doubt all the elements of Technical Malversation.

**WHEREFORE**, judgment is hereby rendered as follows:

1. In SB-15-CRM-0296, accused JOSE T. VILLAROSA and CARLITO T. CAJAYON are **ACQUITTED** for failure of the prosecution to prove their guilt beyond reasonable doubt.
2. In SB-15-CRM-0297, accused JOSE T. VILLAROSA is **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt.
3. In SB-15-CRM-0298, accused JOSE T. VILLAROSA and CARLITO T. CAJAYON are **ACQUITTED** for failure of the prosecution to prove their guilt beyond reasonable doubt.
4. In SB-15-CRM-0299, accused JOSE T. VILLAROSA is **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt.
5. In SB-15-CRM-0300, accused JOSE T. VILLAROSA is **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt.
6. In SB-15-CRM-0301, accused JOSE T. VILLAROSA is **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt.
7. In SB-15-CRM-0302, accused JOSE T. VILLAROSA is **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt.



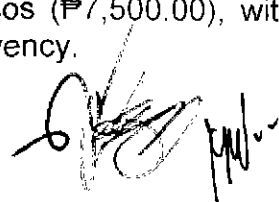
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8. In SB-15-CRM-0303, accused JOSE T. VILLAROSA is **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt.
9. In SB-15-CRM-0304, accused JOSE T. VILLAROSA is **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt.
10. In SB-15-CRM-0305, accused JOSE T. VILLAROSA is **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt.
11. In SB-15-CRM-0306, accused JOSE T. VILLAROSA is **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt.
12. In SB-15-CRM-0307, accused JOSE T. VILLAROSA is **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt.
13. In SB-15-CRM-0308, accused JOSE T. VILLAROSA and CARLITO T. CAJAYON are found **GUILTY** beyond reasonable doubt of Technical Malversation, and are accordingly sentenced to pay a fine equivalent to 25% of the sum misapplied or the amount of Five Hundred Twenty-Eight Thousand Seven Hundred Fifty Pesos (P528,750.00) each, with subsidiary imprisonment in case of insolvency.
14. In SB-15-CRM-0309, accused JOSE T. VILLAROSA is found **GUILTY** beyond reasonable doubt of Technical Malversation, and is accordingly sentenced to pay a fine equivalent to 25% of the sum misapplied or the amount of Twenty-One Thousand Eight Hundred Seventy-Five Pesos (P21,875.00), with subsidiary imprisonment in case of insolvency.
15. In SB-15-CRM-0310, accused JOSE T. VILLAROSA and CARLITO T. CAJAYON are found **GUILTY** beyond reasonable doubt of Technical Malversation, and are accordingly sentenced to pay a fine equivalent to 25% of the sum misapplied or the amount of Twenty-Three Thousand Six Hundred Twenty-Five Pesos (P23,625.00) each, with subsidiary imprisonment in case of insolvency.
16. In SB-15-CRM-0311, accused JOSE T. VILLAROSA is found **GUILTY** beyond reasonable doubt of Technical Malversation, and is accordingly sentenced to pay a fine equivalent to 25% of the sum misapplied or the amount of Seven Thousand Five Hundred Pesos (P7,500.00), with subsidiary imprisonment in case of insolvency.



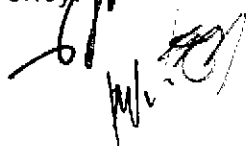
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17. In SB-15-CRM-0312, accused JOSE T. VILLAROSA is found **GUILTY** beyond reasonable doubt of Technical Malversation, and is accordingly sentenced to pay a fine equivalent to 25% of the sum misapplied or the amount of Twenty-Three Thousand Six Hundred Twenty-Five Pesos (P23,625.00), with subsidiary imprisonment in case of insolvency.
18. In SB-15-CRM-0313, accused JOSE T. VILLAROSA is found **GUILTY** beyond reasonable doubt of Technical Malversation, and is accordingly sentenced to pay a fine equivalent to 25% of the sum misapplied or the amount of Five Thousand Eight Hundred Twenty-Six Pesos (P5,826.00), with subsidiary imprisonment in case of insolvency.
19. In SB-15-CRM-0314, accused JOSE T. VILLAROSA is found **GUILTY** beyond reasonable doubt of Technical Malversation, and is accordingly sentenced to pay a fine equivalent to 25% of the sum misapplied or the amount of Fourteen Thousand Pesos (P14,000.00), with subsidiary imprisonment in case of insolvency.
20. In SB-15-CRM-0315, accused JOSE T. VILLAROSA is found **GUILTY** beyond reasonable doubt of Technical Malversation, and is accordingly sentenced to pay a fine equivalent to 25% of the sum misapplied or the amount of Twenty-Two Thousand Four Hundred Sixty-Eight Pesos (P22,468.00), with subsidiary imprisonment in case of insolvency.
21. In SB-15-CRM-0316, accused JOSE T. VILLAROSA is found **GUILTY** beyond reasonable doubt of Technical Malversation, and is accordingly sentenced to pay a fine equivalent to 25% of the sum misapplied or the amount of Twenty-Three Thousand Seven Hundred Seventy-Eight Pesos (P23,778.00), with subsidiary imprisonment in case of insolvency.
22. In SB-15-CRM-0317, accused JOSE T. VILLAROSA is found **GUILTY** beyond reasonable doubt of Technical Malversation, and is accordingly sentenced to pay a fine equivalent to 25% of the sum misapplied or the amount of Twenty-Three Thousand Seven Hundred Thirty-Eight Pesos (P23,738.00), with subsidiary imprisonment in case of insolvency.
23. In SB-15-CRM-0318, accused JOSE T. VILLAROSA is found **GUILTY** beyond reasonable doubt of Technical Malversation, and is accordingly sentenced to pay a fine equivalent to 25% of the sum misapplied or the amount of Seventeen Thousand Five Hundred Pesos (P17,500.00), with subsidiary imprisonment in case of insolvency.



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24. In SB-15-CRM-0319, accused JOSE T. VILLAROSA is found **GUILTY** beyond reasonable doubt of Technical Malversation, and is accordingly sentenced to pay a fine equivalent to 25% of the sum misapplied or the amount of Seventeen Thousand Five Hundred Pesos (P17,500.00), with subsidiary imprisonment in case of insolvency.

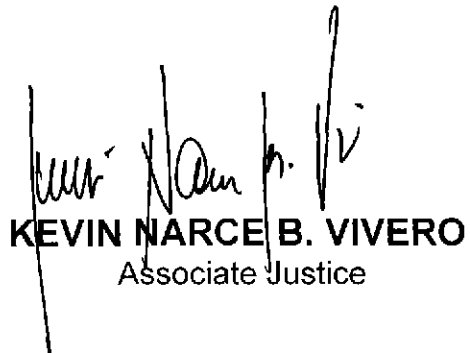
Let the hold departure orders against accused Villarosa and Cajayon by reason of SB-15-CRM-0296 to 0307 be lifted and set aside, and their bonds released, subject to the usual accounting and auditing procedure.

SO ORDERED.

  
**SARAH JANE T. FERNANDEZ**  
Associate Justice  
Chairperson

**We Concur:**

  
**KARL B. MIRANDA**  
Associate Justice

  
**KEVIN NARCE B. VIVERO**  
Associate Justice

**ATTESTATION**

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

  
**SARAH JANE T. FERNANDEZ**  
Associate Justice  
Chairperson

DECISION

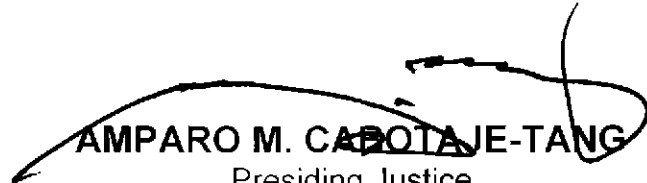
*People vs. Villarosa, et al.*  
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CERTIFICATION

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. CAPOTE-JE-TANG  
Presiding Justice

