



REPUBLIC OF THE PHILIPPINES

*Sandiganbayan*

Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,  
Plaintiff,

SB-10-CRM-0234

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

- versus -

*Present*

FERNANDEZ, SJ, J.,

Chairperson

MIRANDA, J. and

FERNANDEZ, B,\* J.

FAUSTINO A. SILANG,  
ET AL.

Accused.

*Promulgated:*

**JUL 27 2018**

X-----X

**DECISION**

**FERNANDEZ, SJ, J.**

Accused Faustino A. Silang (Mayor), Venerando R. Rea (Vice-Mayor), Maria Cielito Zeta-Addun, Dino M. Romero, Luzviminda B. Cuadra, Estelito M. Querubin and Lyka Monika J. Oabel (members of the Sangguniang Panlungsod), all of them, public officers of Tayabas City, are charged with violation of Sec. 3(e) of Republic Act No. 3019<sup>1</sup> (R.A. No. 3019) for allegedly passing and approving City Ordinance No. 09-01, despite not having the requisite number of affirmative votes, and for using the said ordinance as basis for the release of the 2009 Collective Negotiation Agreement (CNA) incentive in the amount of ₱19,933,510.00.

The accusatory portion of the Information reads:

\* In view of the vacancy in the Sixth Division (Per Administrative Order No. 338-2017 dated October 2, 2017)

<sup>1</sup> Anti-Graft and Corrupt Practices Act

## DECISION

*People. vs. Silang, et al.*

*Criminal Case No. SB-10-CRM-0234*

Page 2 of 33

x -----x

That on 11 February 2009, or sometime prior or subsequent thereto, in Tayabas City, Quezon, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused Faustino A. Silang, City Mayor, Venerando R. Rea, City Vice-Mayor, Maria Cielito Zeta-Addun, Dino M. Romero, Luzviminda B. Cuadra, Estelito M. Querubin and Lyka Monica J. Oabel, members of the Sangguniang Panlungsod Tayabas City, Quezon, in such capacities and committing the crime in relation to office, taking advantage of their official positions, conspiring, conniving and cooperating with one another, through evident bad faith, manifest partiality or gross inexcusable negligence, did then and there willfully, unlawfully and criminally cause undue injury to the Local Government of Tayabas City in the amount of **NINETEEN MILLION NINE HUNDRED THIRTY-THREE THOUSAND FIVE HUNDRED TEN PESOS (₱19,933,510.00)** by passing and approving Ordinance No. 09-01 (Supplemental Budget) despite the fact that it does not have the required number of affirmative votes, and used said ordinance as basis/authority for the release of the aforesaid amount to one hundred fifty-one (151) employees of the City Government of Tayabas as 2009 Collective Negotiation Agreement incentive and give unwarranted benefits to the department heads and assistant department heads of the said local government by including them as beneficiaries of the 2009 CNA incentive despite the fact that they are not considered rank and file employees, to the damage and prejudice of the government in said amount.

### **CONTRARY TO LAW.**

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

During the Pre-trial,<sup>3</sup> the parties agreed on the following stipulations:

1. Jurisdiction of the Honorable Court.
2. Identity and position of the accused.
3. That accused Venerando R. Rea was the Vice Mayor of Tayabas, Quezon at the time material to the Complaint.
4. That on February 11, 2009, a Special Session was held by the Sangguniang Panlungsod of Tayabas.<sup>4</sup>

<sup>2</sup> Record, Vol. 2, p. 46 (accused Silang), p. 47 (accused Addun), p. 48 (accused Rea), p. 49 (accused Cuadra), p. 50 (accused Oabel), p. 51 (accused Querubin), pp. 52-55; pp. 107-111 (accused Romero)

<sup>3</sup> Pre-Trial Order dated September 24, 2012; Record, Vol. 2, pp. 260-266

<sup>4</sup> Record, Vol. 2, pp. 260-261 (Pre-trial Order, pp. 1-2)

**DECISION**

*People. vs. Silang, et al.*  
*Criminal Case No. SB-10-CRM-0234*

Page 3 of 33

x -----x

The parties also agreed that the issues to be resolved are as follows:

1. Whether or not the accused committed the prohibited acts during the performance of their official duties
2. Whether or not the accused committed the prohibited acts in relation to their public positions
3. Whether or not the accused caused undue injury to the government or to a private party
4. Whether or not the accused gave unwarranted benefits, advantage or preference to the Department Heads, Assistant Department Heads, SB Secretary, when in truth and in fact they were not entitled
5. Whether or not there was conspiracy
6. Whether or not the accused acted with manifest partiality
7. Whether or not there was evident bad faith
8. Whether or not there was gross inexcusable negligence<sup>5</sup>

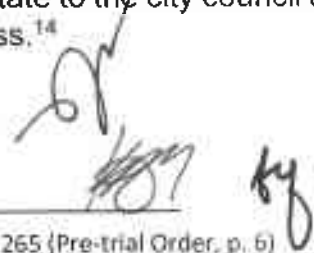
Accused Romero was subsequently discharged as a state witness.<sup>6</sup>

**EVIDENCE FOR THE PROSECUTION**

The prosecution presented as witnesses **Dino M. Romero,**<sup>7</sup> **Nicomedes C. Abesamis,**<sup>8</sup> **Arlene A. Tabelon,**<sup>9</sup> **Wenda S. De Torres,**<sup>10</sup> **Sergio C. Caagbay, Jr.,**<sup>11</sup> **Dolores Carina N. Jalbuena,**<sup>12</sup> **Reynaldo E. Antiola,**<sup>13</sup> and **Norma S. Racelis.**

**Dino M. Romero testified:**

- a. In Tayabas, the executive and legislative branches of the local government are not separate. Accused Silang was able to dictate to the city council as to what ordinances or resolutions to pass.<sup>14</sup>



<sup>5</sup> Record, Vol. 2, p. 265 (Pre-trial Order, p. 6)

<sup>6</sup> Record, Vol. 4, pp. 57-67 (Resolution dated September 1, 2015)

<sup>7</sup> TSNs, May 8, 2014 and May 28, 2014

<sup>8</sup> TSNs, August 6, 2014 and August 13, 2014

<sup>9</sup> TSN, August 13, 2014

<sup>10</sup> TSN, August 27, 2014

<sup>11</sup> TSN, September 3, 2014

<sup>12</sup> TSN, September 17, 2014

<sup>13</sup> TSN, September 24, 2014

<sup>14</sup> TSN, May 8, 2014, pp. 19-21

## DECISION

*People vs. Silang, et al.*  
Criminal Case No. SB-10-CRM-0234

Page 4 of 33

x-----x

- b. In exchange, the members of the city council received their share in the illegal dealings of accused Silang. Each councilor received ₱8,000.00.<sup>15</sup>
- c. In addition to said ₱8,000.00, he received another ₱2,000.00 from the jueteng operation in Tayabas.<sup>16</sup>
- d. Accused Silang personally gave him the monthly allowance in said amounts.<sup>17</sup>
- e. Accused Silang resorted to the grant of the Collective Negotiation Agreement (CNA) to deprive his political rivals of their bonus from the local government.<sup>18</sup>
- f. It was not the first time they resorted to the grant of the CNA. In 2008, they also employed the same scheme. Accused Silang told him that in exchange for giving the employees' union the amount they wanted for the CNA bonus, the president of the employees' union agreed to deductions from the CNA incentive. Such deductions pertain to the amounts to be given to the Mayor, Vice Mayor, five (5) allied councilors and other allies.<sup>19</sup> In 2009, the grant of the CNA was done solely for the purpose of depriving rival councilors of their bonus from the local government.<sup>20</sup>
- g. Aside from a case pending in the Sandiganbayan, there was no issue as to the legality of the 2008 CNA because the ordinance was approved by all the members of the city council.<sup>21</sup>
- h. Sometime in December 2008, he received a text message from accused Silang, asking him if he was busy, to which he replied that he was not. Accused Silang then requested him to go to Mi Casa, a hotel and restaurant, which was also accused Silang's residence.<sup>22</sup>
- i. When he arrived at Mi Casa, accused Silang was talking to the officers of the employees' union. After the meeting with the officers of the union, accused Silang told him that there was a problem regarding the cityhood of Tayabas.<sup>23</sup>

<sup>15</sup> TSN, May 8, 2014, pp. 22-23

<sup>16</sup> TSN, May 8, 2014, pp. 23-24

<sup>17</sup> TSN, May 8, 2014, p. 28

<sup>18</sup> TSN, May 8, 2014, p. 32

<sup>19</sup> TSN, May 8, 2014, pp. 33-34

<sup>20</sup> TSN, May 8, 2014, p. 19-20

<sup>21</sup> TSN, May 28, 2014, pp. 22-23

<sup>22</sup> TSN, May 8, 2014, p. 34

<sup>23</sup> TSN, May 8, 2014, p. 35



## DECISION

*People. vs. Silang, et al.*  
*Criminal Case No. SB-10-CRM-0234*

Page 5 of 33

x -----x

- j. According to accused Silang, the charter of Tayabas – then a newly created city – was being recalled. Tayabas, along with fifteen (15) other cities, had to contribute the amount of ₱2 million each because a certain Atty. Mendoza was asking ₱30 million as professional fees for representing them in the Supreme Court.<sup>24</sup>
- k. Accused Silang told him that he (accused Silang) intended to use the CNA again to provide for the ₱2 million contribution. He (accused Silang) had a meeting with the employees' union officers and they came to an agreement.<sup>25</sup>
- l. Accused Silang instructed him to inform the other councilors and the Vice Mayor of the proposal to use the CNA.<sup>26</sup>
- m. Sometime in December 2008, he met accused Addun while she was on her way out of Mi Casa. He told her about accused Silang's instructions. Accused Addun replied that she also talked to accused Silang because she made a request for an office space in the old municipal building.<sup>27</sup>
- n. According to accused Addun, accused Silang instructed her to ensure the passage of the appropriation ordinance by hook or by crook, even in the absence of a quorum.<sup>28</sup>
- o. In accordance with accused Silang's instructions, the City Council, in a special session, passed an appropriation ordinance involving the Supplemental Budget, with a CNA incentive in the total amount of ₱19,933,510.00.<sup>29</sup>
- p. He, along with accused Addun, Cuadra, Querubin, Oabel and Rea voted in favor of passing said ordinance.<sup>30</sup>
- q. The Committee on Budget and Appropriation authored the proposed ordinance. Although he was only the Vice Chairperson of said Committee, accused Silang personally instructed him – instead of the Chairperson – because he (witness Romero) was considered to be accused Silang's alter ego.<sup>31</sup>
- r. During the special session for the approval of the proposed ordinance involving the CNA incentive, only five (5) councilors

<sup>24</sup> TSN, May 8, 2014, pp. 35-36

<sup>25</sup> TSN, May 8, 2014, pp. 37

<sup>26</sup> TSN, May 8, 2014, p. 38

<sup>27</sup> TSN, May 8, 2014, pp. 48-49

<sup>28</sup> TSN, May 8, 2014, p. 48

<sup>29</sup> TSN, May 8, 2014, pp. 38-39

<sup>30</sup> TSN, May 8, 2014, p. 39

<sup>31</sup> TSN, May 8, 2014, pp. 39-40



## DECISION

*People. vs. Silang, et al.*  
*Criminal Case No. SB-10-CRM-0234*

Page 6 of 33

x ----- -x

were present. Such number was not sufficient to constitute a quorum.<sup>32</sup>

- s. The CNA incentive in the amount of ₱19,933,510.00 was released pursuant to the ordinance passed during the said special session.<sup>33</sup>
- t. Each of the 151 city government employees were entitled to ₱132,000.00 but they actually received only ₱82,000.00. The total deductions amounted to around ₱7.5 million.<sup>34</sup>
- u. From the total deductions in the amount of ₱7.5 million, the following were taken:<sup>35</sup>
  - i. The ₱2 million contribution for the professional fees of Atty. Mendoza;
  - ii. The Christmas bonus given to allied councilors, department heads and friends, in the amount of ₱82,000.00 each; and
  - iii. The amounts given to job order employees as Christmas bonus.
- v. The councilors and some of the department heads who received the Christmas bonus, were not entitled thereto.<sup>36</sup>
- w. Accused Silang personally distributed the Christmas bonus sometime in February. Accused Silang also personally instructed him to distribute some amounts to job order employees, and to make it appear that the money came from accused Silang's personal funds. The job order employees did not know that the money came from the deductions from the amounts received by the regular employees.<sup>37</sup>
- x. The transactions were subjected to an audit by the Commission on Audit (COA). In an audit report, the COA directed the return of the amounts given as CNA incentive.<sup>38</sup>
- y. The amounts distributed to the councilors, department heads, friends and job order employees were not documented.<sup>39</sup>

<sup>32</sup> TSN, May 8, 2014, p. 43

<sup>33</sup> TSN, May 8, 2014, p. 45

<sup>34</sup> TSN, May 8, 2014, p. 46


<sup>35</sup> TSN, May 8, 2014, pp. 49-51

<sup>36</sup> TSN, May 8, 2014, p. 50

<sup>37</sup> TSN, May 8, 2014, pp. 50-51

<sup>38</sup> TSN, May 8, 2014, pp. 51-52

<sup>39</sup> TSN, May 8, 2014, p. 52



DECISION

*People vs. Silang, et al.*

*Criminal Case No. SB-10-CRM-0234*

Page 7 of 33

x-----x

- z. Despite knowing that he was not entitled to the amount he received, and despite the COA's directive, he did not return the same because he thought that the funds would be returned by way of salary deduction.<sup>40</sup>
- aa. In 2009, there was a clear political division between the councilors belonging to accused Silang's group and those belonging to the opposition.<sup>41</sup>
- bb. The councilors belonging to the opposition stopped attending the council sessions. Only five (5) councilors regularly attended the sessions. These are: himself, accused Cuadra, Addun, Oabel and Querubin. Aside from them, accused Rea attended said sessions.<sup>42</sup>
- cc. The councilors who were absent during the approval of the 2009 CNA were Councilors Abesamis, Reynoso, Antiola, Caagbay and Cabriga. Said councilors belonged to the same political party.<sup>43</sup>
- dd. Aside from the session wherein the 2009 CNA was approved, the opposition councilors were also absent from other sessions in 2009.<sup>44</sup>
- ee. There was no meeting wherein all of the accused sat down, discussed and agreed on the approval of the ordinance involving the 2009 CNA.<sup>45</sup>
- ff. He made a privilege speech during the special session held on February 11, 2009, as shown in the Minutes.<sup>46</sup> The purpose of the speech was to justify the passage of the ordinance to the two (2) visitors invited by councilors who opposed the approval of said ordinance. Said visitors could then relay the explanation to said absent councilors.<sup>47</sup>
- gg. The city council continued to function despite the absence of the opposition councilors. The legality of the ordinances passed in the absence of said councilors were not questioned.<sup>48</sup>

<sup>40</sup> TSN, May 8, 2014, p. 53

<sup>41</sup> TSN, May 28, 2014, pp. 51-52

<sup>42</sup> TSN, May 28, 2014, pp. 17-18

<sup>43</sup> TSN, May 28, 2014, p. 18

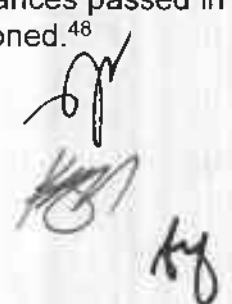
<sup>44</sup> TSN, May 28, 2014, p. 19

<sup>45</sup> TSN, May 28, 2014, p. 27

<sup>46</sup> TSN, May 28, 2014, p. 35

<sup>47</sup> TSN, May 28, 2014, pp. 39-40

<sup>48</sup> TSN, May 28, 2014, pp. 44-47



## DECISION

*People. vs. Silang, et al.*

*Criminal Case No. SB-10-CRM-0234*

Page 8 of 33

x-----x

- hh. He was accused Silang's alter ego until they eventually had a falling out.<sup>49</sup>
- ii. He never read the counter-affidavit filed with the Office of the Ombudsman. His executive secretary, a certain Mr. Hernani De Veyra, told him to sign said counter-affidavit and everything would be taken care of.<sup>50</sup>
- jj. In the 2004, 2007 and 2010 elections, he ran under accused Silang's political party. Despite running under the same political party in 2010, he and accused Silang were no longer on good terms. They parted ways after the 2010 election.<sup>51</sup>
- kk. The councilors belonging to the rival political party filed the complaint in the present case.<sup>52</sup>

### **Nicomedes C. Abesamis testified:**

- a. They filed a Complaint-Affidavit (Exhibit "A") against the accused in the present case.<sup>53</sup>
- b. They filed said Complaint-Affidavit because there was an irregularity in the passage of the ordinance involving the supplemental budget.<sup>54</sup>
- c. During the February 9, 2009 session, they submitted for the first reading the supplemental budget in the amount of ₱39.8 million. The supplemental budget had four (4) items, namely: (1) plan acquisition; (2) infrastructure project; (3) purchase of office equipment; and (4) CNA incentive.<sup>55</sup>
- d. As seen in the minutes of the February 9, 2009 session (Exhibit C), he requested his colleagues to ensure that the documents were all in order because the COA issued a notice of suspension on transactions covered by a certain resolution passed in 2008.<sup>56</sup> He was concerned that the COA might issue a notice of disallowance.<sup>57</sup>
- e. His name appears on each and every page of the Minutes but he did not sign the same because the Minutes of the previous

<sup>49</sup> TSN, May 28, 2014, p. 49

<sup>50</sup> TSN, May 28, 2014, p. 50

<sup>51</sup> TSN, May 28, 2014, p. 58

<sup>52</sup> TSN, May 28, 2014, p. 59

<sup>53</sup> TSN, August 6, 2014, p. 8

<sup>54</sup> TSN, August 6, 2014, p. 13

<sup>55</sup> TSN, August 6, 2014, pp. 13-14

<sup>56</sup> TSN, August 6, 2014, p. 14

<sup>57</sup> TSN, August 6, 2014, p. 17

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## DECISION

*People. vs. Silang, et al.*  
*Criminal Case No. SB-10-CRM-0234*

Page 9 of 33

x -----x

session was usually signed during the next session. He was not able to attend the special session on February 11, 2009, and hence, was not able to sign the same.<sup>58</sup>

- f. He later learned that the proposed ordinance was approved in the February 11, 2009 special session, and the amount of ₱19,933,510.00 was released for the CNA incentive bonus of UNGKAT members (Exhibit "E"). An employee told him that the payroll stated that each employee received ₱132,000.00 but the envelopes contained only ₱82,000.00 each.<sup>59</sup>
- g. The members of the Sanggunian who were absent during the special session on February 11, 2009 all belonged to the opposition.<sup>60</sup>
- h. Tayabas was already a city when the subject ordinance was enacted. However, instead of twelve (12) council members, there were only ten (10).<sup>61</sup>
- i. The disbursement voucher authorizing the release of the CNA incentive was signed by accused Silang, and also by Reynaldo Antiola (City Treasurer) and Carina Jalbuena (City Accountant). Antiola and Jalbuena were not included in the charges.<sup>62</sup>

The parties agreed to the following stipulations as to **Arlene A. Tabelon's** testimony:<sup>63</sup>

1. That she was the Sangguniang Panlungsod Secretary at the time of the incident;
2. That she is the custodian of the minutes and other records of the Sangguniang Bayan of Tayabas; and
3. That she is the same Arlene Ayala who certified the copies of the documents previously marked as Exhibits C, D and T.

She then testified:

- a. She received the amount of ₱80,000.00.<sup>64</sup>

<sup>58</sup> TSN, August 6, 2014, pp. 15, 17

<sup>59</sup> TSN, August 6, 2014, pp. 19-20

<sup>60</sup> TSN, August 13, 2014, p. 4

<sup>61</sup> TSN, August 13, 2014, p. 5

<sup>62</sup> TSN, August 13, 2014, pp. 8-9

<sup>63</sup> TSN, August 13, 2014, p. 22

<sup>64</sup> TSN, August 13, 2014, p. 20

## DECISION

*People. vs. Silang, et al.*  
Criminal Case No. SB-10-CRM-0234

Page 10 of 33

x -----x

- b. Upon receiving said amount, the paymaster asked her to sign the payroll. None of the accused were present when she signed said payroll.<sup>65</sup>
- c. She received the money despite not being a member of UNGKAT.<sup>66</sup>

### **Wenda S. De Torres testified:**

- a. She was one of the complainants in the Complaint-Affidavit dated March 2009 (Exhibit "A").<sup>67</sup>
- b. She, along with the other complainants, filed said complaint because the ordinance providing for the CNA incentive did not garner the required number of votes for its passage. Thus, the disbursement of said CNA incentive was illegal.<sup>68</sup>
- c. The funds in the amount of ₱19,933,510.00, disbursed under Disbursement Voucher No. 101-2009-2-316 (Exhibit "E"), were intended for the CNA incentives of the members of UNGKAT. Said amount was also the subject of a Notice of Disallowance dated March 6, 2009 (Exhibit "G") issued by the COA.<sup>69</sup>
- d. Councilor Romero does not belong to their political party. He defended the passage of the subject ordinance in a privilege speech.<sup>70</sup>
- e. She signed the ordinance granting the 2008 CNA.<sup>71</sup>
- f. Before the ordinance providing for the CNA incentive is approved, there should be savings. The Local Finance Committee, composed of the City Treasurer, the City Planning and Development Officer and the Budget Officer, certifies the existence of savings.<sup>72</sup>
- g. The members of the Local Finance Committee at the time of the 2009 CNA were Reynaldo E. Antiola (City Treasurer), Necias C. Pataunia (CPDO) and Edna Rallama (Budget Officer).<sup>73</sup> They were included in the Affidavit-Complaint but were not included in the Information.<sup>74</sup>

<sup>65</sup> TSN, August 13, 2014, pp. 20-21

<sup>66</sup> TSN, August 13, 2014, p. 21

<sup>67</sup> TSN, August 27, 2014, p. 8

<sup>68</sup> TSN, August 27, 2014, p. 9

<sup>69</sup> TSN, August 27, 2014, p. 15

<sup>70</sup> TSN, August 27, 2014, p. 18, 28

<sup>71</sup> TSN, August 27, 2014, pp. 20-21

<sup>72</sup> TSN, August 27, 2014, p. 22

<sup>73</sup> TSN, August 27, 2014, pp. 22-23

<sup>74</sup> TSN, August 27, 2014, p. 25



DECISION

People vs. Silang, et al.

Criminal Case No. SB-10-CRM-0234

Page 11 of 33

x-----x

- h. One of her objections to the 2009 CNA was the fact that savings from the calamity fund were included in the computation of savings for the purpose of the CNA<sup>75</sup>.
- i. She attended the regular session on February 9, 2009. There, it was announced that a special session would be held on February 11, 2009.<sup>76</sup>
- j. None of the five (5) councilors from the opposition attended the special session held on February 11, 2009.<sup>77</sup>
- k. She had not seen accused Silang, together with the councilors who approved the subject ordinance, in a meeting, agreeing to approve said ordinance.<sup>78</sup>

**Sergio C. Caagbay, Jr.**'s direct examination was dispensed with after the parties agreed that he would be able to identify certain documents.<sup>79</sup> On cross-examination, he testified:

- a. He used to belong to the same political party as accused Silang. After three (3) terms, he ran for mayor against accused Silang but lost.<sup>80</sup>
- b. They parted ways sometime between 2004 and 2007 because he refused to follow accused Silang's orders.<sup>81</sup>
- c. There were two (2) CNAs approved. One was in 2008 and the other in 2009.<sup>82</sup>
- d. The Finance Committee certified that there were savings prior to the approval of the ordinance providing for the 2008 CNA.<sup>83</sup> It was the same for the 2009 CNA.<sup>84</sup>
- e. He did not attend the session wherein the 2009 CNA was approved because he did not want to be a part of the illegal proceedings.<sup>85</sup>

<sup>75</sup> TSN, August 27, 2014, p. 24

<sup>76</sup> TSN, August 27, 2014, p. 26

<sup>77</sup> *Ibid.*

<sup>78</sup> TSN, August 27, 2014, p. 29

<sup>79</sup> Exhibits A, C, D, E and G (TSN, September 3, 2014, p. 21)

<sup>80</sup> TSN, September 3, 2014, p. 9

<sup>81</sup> TSN, September 3, 2014, p. 20

<sup>82</sup> TSN, September 3, 2014, p. 10

<sup>83</sup> TSN, September 3, 2014, p. 11

<sup>84</sup> TSN, September 3, 2014, p. 12

<sup>85</sup> TSN, September 3, 2014, pp. 12-13

## DECISION

*People vs. Silang, et al.*

*Criminal Case No. SB-10-CRM-0234*

Page 12 of 33

x -----x

- f. Their approved internal rules provide that a special session may be scheduled upon a vote of 2/3 of all Sanggunian members. However, the holding of a special session on February 11, 2009 was approved upon the motion of only one member.<sup>86</sup>
- g. He and the other councilors in the opposition knew that a special session would be held on February 11, 2009.

### **Dolores Carina N. Jalbuena testified:**

- a. As City Accountant of Tayabas, she prepared the financial statements, established internal control and signed disbursement vouchers to certify the completeness of the supporting documents.<sup>87</sup>
- b. She stated in her affidavit (Exhibit "K") that she objected to the 2008 and 2009 CNAs because initially, there were no supporting documents. Said supporting documents were subsequently submitted by UNGKAT.<sup>88</sup>
- c. She found the disbursement voucher and an invitation to an UNGKAT meeting on her desk after lunch on February 11, 2009.<sup>89</sup>
- d. At the UNGKAT meeting, Mr. Nañez, the President of UNGKAT,<sup>90</sup> informed the attendees that DBP-Lucena's armored car was downstairs, parked near the City Hall. Said vehicle brought money in the amount stated in the voucher.<sup>91</sup>
- e. She objected to the voucher because the Notice of Disallowance for the 2008 CNA was still unsettled.<sup>92</sup>
- f. In Box A of the Disbursement Voucher, she wrote "w/ notice" because she sent her Notice of Objection (Exhibit "W"). She felt that there was an irregularity with the vote.<sup>93</sup>
- g. She prepared said Notice of Objection prior to signing the Disbursement Voucher and prior to attending the UNGKAT meeting.<sup>94</sup>

<sup>86</sup> TSN, September 3, 2014, p. 13

<sup>87</sup> TSN, September 17, 2014, p. 7

<sup>88</sup> TSN, September 17, 2014, p. 20

<sup>89</sup> TSN, September 17, 2014, p. 22

<sup>90</sup> TSN, September 17, 2014, p. 29

<sup>91</sup> TSN, September 17, 2014, p. 22 and 28

<sup>92</sup> TSN, September 17, 2014, p. 22

<sup>93</sup> TSN, September 17, 2014, p. 30

<sup>94</sup> TSN, September 17, 2014, p. 31

## DECISION

*People. vs. Silang, et al.*  
*Criminal Case No. SB-10-CRM-0234*

Page 13 of 33

x-----x

- h. She signed the first box of the Disbursement Voucher after UNGKAT submitted the supporting documents.<sup>95</sup> She signed the second box at the bottom part after the Treasurer and the Mayor had already signed.<sup>96</sup>
- i. She signed the Disbursement Voucher because she felt pressured by the fact that the money was already delivered.<sup>97</sup>
- j. In the afternoon of the same day, she signed the payroll and received the money given to the City Government employees.<sup>98</sup> Although it appeared from the payroll that she received ₱132,010, the envelope actually contained only ₱82,000.00.<sup>99</sup>
- k. The amount actually received was less than that stated because they deducted around ₱25,000.00 from the amount to be received by each employee for remittance to the BIR. From the amounts deducted, they gave around ₱3,000.00 to job order personnel.<sup>100</sup>

**Reynaldo E. Antiola's** direct examination was dispensed with. The parties stipulated on the following:

- 1. He was the City Treasurer at the time of the approval of City Ordinance No. 09-01.<sup>101</sup>
- 2. The amount of ₱19,933,500.00, representing the CNA incentive for 2009, was released to the 151 employees of the City of Tayabas.<sup>102</sup>
- 3. He certified the photocopy of the payroll (Exhibit "F").<sup>103</sup>
- 4. He would be able to identify his affidavit (Exhibit "J") and the disbursement voucher (Exhibit "E").<sup>104</sup>

On cross-examination, he testified:

- a. As City Treasurer, his functions include taking custody and exercising proper management of the funds of the City, and taking charge of the disbursement of local government funds.

<sup>95</sup> TSN, September 17, 2014, p. 38

<sup>96</sup> TSN, September 17, 2014, p. 32

<sup>97</sup> TSN, September 17, 2014, p. 31

<sup>98</sup> TSN, September 17, 2014, p. 39

<sup>99</sup> TSN, September 17, 2014, pp. 36-37

<sup>100</sup> TSN, September 17, 2014, p. 37

<sup>101</sup> TSN, September 24, 2014, p. 5

<sup>102</sup> TSN, September 24, 2014, p. 6

<sup>103</sup> *Ibid.*

<sup>104</sup> TSN, September 24, 2014, pp. 7-8



## DECISION

*People. vs. Silang, et al.*

*Criminal Case No. SB-10-CRM-0234*

Page 14 of 33

x-----x

and other such funds which may be entrusted to him by law or competent authority.<sup>105</sup>

- b. There were two (2) CNAs between Tayabas City and UNGKAT. The first was the 2008 CNA and the second was the 2009 CNA.<sup>106</sup>
- c. Before the CNA could be approved, the Finance Committee must certify that there are savings. He, along with the Budget Officer and the City Planning Development Coordinator, were members of said committee.<sup>107</sup>
- d. For the 2009 CNA, the Finance Committee certified the savings from the MOOE in the amount of ₱39 million, ₱19 million of which was the subject matter of the agreement between the city and UNGKAT.<sup>108</sup>
- e. After the approval of the ordinance, the CNA was signed. Thereafter, the amount was released to the members of UNGKAT.<sup>109</sup>
- f. He received ₱82,000.00, the same amount received by members of UNGKAT.<sup>110</sup>

The testimony of State Auditor V **Norma S. Racelis** was dispensed with after the parties agreed to stipulate on the following:<sup>111</sup>

- a. The COA assigned her to the City of Tayabas from 2008 to 2011.
- b. She can identify the Notice of Disallowance (Exhibit "G") dated March 6, 2009.
- c. Said Notice of Disallowance is pending with the Supreme Court.<sup>112</sup>
- d. Not all Notices of Disallowance she prepared resulted in the filing of criminal cases before the Sandiganbayan.

<sup>105</sup> TSN, September 24, 2014, pp. 10-11

<sup>106</sup> TSN, September 24, 2014, p. 11

<sup>107</sup> TSN, September 24, 2014, p. 12-13

<sup>108</sup> TSN, September 24, 2014, pp. 14-15

<sup>109</sup> TSN, September 24, 2014, pp. 16-17

<sup>110</sup> TSN, September 24, 2014, p. 17

<sup>111</sup> Record, Vol. 3, pp. 457-458 (Order dated January 22, 2015)

<sup>112</sup> The Supreme Court, in *Silang v. Commission on Audit* (G.R. No. 213189, September 8, 2015), affirmed with modification the COA's Decision dated December 21, 2012 and Resolution dated March 13, 2014. Herein accused, among others, were held solidarily liable for the refund of the disallowed amounts.

DECISION

People. vs. Silang, et al.  
Criminal Case No. SB-10-CRM-0234

Page 15 of 33

x -----x

The following documentary exhibits of the prosecution were admitted in evidence:<sup>113</sup>

Exhibit	Document
"A"	<i>Complaint-Affidavit</i> dated March 2009 of Wenda S. De Torres, Sergio C. Caagbay, Jr., Ernida A. Reynoso, Catalino R. Cabriga and Nicomedes C. Abesamis
"C"	<i>Minutes of the Regular Session Held by the Members of the Sangguniang Panlungsod of Tayabas on February 9, 2009</i>
"D"	<i>Excerpts From the Minutes of the Special Session Held by the Members of the Sangguniang Panlungsod of Tayabas on February 11, 2009</i>
"E"	<i>Disbursement Voucher No. 101-2009-2-316</i>
"F"	Payroll
"G"	<i>Notice of Disallowance/s No. 2009-002-101-(09)</i> dated March 6, 2009
"J"	<i>Affidavit</i> dated March 24, 2009 of Reynaldo E. Antiola
"K"	<i>Affidavit</i> dated March 18, 2009 of Dolores Carina N. Jalbuena
"P"	<i>Minutes of the Special Session Held by the Members of the Sangguniang Panlungsod of Tayabas on February 11, 2009</i>
"U"	<i>Affidavit</i> dated May 31, 2012 of Dino M. Romero
"V"	<i>Immunity Agreement</i> dated June 14, 2012
"W"	<i>Notice of OBJECTION</i> dated February 11, 2009

The Court denied<sup>114</sup> the accused' *Motion (For Leave of Court to File Demurrer to Evidence)*.<sup>115</sup>

EVIDENCE FOR THE DEFENSE

The defense presented as witnesses accused **Maria Cielito Zeta-Addun**,<sup>116</sup> accused **Luzviminda B. Cuadra**,<sup>117</sup> accused **Lyka Monika J. Oabel**,<sup>118</sup> **Necias C. Pataunia**,<sup>119</sup> **Reynaldo E. Antiola**,<sup>120</sup>

<sup>113</sup> Record, Vol. 4, p. 15 (Resolution dated April 29, 2015)  
<sup>114</sup> Record, Vol. 4, p. 42 (Resolution dated June 8, 2015)  
<sup>115</sup> Dated May 15, 2015; Record, Vol. 4, pp. 21-26  
<sup>116</sup> TSNs, September 8, 2015 and September 9, 2015  
<sup>117</sup> TSN, November 5, 2015  
<sup>118</sup> TSN, November 26, 2015  
<sup>119</sup> TSN, October 24, 2016  
<sup>120</sup> TSN, October 25, 2016

Handwritten signatures and initials, including a large signature at the top and initials 'by' at the bottom.

DECISION

People. vs. Silang, et al.  
Criminal Case No. SB-10-CRM-0234

Page 16 of 33

x -----x

accused **Faustino A. Silang**,<sup>121</sup> **Enrico Nañez**,<sup>122</sup> and accused **Venerando R. Rea**.<sup>123</sup>

**Accused Maria Cielito Zeta-Addun testified:**

- a. She was a Councilor of Tayabas City from 2004 to 2010.<sup>124</sup>
- b. She was the Majority Floor Leader and the Chairperson of the Finance, Budget and Appropriation Committee.<sup>125</sup>
- c. With regard to the 2009 CNA, the Committee on Finance and Appropriation made sure that there were guidelines issued by the Department of Budget and Management (DBM) and that there were available funds. The Finance Committee, composed of Edna Rallama (City Budget Officer), Mr. Antiola (City Treasurer), Necias Pataunia (City Planning and Development Coordinator), and Carina Jalbuena (City Accountant), confirmed the availability of funds.<sup>126</sup>
- d. She was not aware that the DBM guidelines provide that before the CNA incentive can be released, there should be strict compliance with the resolutions issued by the Public Sector Labor Management Council (PSLMC).<sup>127</sup>
- e. After the Finance Committee certified the availability of funds, it issued a request for an appropriation ordinance to the Sanggunian.<sup>128</sup>
- f. The request for an appropriation ordinance was assigned to the Finance and Budget Committee, which, subsequently, submitted a committee report thereon. Said report was addressed to the plenary. The subject ordinance went through three (3) readings and was passed in the third reading.<sup>129</sup>
- g. The subject ordinance (Exhibits "9" and "10") pertains to a supplemental budget in 2009. The CNA incentive was included in said supplemental budget.<sup>130</sup>

<sup>121</sup> TSNs, January 30, 2017 and February 6, 2017

<sup>122</sup> TSN, March 6, 2017

<sup>123</sup> TSN, April 17, 2017

<sup>124</sup> TSN, September 8, 2015, pp. 6-7

<sup>125</sup> TSN, September 8, 2015, p. 7

<sup>126</sup> TSN, September 8, 2015, pp. 19-21

<sup>127</sup> TSN, September 9, 2015, pp. 18-21

<sup>128</sup> TSN, September 8, 2015, p. 21

<sup>129</sup> TSN, September 8, 2015, pp. 21-22

<sup>130</sup> TSN, September 8, 2015, p. 10





## DECISION

*People vs. Silang, et al.*  
*Criminal Case No. SB-10-CRM-0234*

Page 17 of 33

x-----x

- h. At the time of the approval of the subject ordinance, there were eleven (11) members of the council, including the Vice Mayor.<sup>131</sup>
- i. Those present in the special session on February 11, 2009 were Vice Mayor Venerando Rea and City Councilors Luzviminda Cuadra, Dino Romero, herself, Estelito Querubin and Lyka Monika Oabel.<sup>132</sup> Opposition councilors Wenda Saberola De Torres, Sergio Caagbay, Ernida Reynoso and Catalino Cabriga were absent during said session.<sup>133</sup>
- j. It was not the first time that all opposition councilors were absent at the same time (Exhibits "4" to "8").<sup>134</sup>
- k. The subject ordinance was unanimously approved by the six (6) members present at the special session, including the Vice Mayor.<sup>135</sup>
- l. There was no actual voting for the subject ordinance. The Vice Mayor asked if there was any opposition to the passage of said ordinance. After no one opposed, the Vice Mayor declared the ordinance passed.<sup>136</sup>
- m. There was no conspiracy among the accused.<sup>137</sup>
- n. They (the accused) never held a meeting wherein the 2009 CNA was discussed. They merely performed their respective duties.<sup>138</sup>
- o. During her tenure as City Councilor, she had several exclusive meetings with accused Silang. In those meetings, accused Silang never required her to do illegal acts.<sup>139</sup>
- p. The employees of the local government benefited from the release of the funds under the Supplemental Budget.<sup>140</sup>
- q. She did not receive any benefit from passing the ordinance because she was not entitled to the same. Under the agreement between UNGKAT and the City, only the employees were entitled to the CNA incentive.<sup>141</sup>

<sup>131</sup> TSN, September 9, 2015, p. 8

<sup>132</sup> TSN, September 8, 2015, pp. 13-14

<sup>133</sup> TSN, September 8, 2015, p. 14

<sup>134</sup> TSN, September 8, 2015, p. 16

<sup>135</sup> TSN, September 9, 2015, pp. 9-10

<sup>136</sup> TSN, September 9, 2015, pp. 15-16

<sup>137</sup> TSN, September 8, 2015, p. 17

<sup>138</sup> *ibid.*

<sup>139</sup> TSN, September 9, 2015, p. 30

<sup>140</sup> TSN, September 8, 2015, p. 23

<sup>141</sup> TSN, September 8, 2015, p. 23



## DECISION

*People. vs. Silang, et al.*

*Criminal Case No. SB-10-CRM-0234*

Page 18 of 33

x -----x

- r. There were 151 rank and file employees who were entitled to the CNA incentive.<sup>142</sup>
- s. She is not aware of any COA issuance regarding the 2008 or 2009 CNA incentives.<sup>143</sup>

### Accused **Luzviminda B. Cuadra** testified:

- a. She was a Councilor of the City of Tayabas from 2004 to 2013.<sup>144</sup>
- b. The Local Finance Committee, composed of Edna Rallama (Budget Officer), Carina Jalbuena (Accountant), Necias Pataunia (Planning Officer) and Mr. Antiola (Treasurer), made a request for the approval of the 2009 CNA.<sup>145</sup>
- c. The report of the Finance Committee was forwarded to the Sanggunian's Committee on Appropriation, Budget and Finance. Thereafter, it passed through the first reading. The Sanggunian committee presented the report to the plenary then went through the second and third readings before approval.<sup>146</sup>
- d. The procedures followed for the approval of the 2008 and 2009 CNAs were the same.<sup>147</sup>
- e. Under Sec. 49 (a) of the Local Government Code, the Presiding Officer casts a vote only in case of a tie.<sup>148</sup>
- f. During the passage of Ordinance No. 09-01, there were five (5) Councilors present. The Vice Mayor was also present.<sup>149</sup>
- g. Ordinance No. 09-01 was unanimously approved by all members present, meaning that the Vice Mayor's vote was included in the count.<sup>150</sup>
- h. Said ordinance authorized the release of the CNA incentive for the 151 employees of the local government of Tayabas.<sup>151</sup>

<sup>142</sup> TSN, September 9, 2015, p. 24

<sup>143</sup> TSN, September 9, 2015, pp. 27-29

<sup>144</sup> TSN, November 5, 2015, p. 8

<sup>145</sup> TSN, November 5, 2015, pp. 11-12

<sup>146</sup> TSN, November 5, 2015, p. 13

<sup>147</sup> TSN, November 5, 2015, p. 15

<sup>148</sup> TSN, November 5, 2015, p. 16

<sup>149</sup> *Ibid.*

<sup>150</sup> TSN, November 5, 2015, p. 17

<sup>151</sup> TSN, November 5, 2015, p. 20



**DECISION**

*People vs. Silang, et al.*  
*Criminal Case No. SB-10-CRM-0234*

Page 19 of 33

x-----x

- i. She does not know if the CNA incentive was released to, and received by the employees of the city government because their functions were limited to the passing of ordinances.<sup>152</sup>

**Accused Lyka Monika J. Oabel testified:**

- a. She was elected as Sangguniang Kabataan (SK) representative of Barangay Lita in 2007. She was also the representative of the SK in the City Council of Tayabas.<sup>153</sup>
- b. She was 18 years old at the time Ordinance No. 09-01 was passed.<sup>154</sup>

The testimony of **Necias C. Pataunia** was dispensed with after the parties stipulated that his testimony would be as follows.<sup>155</sup>

- a. He is the Local Planning and Development Officer of the Local Finance Committee for the City of Tayabas, Quezon from 2008 and 2009 to the present.
- b. As Local Planning and Development Officer of the Local Finance Committee for the City of Tayabas, he acknowledged the fact that there were savings or available funds for the implementation of the CNA incentive.
- c. The Finance Committee held a meeting before the release of the 2009 CNA incentive.
- d. There was a Report in connection with the CNA incentive.

The testimony of **Reynaldo E. Antiola** was dispensed with after the parties stipulated that his testimony would be as follows.<sup>156</sup>

- a. He was the Local Treasurer of the Local Finance Committee for the City of Tayabas in 2008 and 2009.
- b. As Local Treasurer of the Local Finance Committee for the City of Tayabas, he had knowledge of the fact that there were savings or available funds for the implementation of the CNA in 2009.
- c. Prior to the release of the CNA incentive, the Local Finance Committee conducted a meeting for such purpose.

<sup>152</sup> TSN, November 5, 2015, pp. 22-23

<sup>153</sup> TSN, November 26, 2015, p. 8

<sup>154</sup> TSN, November 26, 2015, p. 11

<sup>155</sup> TSN, October 24, 2016, pp. 18-19

<sup>156</sup> TSN, October 25, 2016, pp. 9-10



DECISION

People. vs. Silang, et al  
Criminal Case No. SB-10-CRM-0234

Page 20 of 33

X -----X

- d. After the aforementioned meeting, the Local Finance Committee submitted a report to the Sangguniang Panlungsod.
- e. In implementing the 2009 CNA incentive, the Local Finance Committee followed the proper procedure.

Accused **Faustino A. Silang** testified:

- a. Per Department of Labor and Employment (DOLE) guidelines, twenty percent (20%) of the savings at the end of the year can be negotiated for the CNA of the employees of the local government unit.<sup>157</sup>
- b. UNGKAT, the union of the employees of the city government, manifested to the chief executive its intention to negotiate with management. They presented the available guidelines to support their request to negotiate with management.<sup>158</sup>
- c. During the negotiation period, the representatives of UNGKAT presented to him documents showing that it was registered with the Civil Service Commission (CSC). He was not aware that the union was not yet in fact registered at that time.<sup>159</sup>
- d. He conferred with the Accountant and the Budget Officer to determine if there were savings before proceeding with the negotiation.<sup>160</sup>
- e. He browsed the documents forwarded by the Accountant. He did not verify the correctness of the information therein.<sup>161</sup>
- f. The Local Finance Committee, after reviewing the availability of funds, recommended (Exhibits "10" to "15") to the Sangguniang Panlungsod the amount available for the supplemental budget.<sup>162</sup>
- g. He indorsed the recommendation of the Finance Committee to the Sangguniang Panlungsod.<sup>163</sup>
- h. When the ordinance providing for the CNA incentive was forwarded to his office, he approved the same.<sup>164</sup>

<sup>157</sup> TSN, January 30, 2017, p. 7

<sup>158</sup> TSN, January 30, 2017, p. 8

<sup>159</sup> TSN, January 30, 2017, p. 21

<sup>160</sup> TSN, January 30, 2017, p. 9

<sup>161</sup> TSN, January 30, 2017, p. 23

<sup>162</sup> TSN, January 30, 2017, p. 13

<sup>163</sup> TSN, January 30, 2017, p. 26

<sup>164</sup> TSN, January 30, 2017, p. 17



## DECISION

*People. vs. Silang, et al.*

*Criminal Case No. SB-10-CRM-0234*

Page 21 of 33

X -----X

- i. Once forwarded to his office, he assumed that ordinances or resolutions went through the procedures prescribed by law. If there were no errors or discrepancies in the ordinance or resolution, he signed the same before the lapse of ten (10) days.<sup>165</sup>
- j. After approval, his duty was to implement the subject ordinance.<sup>166</sup>
- k. The Office of the Treasurer approached him for the implementation of the supplemental budget, and the voucher was prepared.<sup>167</sup>
- l. When the voucher (Exhibit "E") reached his office, it was already signed by the Treasurer for the availability of funds, and by the Accountant for completeness of the documents. He was the third to sign.<sup>168</sup>
- m. He does not remember Carina Jalbuena's written objection (Exhibit "W"), to which the handwritten note on the voucher referred. Said written objection was addressed to, and was received by his office.<sup>169</sup>

### **Enrico Nañez testified:**

- a. He is an employee of the City of Tayabas. He became the President of Unyon ng mga Kawani ng Pamahalaang Local (UNGKAT) in 2007.<sup>170</sup>
- b. UNGKAT is registered with the DOLE and the Civil Service Commission (CSC) (Exhibits "16" to "18").<sup>171</sup>
- c. The union was accredited as the sole and exclusive negotiation arm of the rank-and-file employees of Tayabas City on January 14, 2009.<sup>172</sup>
- d. As far as he knows, high ranking officials such as department heads are included in "rank and file employees."<sup>173</sup>

<sup>165</sup> TSN, January 30, 2017, p. 29

<sup>166</sup> TSN, January 30, 2017, p. 29

<sup>167</sup> TSN, January 30, 2017, p. 18

<sup>168</sup> TSN, January 30, 2017, p. 30

<sup>169</sup> TSN, February 6, 2017, pp. 12-13

<sup>170</sup> TSN, March 6, 2017, p. 9

<sup>171</sup> TSN, March 6, 2017, p. 11

<sup>172</sup> TSN, March 6, 2017, pp. 26-28

<sup>173</sup> TSN, March 6, 2017, pp. 28-30



**DECISION**

*People. vs. Silang, et al.*  
*Criminal Case No. SB-10-CRM-0234*

Page 22 of 33

x-----x

- e. All members, including department heads, apply for membership in the union.<sup>174</sup>
- f. The union was able to negotiate with the local government unit twice – in 2007 and 2008 (Exhibit "25").<sup>175</sup>
- g. The union was represented by its officers. The local government unit was represented by the Mayor.<sup>176</sup>
- h. The Mayor himself directly negotiated with UNGKAT.<sup>177</sup>
- i. Before the union and the local government unit could negotiate, the union is required to be registered with the DOLE and the CSC. Management, on the other hand, is required to have savings.<sup>178</sup>
- j. The Local Finance Committee, in the Statement of Savings Available for Supplemental Appropriation as of February 4, 2008 (Exhibit "14"), certified that there were savings in 2007.<sup>179</sup>
- k. The Finance Committee also certified that there were savings in 2008 (Exhibit "24").<sup>180</sup>

Accused **Venerando R. Rea**'s testimony was dispensed with after the parties stipulated that:<sup>181</sup>

- 1. He did not sign the subject ordinance.
- 2. His name appeared only in Exhibits C, D, and P as one of those who attested to the said documents.
- 3. He did not cast his vote.

The following documentary exhibits of the accused were admitted in evidence:<sup>182</sup>

Exhibit	Document
"1"	Counter-Affidavit dated July 7, 2009 of Faustino A. Silang

<sup>174</sup> TSN, March 6, 2017, p. 35

<sup>175</sup> TSN, March 6, 2017, pp. 14, 16

<sup>176</sup> TSN, March 6, 2017, p. 15

<sup>177</sup> TSN, March 6, 2017, p. 33

<sup>178</sup> TSN, March 6, 2017, pp. 17-18

<sup>179</sup> TSN, March 6, 2017, p. 18

<sup>180</sup> TSN, March 6, 2017, p. 22

<sup>181</sup> TSN, April 17, 2017, p. 15

<sup>182</sup> Record, Vol. 4, pp. 457-458 (Resolution dated September 27, 2017)



## DECISION

*People. vs. Silang, et al.*

*Criminal Case No. SB-10-CRM-0234*

Page 23 of 33

x-----x

"2"	<i>Joint Counter-Affidavit dated July 10, 2009 of Venerando R. Rea, Maria Cielito Zeta-Addun, Dino M. Romero, Luzviminda B. Cuadra, Estelito M. Querubin and Lyka Monika J. Oabel</i>
"3"	<i>Certification dated May 19, 2010 issued by Arlene O. Ayala</i>
"4"	<i>Certification dated May 19, 2010 issued by Arlene O. Ayala</i>
"5"	<i>Certification dated May 19, 2010 issued by Arlene O. Ayala</i>
"6"	<i>Certification dated July 9, 2010 issued by Arlene O. Ayala</i>
"7"	<i>Attendance Report (January 2008 to December 2008)</i>
"8"	<i>Attendance Report for period January 2009 to December 2009</i>
"9"	<i>Katitikan ng Di-Pangkaraniwang Pulong ng Sangguniang Panlungsod ng Tayabas na Ginanap Noong Ika-11 ng Pebrero 2009 sa Ganap na Ika-9:51 ng Umaga sa Bulwagang Pulungan ng Sangguniang Panlungsod ng Tayabas</i>
"10"	<i>Order of Business dated February 11, 2009 and Minutes of the Special Session Held by the members of the Sangguniang Panlungsod of Tayabas on February 11, 2009 at the Sangguniang Panlungsod Session Hall Starting from 9:51 in the Morning.</i>
"11"	<i>Excerpts From the Minutes of the Special Session Held by the Members of the Sangguniang Panlungsod of Tayabas on February 11, 2009 at the Sangguniang Panlungsod Session Hall Starting From 9:51 in the Morning.</i>
"13"	<i>Excerpts From the Minutes of the Regular Session Held by the Members of the Sangguniang Panlungsod of Tayabas on February 11, 2008 at the Sangguniang Panlungsod Session Hall Starting from 9:13 in the Morning.</i>
"14"	<i>Statement of Savings Available for Supplemental Appropriations As of February 4, 2008</i>
"15"	<i>First Indorsement dated January 15, 2009</i>
"16"	<i>Certificate of Registration No. 827 dated June 14, 2001</i>
"17"	<i>Certification dated August 6, 2009</i>
"18"	<i>Certification dated August 6, 2009</i>
"20"	<i>Minutes of the Meeting Held by the Officers of Unyon ng mga Kawani ng Pamahalaang Lokal ng Tayabas (UNGKAT) with the Management on 26 September 2007, 8:00 o'Clock in the Morning at the Office of the City Mayor</i>
"21"	<i>Collective Negotiation Agreement dated November 13, 2007</i>
"22"	<i>Minutes of the Meeting Held by the Officers of Unyon ng mga Kawani ng Pamahalaang Lokal ng Tayabas (UNGKAT) with the Management on 06 February 2008, 9:00 o'Clock in the Morning at the Office of the City Mayor</i>
"23"	<i>Addendum to the Collective Negotiation Agreement dated February 11, 2008</i>
"24"	<i>Schedule of Savings – End of the Year 2008</i>
"25"	<i>Collective Negotiation Agreement dated February 4, 2008</i>



DECISION

People. vs. Silang, et al.  
Criminal Case No. SB-10-CRM-0234

Page 24 of 33

x-----x

THE FINDINGS OF FACT

On February 11, 2009, the Sangguniang Panlungsod of the City of Tayabas held a special session<sup>183</sup> for the third reading of the proposed ordinance appropriating the amount of thirty-nine million eight hundred sixty-seven thousand one hundred sixty-one pesos (P39,867,161.00) for the Supplemental Budget No. 1 for 2009. Included in said supplemental budget were items for the Collective Negotiation Agreement (CNA) incentive in the total amount of nineteen million nine hundred thirty-three thousand five hundred ten pesos (P19,933,510.00). The following were present in said Special Session:

- |                             |                                 |
|-----------------------------|---------------------------------|
| Venerando R. Rea            | Vice Mayor/Presiding Officer    |
| Luzviminda B. Cuadra        | City Councilor                  |
| Dino M. Romero              | City Councilor                  |
| Maria Cielito V. Zeta-Addun | City Councilor                  |
| Estelito M. Querubin        | Ex officio Member/ABC President |
| Lyka Monika J. Oabel        | Ex officio Member/SKF President |

The following were absent:

- |                        |                |
|------------------------|----------------|
| Wenda S. de Torres     | City Councilor |
| Sergio C. Caagbay, Jr. | City Councilor |
| Nicomedes C. Abesamis  | City Councilor |
| Ernida A. Reynoso      | City Councilor |
| Catalino R. Cabriga    | City Councilor |

After the proposed appropriation ordinance was presented for the third reading, accused Cuadra, Romero, Addun, Querubin and Oabel voted in favor of passing the same. Accused Rea then declared that City Ordinance No. 09-01<sup>184</sup> was unanimously approved.<sup>185</sup> Thereafter, the said ordinance was forwarded to, and eventually, approved by accused Silang.<sup>186</sup>

After accused Silang's approval of City Ordinance No. 09-01, Disbursement Voucher No. 101-2009-2-316<sup>187</sup> was prepared and

<sup>183</sup> Exhibits D/11 and P/10

<sup>184</sup> An Ordinance Appropriating the Sum of Thirty Nine Million Eight Hundred Sixty Seven Thousand One Hundred Sixty One Pesos (P39,867,161.00) for the Implementation of the Items Specified Under the Proposed First Supplemental Budget for Fiscal Year 2009 of the City of Tayabas.

<sup>185</sup> TSN, September 9, 2015, pp. 15-16

<sup>186</sup> TSN, January 30, 2017, p. 17

<sup>187</sup> Exhibit E



DECISION

*People vs. Silang, et al.*

Criminal Case No. SB-10-CRM-0234

Page 25 of 33

x-----x

approved over the written objection of the City Accountant.<sup>188</sup> Development Bank of the Philippines Check No. 28883108 in the amount of ₱19,933,510.00, dated February 11, 2009, was issued and released. Said amount pertained to the CNA Incentive to be given to the members of *Unyon ng mga Kawani ng Lokal na Pamahalaan ng Tayabas* (UNGKAT), the union of the Tayabas City Government employees. Subsequently, in the afternoon of February 11, 2009,<sup>189</sup> said amount was distributed to the 151 employees, including department heads, of the City Government of Tayabas, each employee appearing to have received the amount of ₱132,010.00.<sup>190</sup>

The Office of the Auditor, in Notice of Disallowance/s No. 2009-002-101-(09)<sup>191</sup> dated March 6, 2009, disallowed the amounts given as CNA incentive for the following reasons:

UNGKAT was not yet CSC accredited as the sole and exclusive negotiating agent of the rank and file employees of the City Government of Tayabas when the CNA was executed on February 4, 2008.

The CNA was not registered with the CSC.

The cost-cutting measures were not appended to the CNA as supplement thereto and was not registered with the CSC.

No computation of savings generated out of cost-cutting measures.

City Ordinance No. 09-01 appropriating the amount for the payment of CNA incentive lacked the required affirmative vote of majority of all the city council members for its passage.

(underscoring supplied)

On April 1, 2009, the councilors who were absent during the special session held on February 11, 2009 filed their *Complaint-Affidavit*<sup>192</sup> dated March 2009 with the Office of the Ombudsman. This led to the filing of the Information in the present case.

<sup>188</sup> Exhibits E and W

<sup>189</sup> TSN, September 17, 2014, pp. 36-37

<sup>190</sup> Exhibit F

<sup>191</sup> Exhibit G

<sup>192</sup> Exhibit A

## DECISION

*People. vs. Silang, et al.*

*Criminal Case No. SB-10-CRM-0234*

Page 26 of 33

x -----x

### DISCUSSION

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:

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. The accused' action caused any undue injury to any party, including the government, or giving any private party unwarranted benefits, advantage or preference in the discharge of his or her functions.<sup>193</sup>

#### **First element**

Without doubt, the first element is present. All accused were public officers of the City of Tayabas at the time material to the present case.<sup>194</sup> They performed the acts imputed to them in the discharge of their respective official functions.

Handwritten signatures and initials in black ink, including a large signature and the initials 'Ay'.

<sup>193</sup> *People v. Sandiganbayan*, G.R. No. 160619, September 9, 2015

<sup>194</sup> Record, Vol. 2, pp. 260-261 (Pre-trial Order, pp. 1-2)

DECISION

People. vs. Silang, et al.  
Criminal Case No. SB-10-CRM-0234

Page 27 of 33

x-----x

**Second element**

The accused must have acted with manifest partiality, evident bad faith or gross inexcusable negligence. The Supreme Court, in *Uriarte v. People*,<sup>195</sup> explained these three terms as thus:

Section 3(e) of R.A. 3019 may be committed either by *dolo*, as when the accused acted with evident bad faith or manifest partiality, or by *culpa* as when the accused committed gross inexcusable negligence. There is "**manifest partiality**" when there is a clear, notorious or plain inclination or predilection to favor one side or person rather than another. "**Evident bad faith**" connotes not only bad judgment but also palpably and patently fraudulent and dishonest purpose to do moral obliquity or conscious wrongdoing for some perverse motive or ill will. It contemplates a state of mind affirmatively operating with furtive design or with some motive or self-interest or ill will or for ulterior purposes. "**Gross inexcusable negligence**" refers to negligence characterized by the want of even the slightest care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally, with conscious indifference to consequences insofar as other persons may be affected.

Here, it was proved beyond reasonable doubt that the accused passed and approved Ordinance No. 09-01 despite not having the required number of affirmative votes.

Article 107 of the *Rules and Regulations Implementing the Local Government Code of 1991*<sup>196</sup> provides for the rules governing the enactment of ordinances and resolutions. Paragraph (g) thereof reads:

**Article 107. Ordinances and Resolutions.** – The following rules shall govern the enactment of ordinances and resolutions:

x x x

(g) No ordinance or resolution passed by the sanggunian in a regular or special session duly called for the purpose shall be valid unless approved by a majority of the members present, there being a quorum. Any ordinance or resolution authorizing or directing the payment of money or creating liability, shall require the affirmative vote of a majority of all the sanggunian members for its passage.

(emphasis and underscoring supplied)

<sup>195</sup> G.R. No. 169251, December 20, 2006

<sup>196</sup> Administrative Order No. 270 – Prescribing the Implementing Rules and Regulations of the Local Government Code of 1991

## DECISION

*People vs. Silang, et al.*

*Criminal Case No. SB-10-CRM-0234*

Page 28 of 33

x -----x

Ordinance No. 09-01, being an appropriation<sup>197</sup> ordinance, requires the affirmative vote of a **majority of all** the sanggunian members for its valid passage. Sec. 457 of R.A. No. 7160 provides for the composition of the Sangguniang Panlungsod. To wit:

### **Section 457. Composition.**

(a) The sangguniang panlungsod, the legislative body of the city, shall be composed of the city vice-mayor as presiding officer, the regular sanggunian members, the president of the city chapter of the liga ng mga barangay, the president of the panlungsod na pederasyon ng mga sangguniang kabataan, and the sectoral representatives, as members.

It appears that at the time material to the present case, the Sangguniang Panlungsod of Tayabas was composed of eleven (11) members – accused Rea (Vice Mayor),<sup>198</sup> accused Addun, Romero, Cuadra and the five (5) opposition councilors (regular members), accused Querubin (President of the Liga ng mga Barangay) and accused Oabel (President of the Pederasyon ng mga Sangguniang Kabataan). Being composed of eleven (11) members, Ordinance No. 09-01 required an affirmative vote of at least six (6) members for its valid passage. Here, accused Addun, Romero, Cuadra, Querubin and Oabel voted in favor of the passage of the subject ordinance. However, their votes – 5 in total – fall short of the required number for the valid passage thereof.

Accused Rea, as presiding officer of the Sangguniang Panlungsod at the time, was not entitled to vote, there being no tie.<sup>199</sup> Although it does not appear that he voted for the passage of the subject ordinance, it appears that he declared that the ordinance was unanimously approved by the members present at the special session, in effect, declaring that the ordinance was passed.

<sup>197</sup> R.A. No. 7160. **Sec. 306. Definitions.** – When used in this Title, the term – x x x (b) "Appropriation" refers to an authorization made by ordinance, directing the payment of goods and services from local government funds under specified conditions or for specific purposes; x x x (underscoring supplied)

<sup>198</sup> Please see *La Carlota City, Negros Occidental v. Rojo*, G.R. No. 181367, April 24, 2012; The Vice Mayor is the presiding officer of the Sangguniang Panlungsod. The Vice Mayor is a member of the Sangguniang Panlungsod but only votes to break a tie.

<sup>199</sup> R.A. No. 7160. **Section 49. Presiding Officer.** – (a) the vice-governor shall be the presiding officer of the sangguniang panlalawigan; the city vice-mayor, of the sangguniang panlungsod; the municipal vice-mayor, of the sangguniang bayan; and the punong barangay, of the sangguniang barangay. The presiding officer shall vote only to break a tie. (underscoring supplied)

## DECISION

*People. vs. Silang, et al.*  
*Criminal Case No. SB-10-CRM-0234*

Page 29 of 33

x-----x

The votes of accused Addun, Romero, Cuadra, Querubin and Oabel, and the declaration made by accused Rea, separately, could not have caused the passage of Ordinance No. 09-01. However, taken together, the actions of the accused caused the unlawful passage of the said ordinance.

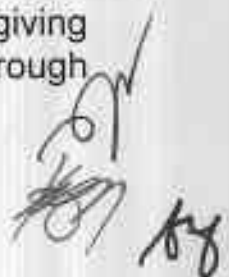
The intent to pass Ordinance No. 09-01, on the part of accused members of the sanggunian, cannot be mistaken. Being members of the Sangguniang Panlungsod, accused Rea, Addun, Romero, Cuadra, Querubin and Oabel were presumed to know, and were duty-bound to know the applicable laws and rules governing the passage of ordinances. They should have known that their votes were not sufficient for the passage of Ordinance No. 09-01, yet none of them objected, or at the very least, raised the issue of the insufficient number of votes, when accused Rea, who was also presumed to know the minimum number of votes required, declared the ordinance unanimously approved. Their act of passing Ordinance No. 09-01 despite not having the required number of affirmative votes appears to have been done with evident bad faith, or at the very least, gross inexcusable negligence.

Although the prosecution failed to convincingly show that accused Silang ordered the members of the Sangguniang Bayan to enact Ordinance No. 09-01, it established that he approved the same regardless of the fact that it was not duly passed by the Sangguniang Panlungsod, and on the basis thereof, caused the release of the amount of ₱19,933,510.00 as CNA incentive. As City Mayor, he is similarly presumed to know the laws and rules governing the passage of ordinances. By approving Ordinance No. 09-01 despite it not being duly passed, he acted with gross inexcusable negligence, at the very least.

In fine, the second element of violation of Sec. 3(e) of R.A. No. 3019 is present as to all accused.

### **Third element**

Violation of Sec. 3(e) of R.A. No. 3019 may be committed by (1) causing undue injury to any party, including the Government; or (2) by giving any private party any unwarranted benefit, advantage or preference. It must be emphasized that the undue injury or the giving of unwarranted benefits must be caused by the acts performed through



DECISION

*People. vs. Silang, et al.*

Criminal Case No. SB-10-CRM-0234

Page 30 of 33

x-----x

manifest partiality, evident bad faith or gross inexcusable negligence.<sup>200</sup>

The Supreme Court's discussion on the phrases "undue injury" and "unwarranted benefit, advantage or preference" in *Cabrera v. Sandiganbayan*<sup>201</sup> is instructive. *Viz.:*

In *Gallego v. Sandiganbayan*, the Court ruled that "unwarranted" means lacking adequate or official support; unjustified; unauthorized; or without justification or adequate reasons. "Advantage" means a more favorable or improved position or condition; benefit or gain of any kind; benefit from course of action. "Preference" signifies priority or higher evaluation or desirability; choice or estimation above another.

x x x

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.

In the present case, it was clearly established that the amount of ₱19,933,510.00 was released on the basis of Ordinance No. 09-01, and that accused Silang caused the release of said amount.

It appears that accused Silang approved Disbursement Voucher No. 101-2009-2-316 over the written objection of the City Accountant. As a result, Development Bank of the Philippines Check No. 28883108, in the amount of ₱19,933,510.00 was issued on February 11, 2009 – the same day Ordinance No. 09-01 was passed and approved. Sometime after the issuance of said check, 151 employees of the City Government of Tayabas each received the amount of ₱132,010.00.

Indubitably, without Ordinance No. 09-01, the amount of ₱19,933,510.00 would not have been released. Thus, the accused' respective acts of passing and approving the subject ordinance caused

<sup>200</sup> *Rivera v. People*, G.R. No. 156577, December 3, 2014

<sup>201</sup> G.R. Nos. 162314-17, October 25, 2004

## DECISION

*People. vs. Silang, et al.*

*Criminal Case No. SB-10-CRM-0234*

Page 31 of 33

x-----x

the unlawful disbursement of public funds. This constitutes undue injury caused to the Local Government of Tayabas.

The release of the amount of ₱19,933,510.00 to the 151 employees of the City Government of Tayabas also constitutes unwarranted benefits given to them. However, the giving of unwarranted benefits to the 151 employees cannot be the basis for conviction because the accused cannot be convicted for an act not alleged in the Information. Here, the Information specifically alleges that unwarranted benefits were given "to the department heads and assistant department heads of the said local government by including them as beneficiaries of the 2009 CNA incentive despite the fact that they are not considered rank and file employees," which implies that the release of said amount *per se* is justified.

True, the department heads and assistant department heads should not have been given the amounts pertaining to them because they were not rank and file employees.<sup>202</sup> But as discussed earlier, the prosecution has established that the amounts given to the 151 employees of the City Government of Tayabas, regardless of position held, caused undue injury to the City Government because the ordinance authorizing the release of the same was not passed and approved in accordance with law.

The accused may be charged for causing either "undue injury" or "the giving of unwarranted benefits" or both. The disjunctive term "or" connotes that either act qualifies as a violation of the offense. The presence of one suffices for conviction.<sup>203</sup>

## CONCLUSION

The prosecution proved beyond reasonable doubt all the elements of violation of Sec. 3(e) of R.A. No. 3019 for all accused.

**WHEREFORE**, accused Faustino A. Silang, Venerando R. Rea, Maria Cielito Zeta-Addun, Luzviminda B. Cuadra, Estelito M. Querubin and Lyka Monika J. Oabel are found **GUILTY** beyond reasonable doubt of violation of Section 3(e) of R.A. No. 3019, and each of them

<sup>202</sup> Department of Budget and Management Budget Circular No. 2006-1 dated February 1, 2006

<sup>203</sup> *Braza v. Sandiganbayan*, G.R. No. 195032, February 20, 2013



DECISION

People vs. Silang, et al.  
Criminal Case No. SB-10-CRM-0234

Page 32 of 33

x ----- x

is accordingly sentenced to suffer the indeterminate penalty of imprisonment of six (6) years and one month, as minimum, to eight (8) years, as maximum, with perpetual disqualification from holding public office.

SO ORDERED.

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


**We Concur:**

  
**KARL B. MIRANDA**  
Associate Justice

  
**BERNELITO R. FERNANDEZ**  
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. Silang, et al.*

*Criminal Case No. SB-10-CRM-0234*

Page 33 of 33

x-----x

**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.

A handwritten signature in black ink, appearing to be a stylized 'M' or similar initials, located to the left of the main signature block.A large, flowing handwritten signature in black ink, which is the signature of Amparo M. Cabotaje-Tang.

**AMPARO M. CABOTAJE-TANG**  
Presiding Justice