



REPUBLIC OF THE PHILIPPINES

**Sandiganbayan
QUEZON CITY**

SEVENTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

Criminal Case No. **SB-11-CRM-0205**

-versus-

**TOMAS N. JOSON III and
EDUARDO BASILIO M. JOSON,**
Accused.

X-----X
PEOPLE OF THE PHILIPPINES,
Plaintiff,

Criminal Case No. **SB-11-CRM-0206**

-versus-

**TOMAS N. JOSON III and AMELIA
A. GAMILLA,**
Accused.

X-----X
PEOPLE OF THE PHILIPPINES,
Plaintiff,

Criminal Case No. **SB-11-CRM-0207**

-versus-

**TOMAS N. JOSON III and
EDUARDO BASILIO M. JOSON,**
Accused.

X-----X
PEOPLE OF THE PHILIPPINES,
Plaintiff,

Criminal Case No. **SB-11-CRM-0208**

Present:

Gomez-Estoesta, J., *Chairperson*
Trespeses, J. and
Hidalgo, J.

-versus-

**TOMAS N. JOSON III and AMELIA
A. GAMILLA,**
Accused.

Promulgated: July 26, 2019 *[Signature]*

[Handwritten mark]

DECISION

GOMEZ-ESTOESTA, J.:

A simple donation of motor vehicles and a Mobile Clinic made by the Provincial Government of Nueva Ecija to two of its component municipalities spurred the filing of the present charges.

Citing considerations for his benevolence and concern for his constituents, then Provincial Governor Tomas N. Joson III executed two Deeds of Donation gratuitously transferring the following properties owned by the Province of Nueva Ecija: one (1) unit of Mobile Clinic, one (1) Toyota Revo, one (1) Ford F-150, and one (1) Nissan Urvan to the Municipality of Quezon, among others, which was accepted by then Mayor Eduardo Basilio M. Joson; and one (1) Nissan Terrano and one (1) Ford Expedition, among others, to the Municipality of Bongabon, which was accepted by then Mayor Amelia A. Gamilla.

Recovery efforts of the properties previously donated by Tomas N. Joson III, however, began as soon as Aurelio M. Umali succeeded as Provincial Governor in 2007. Alleging that the donation essentially crippled the ability of the Umali Administration to render public works and deliver basic services at-large, the initiation of a complaint led to the filing of the present charges.

The Amended Information¹ dated November 25, 2011 in *Criminal Case No. SB-11-CRM-0205 for Violation of Section 3 (e) of Republic Act No 3019* alleged:

That on or about 15 February 2007, or sometime prior or subsequent thereto, in Nueva Ecija, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, **Tomas N. Joson III, Salary Grade 30**, a public officer, being then the Governor of the Provincial Government of Nueva Ecija, committing the offense in the discharge of his official functions, acting, conspiring and confederating with one **Eduardo Basilio M. Joson, Salary Grade 27**, also a public officer being then the Mayor of the Municipality of Quezon, with manifest partiality towards the Municipality of Quezon, with evident bad faith, manifest partiality, or gross inexcusable negligence, did then, and there willfully, unlawfully, and criminally cause undue injury to the Provincial Government of Nueva Ecija and give unwarranted benefit, advantage or preference to the Municipality of Quezon, respondent Tomas N. Joson III committing the offense by donating One (1) unit Mobile Clinic, One (1) unit Toyota Revo, One (1) unit Ford F150 and One (1) unit Nissan Urvan, as evidenced by Deed of Donation dated 15 February 2007, and respondent Eduardo Basilio M. Joson by accepting the same in excess of what is allowed by Resolution No. 37-A, s-2007 passed by the Sangguniang Panlalawigan of Nueva Ecija, Philippines to the prejudice of the Provincial Government of Nueva Ecija to the extent of the value of the said properties. [Emphasis/Underscoring not ours]

CONTRARY TO LAW.

¹ Amended per Order dated June 19, 2014; Records, Vol. 2, p. 157

The Second Amended Information² dated November 3, 2014 pertaining to *Criminal Case No. SB-11-CRM-0206* contained identical allegations, save for the following particulars:

Criminal Case No. SB-11-CRM-0206		
for		
Violation of Section 3 (e) of Republic Act No. 3019		
Name of Accused/Co-Conspirator	Position and/or LGU Involved	Subject of Donation
Amelia A. Gamilla Salary Grade 27	then the Mayor of the Municipality of <u>Bongabon</u>	One (1) unit Nissan Terrano One (1) unit Ford Expedition

The Information dated May 16, 2011 in Criminal Case No. SB-11-CRM-0207 for **Violation of Section 3 (g) of Republic Act No. 3019** stated:

That on or about 15 February 2007, or sometime prior or subsequent thereto, in Nueva Ecija, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, **Tomas N. Joson III, Salary Grade 30**, a public officer, being then the Governor of Provincial Government of Nueva Ecija, did then, and there willfully, unlawfully, and criminally enter on behalf of the Provincial Government of Nueva Ecija into a contract with the Municipality of Quezon as represented by **Eduardo Basilio M. Joson, Salary Grade 27**, also a public officer being then the Mayor of Municipality of Quezon, which was manifestly and grossly disadvantageous to the Provincial Government of Nueva Ecija, by donating One (1) unit Mobile Clinic, One (1) unit Toyota Revo, One (1) unit Ford F150 and One (1) unit Nissan Urvan as evidenced by a Deed of Donation dated 15 February 2007, and accused Eduardo Basilio M. Joson by accepting the same in excess of what is allowed by Resolution No. 37-A, s-2007 passed by the Sangguniang Panlalawigan of Nueva Ecija, acting, conspiring and confederating with one another, committing the offense in the discharge of their official functions and in grave abuse thereof, to the prejudice of the Provincial Government of Nueva Ecija. [Emphasis/Underscoring not ours]

CONTRARY TO LAW.

The Information dated May 16, 2011 pertaining to *Criminal Case No. SB-11-CRM-0208* contained similar allegations, except for the following details:

Criminal Case No. SB-11-CRM-0208		
for		
Violation of Section 3 (g) of Republic Act No. 3019		
Name of Accused/Co-Conspirator	Position and/or LGU Involved	Subject of Donation
Amelia A. Gamilla Salary Grade 27	then the Mayor of the Municipality of Bongabon	One (1) unit Nissan Terrano

² Admitted per Resolution dated January 8, 2015; Records, Vol. 2, p. 323

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		One (1) unit Ford Expedition
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On July 4, 2011, this Court (through the *Fourth Division*) issued a Hold Departure Order against the accused.³

On June 11, 2014, a warrant of arrest was issued only against accused Eduardo Basilio M. Joson⁴ because the following accused had already posted their respective bonds for their provisional liberty:

Name of Accused	Bond Posted
Amelia A. Gamilla	Cash ⁵
Tomas N. Joson III	Cash ⁶

However, the warrant of arrest was subsequently set aside when accused Eduardo Basilio M. Joson posted a cash bond for his provisional liberty.⁷

Upon arraignment, the accused, assisted by their respective counsels, entered a plea of *not guilty* on the following dates:

Name of Accused	Date of Arraignment
Tomas N. Joson III	September 7, 2014 ⁸
Amelia A. Gamilla	October 15, 2014 ⁹
Eduardo Basilio M. Joson	January 12, 2015 ¹⁰

Subsequently, the parties entered into the following stipulations of fact:¹¹

That accused Tomas N. Joson III is the same accused charged in SB-11-CRM-0206 and SB-11-CRM-0208, who held the position Provincial Governor of Nueva Ecija during the time material to the allegations in the Informations;

That accused Amelia A. Gamilla is the same accused charged in SB-11-CRM-0206 and SB-11-CRM-0208, who held the position City Mayor of Bongabon, Nueva Ecija during the time material to the allegations in the Informations;

That accused Eduardo Basilio M. Joson is the same accused charged in SB-11-CRM-0205 and SB-11-CRM-0207, who held the position City

³ Records, Vol. 1, p. 231

⁴ *Id.*, Vol. 2, pp. 146-147

⁵ *Id.*, Vol. 1, p. 234

⁶ *Id.* at 480

⁷ *Id.*, Vol. 2, p. 320

⁸ *Id.* at 249; It should be noted that accused Tomas N. Joson III and Amelia A. Gamilla were re-arraigned in Criminal Case No. SB-11-CRM-0206 due to the filing by the prosecution of an amended Information dated November 3, 2014, to which said accused respectively pleaded not guilty (Records, Vol. 2, pp. 342-343)

⁹ Records, Vol. 2, p. 259

¹⁰ *Id.* at 344

¹¹ Joint Stipulations dated March 12, 2015 (Records, Vol. 3, p. 315, 318)

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Mayor of Quezon, Nueva Ecija during the time material to the allegations in the Informations; [and]

The jurisdiction of the Honorable Court in the instant cases[.]

Pre-trial was terminated on February 26, 2015.

Trial thereafter proceeded.

EVIDENCE FOR THE PROSECUTION

1. **Raymund Garcia Sarmiento** (“**Dr. Sarmiento**”), dentist and resident of Barangay Poblacion, Sto. Domingo, Nueva Ecija.

As former OIC of the Public Affairs and Monitoring Officer of the Provincial Government of Nueva Ecija, Dr. Sarmineto was authorized by then newly-elected Governor Aurelio M. Umali to file charges against accountable officers of the Nueva Ecija Provincial Government through Special Order No. 021, Series of 2008.¹² He thus initiated an *Affidavit of Complaint*¹³ in relation to these cases.

The complaint stemmed from the fact that no available service vehicle could be found in the Provincial Government. At this time, there was no formal turn-over of properties to the new administration. A committee was thus created to conduct a physical inventory of all properties, equipment, and vehicles owned by the Province of Nueva Ecija.¹⁴ The inventory led to the collation of documents such as the acknowledgement receipts and the resolution issued by the Sangguniang Panlalawigan or *Kapasiyahan Blg. 37-A, S. 2007*¹⁵ dated January 22, 2007, which authorized then Governor accused Tomas N. Joson III (“**accused Tomas Joson**”) to donate heavy equipment to the political subdivisions of Nueva Ecija.¹⁶ Also gathered were Deeds of Donation executed by accused Tomas Joson respectively in favor of accused Eduardo Basilio M. Joson¹⁷ (“**accused Eduardo Joson**”), then Municipal Mayor of Quezon, and Amelia A. Gamilla,¹⁸ (“**accused Gamilla**”), then Municipal Mayor of Bongabon, involving the transfer of several units of heavy equipment plus the following vehicles: one Ford F-150, one Nissan Urvan, one Mobile Clinic, one Ford Expedition, one Nissan Terrano, and one Toyota Revo (“**subject vehicles**”).

With the donations made by accused Tomas Joson, the remaining vehicles left with the Province were unserviceable vehicles.¹⁹ Dr. Sarmiento

¹² Exhibit “A-1”

¹³ Exhibit “A”

¹⁴ TSN dated April 11, 2016, pp. 32-33

¹⁵ Exhibit “B”

¹⁶ TSN dated April 11, 2016, pp. 42- 43

¹⁷ Exhibit “E”

¹⁸ Exhibit “D”

¹⁹ TSN dated April 11, 2016, p. 56

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nonetheless revealed that there was no written order which commenced the inventory, nor were the results of the same reduced into writing.²⁰

The Provincial Government then sought to recover the donated vehicles by filing a complaint for recovery of possession²¹ before the Regional Trial Court of Palayan City. Dr. Sarmiento, however, could not recall if said properties have been eventually recovered.²² The Provincial Administrator even wrote a letter to accused Gamilla demanding the return of the vehicles, but to no avail.²³ As an effect of the loss of the use of the heavy equipment and the subject vehicles, the Provincial Government had difficulty delivering basic services to its constituents, especially when several typhoons had hit the Province.²⁴

On cross-examination, Dr. Sarmiento recalled that he assumed his duties as the Public Affairs and Monitoring Officer in August 2007,²⁵ which lasted until December 7, 2015 when he filed his bid for vice-governor.²⁶ He was unaware of the reason for the passing of *Kapasiyahan Blg. 37-A, S. 2007*, which has not been revoked by the Sangguniang Panlalawigan.²⁷

Although Special Order No. 21 issued by Governor Umali made no mention of specific names against whom cases should be filed, it particularly referred to accused Tomas N. Josen III.²⁸ Dr. Sarmiento remembered that two cases had been filed against him, one of which was a case for replevin, and the other involved a complaint for the non-remittance of Government Service Insurance System premium, the latter of which had been dismissed.²⁹ The Special Order was not signed by Governor Umali in his presence, but the signature therein was identical to the usual signature of Governor Umali reflected in other documents.³⁰

Dr. Sarmiento was not the complainant in the case for replevin, which case was made part of the complaint that was filed before the Office of the Ombudsman.³¹ He reiterated that the loss of the donated vehicles belonging to the Provincial Government hampered the effective delivery of basic services, such as the repair and rehabilitation of roads.³² This was so because the Province of Nueva Ecija covers a large tract of land of about 550,000 hectares, and without vehicles, one could not inspect all the subdivisions thereof.³³

²⁰ *Id.* at 59-60

²¹ Exhibit "J"

²² TSN dated April 11, 2016, p. 68

²³ *Ibid.*

²⁴ *Id.* at 69

²⁵ *Id.* at 75

²⁶ *Id.* at 80

²⁷ *Id.* at 75-77

²⁸ *Id.* at 84

²⁹ *Id.* at 85

³⁰ *Id.* at 88

³¹ *Id.* at 90-91

³² *Id.* at 91

³³ *Id.* at 92

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2. **Jaime P. Pallanan** (“**Pallanan**”), former Provincial Administrator of Nueva Ecija from July 2007 until October 31, 2007.

Before the witness could testify, the parties stipulated on the following matters: the existence of a Demand Letter³⁴ dated July 30, 2007 addressed to accused Gamilla pertaining to the return of one Nissan Terrano and one Ford Expedition;³⁵ and that said Letter was received by Liza Angeles.³⁶

Pallanan testified that, sometime in July or August 2007, Governor Umali instructed the formation of a committee composed of the Provincial General Services Office (“**PGSO**”), the Legal Office, and the Civilian Security Unit (“**CSU**”), whose objective was to conduct an inventory of all heavy equipment and vehicles owned by the Provincial Government.³⁷ The PGSO and CSU conducted the inventory, but Pallanan could no longer remember if the result of the inventory was reduced into writing.³⁸ Based on this action, the witness learned from reports made by the CSU that some of the subject vehicles were in the personal possession of accused Gamilla.³⁹

After meeting all department heads concerned, it was agreed that there be one committee to locate and make an inventory of the heavy equipment or luxury cars owned by the Provincial Government. For his part as the Provincial Administrator, Pallanan issued a demand letter addressed to Gamilla to return the vehicles in her custody, and instructed the Chief of the CSU to serve the same to the latter.⁴⁰ Even after the service of said letter, the vehicles had not been recovered, and as such, the Legal Office opined that a complaint should be filed to recover the same.⁴¹

On cross-examination, Pallanan averred that the committee of the department heads was created based on a written order, but later on, he clarified that the meeting of the department heads was verbally called.⁴²

While Pallanan himself did not conduct the inventory, the heads of the CSU and the GSO went to the Municipality of Bongabon and Quezon to check in whose custody the subject vehicles were held.⁴³ Pallanan admitted that he did not personally see the Ford Expedition and Nissan Terrano in the possession of accused Gamilla.⁴⁴ The report by the Chief of the CSU that the subject vehicles were in the personal possession of accused Gamilla was not reduced into writing.⁴⁵

Aside from the subject vehicles, Pallanan knew of other heavy equipment that went missing, such as a dump truck.⁴⁶ These missing

³⁴ Exhibit “DD”

³⁵ TSN dated July 12, 2016, p. 10

³⁶ *Id.* at 14

³⁷ *Id.* at 20

³⁸ *Id.* at 23

³⁹ *Id.* at 27

⁴⁰ *Id.* at 22

⁴¹ *Id.* at 32-33

⁴² *Id.* at 37-40, 46

⁴³ *Id.* at 41

⁴⁴ *Id.* at 42

⁴⁵ *Id.* at 45

⁴⁶ *Id.* at 43

- One (1) unit Toyota Revo
- One (1) unit Ford [F-]150
- One (1) unit Nissan Urvan

5. That the donees received the vehicles subject of the donations;

6. xxx xxx xxx;

7. xxx xxx xxx;

8. The donation was made on February 15, 2007 or only a few months before the 2007 national and local election and accused Governor Tomas Joson III was then about to end his last term as Provincial Governor of Nueva Ecija;

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Among his other tasks, Cerdeñas was responsible for preparing inventory papers and obtaining appraisal documents from the Commission on Audit (“COA”). He asseverated that the standard procedure in donating properties owned by the Provincial Government to the local government units (“LGUs”) of Nueva Ecija was to secure a resolution issued by the Sangguniang Panlalawigan authorizing the donation sought to be made. Further, there must have been submitted an appraisal report, which function was to prove that the equipment or property sought to be donated was no longer utilized by the donor, after which the donation itself would then follow.⁵⁰

The basis of the donation made by accused Tomas Joson was *Kapasiyahan Blg. 37-A, S. 2007*, which specifically involved heavy equipment.⁵¹ Since service vehicles were in fact donated by accused Tomas Joson in favor of the donees, a case for *Recovery of Possession with Prayer for Issuance of Writ of Replevin*⁵² was filed before the Regional Trial Court of Palayan City, Branch 40, to recover the vehicles.⁵³ At the time of the donation of the subject vehicles, the same were in-use by the Provincial Government.⁵⁴

On cross-examination, Cerdeñas did not remember when the donations were made, and he admitted that the complaint for replevin was filed at the instance of Governor Umali.⁵⁵ Cerdeñas had no participation during the deliberation of *Kapasiyahan Blg. 37-A, S. 2007*.⁵⁶ He revealed that there was an aggregate of 24 vehicles that was donated in favor of the Municipality of

⁵⁰ TSN dated October 3, 2016, p. 5

⁵¹ *Id.* at 6

⁵² Exhibit “J”

⁵³ TSN dated October 3, 2016, p. 8

⁵⁴ *Id.* at 9

⁵⁵ *Id.* at 10

⁵⁶ *Id.* at 11

Quezon, Nueva Ecija,⁵⁷ whose basis was said Resolution issued by the Sangguniang Panlalawigan.

4. **Severiano Tinio Embuscado**, Supervising Administrative Officer/Records Officer IV, Provincial General Services Office, Provincial Government of Nueva Ecija.

Before the witness could testify, the parties stipulated on the genuineness and due execution of Exhibit "B"⁵⁸ or the *Sangguniang Panlalawigan* resolution denominated as *Kapasiyahan Blg. 37-A, s-2007*. The stipulation covered the fact that said witness could identify the following exhibits, which were in his custody in his capacity as the custodian thereof:⁵⁹

"B" et seq.	<i>Kapasiyahan Blg. 37-A, S. 2007</i> dated January 22, 2007
"C" ⁶⁰	Deed of Donation dated February 15, 2007
"C-1" ⁶¹	Invoice Receipt for Property
"C-2" ⁶²	Acknowledgement Receipt signed by Jose Pocholo Dizon
"D"	Deed of Donation dated February 15, 2007
"D-1"	Invoice Receipt for Property
"D-2" et seq.	Acknowledgement Receipt signed by accused Amelia Gamilla
"E"	Deed of Donation dated February 15, 2007
"E-1"	Invoice Receipt for Property (undated)
"E-2" et seq.	Acknowledgement Receipt signed by accused Eduardo Joson
"F" ⁶³	Deed of Donation dated February 19, 2007
"F-1" ⁶⁴	Invoice Receipt for Property
"F-2" ⁶⁵	Acknowledgement Receipt signed by Marvin Martin
"G" ⁶⁶	Invoice Receipt for Property

With these admissions, the presentation of the witness was dispensed with.

5. **Catherine Valdez Nad**, Legal Researcher of the Regional Trial Court of Palayan City, Nueva Ecija, Branch 40.

Before this witness could testify, the parties entered into the following stipulations:⁶⁷

Exhibit	Description	Stipulations
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⁵⁷ TSN dated February 7, 2017, p. 7

⁵⁸ TSN dated April 11, 2016, pp. 12-13

⁵⁹ *Id.* at 16, 18, 20-21

⁶⁰ Not included in the *Consolidated Formal Offer of Evidence*

⁶¹ *Ibid.*

⁶² *Ibid.*

⁶³ *Ibid.*

⁶⁴ *Ibid.*

⁶⁵ *Ibid.*

⁶⁶ *Ibid.*

⁶⁷ TSN dated July 11, 2016, pp. 7-8, 9, 10, 11-12; Order dated July 11, 2016 (Records, Vol. 2, pp. 143-144)

"J"	Complaint dated August 21, 2007 for Recovery of Possession with Prayer for the Issuance of Writ of Replevin	Faithful reproduction of its original
"K"	Writ of Replevin issued by RTC Branch 40, Palayan City	-same-
"L"	Return of Service of Summons	-same-
"M"	Omnibus Motion to Annul the Replevin Bond to Quash with Writ of Replevin to Order the Return of the Seized Vehicles dated November 10, 2007	-same-
-	-	The fact that Civil Case No. 0485-P is still pending in Branch 40 of Palayan City

With the afore-cited stipulations, the testimony of the witness was likewise dispensed with.

6. Armando Ecer Jose Veron, State Auditor of the Commission on Audit ("COA"), former Team Leader assigned to the Provincial Account of Nueva Ecija from 2004 to February 2008.

Before this witness could give his testimony, the following stipulations were agreed upon by the parties: the witness is the State Auditor IV or Team Leader of the audit team assigned to the Provincial Account of Nueva Ecija from 2004 to 2008;⁶⁸ and following the audit of the Province of Nueva Ecija in 2007, he prepared the Annual Audit Report for the year ended 2007.⁶⁹

The Annual Audit Report revealed in part:

DETAILED FINDINGS AND RECOMMENDATIONS

FINANCIAL AND COMPLIANCE

- 1. Physical existence and validity of Property, Plant and Equipment totaling P1,555,643,122.14 were doubtful due to failure of the agency to complete the physical count of assets.**

Again, despite the assurance given by the management regarding its compliance to last year's audit recommendation to complete physical inventory taking of its Property, Plant and Equipment as well as the inventory report submitted, they were not able again to complete the same. It was learned that per accounting records, there were still completed infrastructure projects, purchased heavy equipment and land not included in their reports. Also, no amount was indicated on some equipment listed in the inventory report.

⁶⁸ TSN dated February 7, 2017, pp. 19-20

⁶⁹ *Id.* at 20-21

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Moreover, the donated heavy equipment and service vehicles were not yet dropped from the book of accounts thereby overstating the fixed assets accounts and the government equity accounts of the agency for reason that the necessary donation papers and dropping reports of the Provincial General Services Office were not yet prepared due to pending case filed by the new governor. The list of subject donated equipment and vehicles are shown in Annex "C-2" hereof.

The new Governor ordered to form an Asset Management Committee who shall primary (sic) handle the physical inventory of all assets of the provincial government and reconcile existing records including setting up of accurate database for properties, likewise, dropping from the books of the donated heavy equipment and service vehicle[s] by former governor could not be done since the legality of the donations was questioned in proper courts. [Emphasis not ours]

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With these stipulations, the presentation of said witness also dispensed with.

7. Teresita Estillore Tadique ("Tadique"), State Auditor III, Team Member of the COA audit team assigned to the Provincial Account of Nueva Ecija.

Before the witness could begin her testimony, the parties stipulated that she was the State Auditor III assigned to Provincial Account of Nueva Ecija in 2007.⁷⁰

Tadique revealed that she only assisted in the preparation of the Annual Audit Report for the year ending December 31, 2007, being one of the 5 members (including the team leader) of the COA audit team.⁷¹ She then identified her signature on the certified photocopy of the original of said Report.⁷²

On cross-examination, Tadique affirmed that she was not the official custodian of the Annual Audit Report for the year ended 2007 of the Province of Nueva Ecija, and that the extent of her participation was to prepare a list of donated properties, which list was obtained from the GSO.⁷³

8. Mary Ann Santos Regalado, State Auditor IV and team leader of the COA Audit Team of the Provincial Account of Nueva Ecija from May 2015 up to the present.

Before the witness could testify, the following matters were the subject of stipulation by the parties: from May 2015 up to the present, she has been assigned as State Auditor IV and Team Leader of the COA audit team of the Provincial Account of Nueva Ecija; she was the authorized custodian of all the COA documents pertaining to the account of the Province of Nueva Ecija

⁷⁰ *Id.* at 40

⁷¹ *Id.* at 44; Exhibit "EE-1"

⁷² TSN dated February 7, 2017, p. 46

⁷³ *Id.* at 52, 54-55

since they have no administrative staff/records officer in the audited agency; being the authorized custodian of all the COA documents pertaining to the account of the Province of Nueva Ecija, she can identify the Annual Audit Report on said Province for the year ended 2007.⁷⁴

With these admissions, the presentation of the witness was dispensed with.

After the presentation of its witnesses, the prosecution formally offered the exhibits listed below:⁷⁵

Exhibit	Description
"A"	"Affidavit of Complaint" dated February 19, 2008
"A-1" and "A-2"	Special Order No. 021 dated February 11, 2008
"B" et seq.	<i>Kapasiyahan Blg. 37-A, S. 2007</i> dated January 22, 2007
"D"	Deed of Donation dated February 15, 2007
"D-1"	Invoice Receipt for Property (undated)
"D-2" et seq.	Acknowledgement Receipt signed by accused Gamilla
"E"	Deed of Donation dated February 15, 2007
"E-1"	Invoice Receipt for Property (undated)
"E-2" et seq.	Acknowledgement Receipt signed by accused Eduardo Joson
"J"	Civil Complaint dated August 21, 2007
"K"	Writ of Replevin dated October 2, 2007
"L"	Return of Service of Summons with Partial Report
"M"	Omnibus Motion to Annul the Replevin Bond, To Quash/Lift Writ of Replevin and to Order the Return of the Seized Vehicles dated November 10, 2007
"V"	Service Record of accused Tomas Joson
"V-1"	Personal Data Sheet of accused Tomas Joson
"W"	Service Record dated September 3, 2015 of accused Eduardo Joson
"W-1"	Service Record dated August 11, 2004 of accused Eduardo Joson
"X"	Personal Data Sheet of accused Gamilla
"X-3"	Service Record of accused Gamilla
"AA"	SALN for the Year 2006 of accused Tomas Joson
"BB" and "BB-1"	SALN for Year 2006 of accused Eduardo Joson
"CC" to "CC-3"	SALN for the Years 2004-2007 of accused Gamilla
"DD"	Demand Letter dated July 30, 2007
"EE"	Detailed Findings and Recommendations, page 15 of the Annual Audit Report on the Province of Nueva Ecija for the Year Ended 2007
"EE-1"	Annual Audit Report on the Province of Nueva Ecija for the Year Ended 2007
"EE-2" to "EE-3"	List of Donated Properties for the Province of Nueva Ecija (Annex C-2 of the Annual Audit Report)
"FF" to "HH"	Certified List of Elected Provincial Candidates

⁷⁴ Prosecution's Request for Admission dated February 16, 2017; Accused Eduardo Basilio M. Joson's Comment dated February 28, 2017; Accused Tomas N. Joson III's Comment dated March 1, 2017; Accused Amelia Gamilla's Compliance dated February 28, 2017.

⁷⁵ Prosecution's Consolidated Formal Offer of Evidence (Records, Vol. 3, pp. 337-356)

et seq.

In a Resolution⁷⁶ dated May 18, 2017, the Court admitted the above-enumerated prosecutions exhibits, with the sole exception of Exhibit “DD” for violation of the best evidence rule.

Thereafter, the accused respectively filed motions for leave to file demurrer to evidence, but the Court denied the same in a Resolution dated June 22, 2017.⁷⁷

EVIDENCE FOR THE DEFENSE

The defense presented the following witnesses, all of whom were former members of the Sangguniang Panlalawigan of Nueva Ecija, who participated in the passage of *Kapasiyahan Blg. 37-A, S. 2007*:

1. Allan Xystus A. Gamilla (“Allan Gamilla”).

In his Judicial Affidavit dated August 29, 2017⁷⁸, Allan Gamilla recalled that he became an ex-officio member of the Sangguniang Panlalawigan of Nueva Ecija as he was a Councilor in the Municipality of Bongabon, Nueva Ecija in 2007, and he was elected as President of the Philippine Councilor’s League of Nueva Ecija.

Allan Gamilla, along with the other members of the Sangguniang Panlalawigan, signed *Kapasiyahan Blg. 37-A, S. 2007*, which gave authority to accused Tomas Joson to donate heavy equipment *and* other properties owned by the Provincial Government to the political subdivisions of Nueva Ecija.⁷⁹ This Resolution was enacted pursuant to the requests of the Municipalities of Quezon, San Leonardo, Bongabon, Guimba, and Talugtug, to be given heavy equipment to be used for infrastructure projects in their respective jurisdictions. It was the intent of the Sangguniang Panlalawigan to give accused Tomas Joson sufficient discretion and authority to donate heavy equipment and other properties so that the recipient towns could use the same in delivering public service.⁸⁰ Accused Tomas Joson was in a better position to determine what equipment and other properties should be donated.

After learning of the donation of the subject vehicles and equipment, the Sangguniang Panlalawigan did not take any action because they believed the donations made by accused Tomas Joson to be reasonable and consistent with the authority conferred upon him.⁸¹

⁷⁶ Records, Vol. 4, pp. 39-40

⁷⁷ *Id.* at 86-88

⁷⁸ *Id.* at 99-103

⁷⁹ *Id.* at 100

⁸⁰ *Id.* at 101

⁸¹ *Id.* at 102

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On cross-examination, Allan Gamilla disclosed that he is the son of accused Gamilla. He affirmed the contents of his Judicial Affidavit, attached to which was only the first page of *Kapasiyahan Blg. 37-A, S. 2007*.⁸²

In the Whereas Clause of said Resolution, the second paragraph thereof, “heavy equipment” was intended to refer to heavy-duty vehicles especially designed for executing construction tasks involving earthwork operations, as opposed to luxury vehicles, which included: heavy trucks, construction, engineering, tractors, bulldozers, graders, excavators, backhoes, truck loaders, cement mixers, dump trucks.⁸³ The Sangguniang Panlalawigan specifically stated “heavy equipment” in its Resolution because the Municipalities needed the same for infrastructure projects, and the vehicles mentioned intended to aid in the construction thereof.⁸⁴ Allan Gamilla clarified that the Mobile Clinic was a truck built with equipment or facilities that would enable it to function as such. He thus admitted that it could not be used in the making of roads and irrigation or other infrastructure projects.⁸⁵ In the same vein, the Toyota Revo, the Ford F-150, the Nissan Urvan, the Nissan Terrano, and the Ford Expedition were all incapable of undertaking similar construction works.⁸⁶

Allan Gamilla was aware of the government policy regarding the disposal of properties.⁸⁷ Before *Kapasiyahan Blg. 37-A, S. 2007* was enacted, he has not seen an inventory of vehicles that was marked for donation.⁸⁸

On re-direct examination, Allan Gamilla reiterated that the intent of *Kapasiyahan Blg. 37-A, S. 2007* was not only to give authority to accused Tomas Joson to donate heavy equipment, but also “other properties” based on the third paragraph thereof, viz:⁸⁹

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KAPASIYAHAN BLG. 37-A, s-2007

YAYAMANG, isa sa mga pangunahing isinusulong ng Pamahalaang Panlalawigan ay ang mga proyektong pang-imprastaktura sa pakikipagtulungan ng mga Pamahalaang Bayan at Lungsod sa lalawigan;

YAYAMANG, ang mga bayan ng Quezon, San. (sic) Leonardo, Bongabon, Guimba, at Talugtug ay naghain ng kahilingan upang sila ay mabigyan ng mga “heavy equipment,” sa pamamagitan ng donasyon, upang magamit ng kanilang bayan sa pagsasa-ayos at/o’ pagpapagawa ng mga lansangan, daang patubig at iba pang mga imprastrakturang Gawain;

YAYAMANG, mas magiging malawak at marami ang mga proyektong magagawa kung kasabay ng mga imprastrakturang proyekto ng Pamahalaang Panlalawigan, ay nagsasagawa rin ang mga nabanggit na

⁸² TSN dated September 4, 2017, pp. 14-16

⁸³ *Id.* at 17-20

⁸⁴ *Id.* at 20

⁸⁵ *Id.* at 20-21

⁸⁶ *Id.* at 21-23

⁸⁷ *Id.* at 24

⁸⁸ *Id.* at 26-28

⁸⁹ *Id.* at 30, 32

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bayan, sa tulong ng mga heavy equipment at iba pang kagamitang ipagkakaloob ng Pamahalaang Panlalawigan; [Emphasis supplied]

XXX XXX XXX

Allan Gamilla remembered a prior instance in which the Provincial Government had disposed of unserviceable properties, but these were not done during his term as a Member of the Sangguniang Panlalawigan.⁹⁰ He also related that, in approving *Kapasiyahan Blg. 37-A, S. 2007*, he intended that the same would include serviceable properties.⁹¹

2. **Leonardo Dela Cruz Garcia (“Garcia”)**, Vice-Mayor of Guimba, Nueva Ecija.

Garcia corroborated that the intent of the Sangguniang Panlalawigan was to broadly give equipment for the benefit of the constituents, and that accused Tomas Joson was to be given the authority and discretion to decide what specific equipment should be distributed to the specific towns.⁹² Garcia mentioned that only those Municipalities who had submitted a request for equipment, through their respective Sangguniang Bayan, were covered by the Resolution.⁹³

Garcia believed that the donations made by accused Tomas Joson were within the scope of *Kapasiyahan Blg. 37-A, S. 2007*, under the third paragraph of the Whereas Clause thereof.⁹⁴ He knew for a fact that the subject vehicles were actually donated to the recipient Municipalities because he would see the Mobile Clinic and other vehicles whenever he went around in Quezon.⁹⁵

Then, Garcia identified an Affidavit dated July 25, 2011⁹⁶ which was signed by him and several other former members of the Sangguniang Panlalawigan.

⁹⁰ *Id.* at 40

⁹¹ *Ibid.*

⁹² TSN dated September 5, 2017, p. 17

⁹³ *Id.* at 18

⁹⁴ *Id.* at 21; The third paragraph of the Whereas Clause of *Kapasiyahan Blg. 37-A, S. 2007* read:

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KAPASIYAHAN BLG. 37-A, s-2007

YAYAMANG, isa sa mga pangunahing isinusulong ng Pamahalaang Panlalawigan ay ang mga proyektong pang-imprastaktura sa pakikipagtulungan ng mga Pamahalaang Bayan at Lungsod sa lalawigan;

YAYAMANG, ang mga bayan ng Quezon, San. (sic) Leonardo, Bongabon, Guimba, at Talugtug ay naghain ng kahilingan upang sila ay mabigyan ng mga “heavy equipment,” sa pamamagitan ng donasyon, upang magamit ng kanilang bayan sa pagsasa-ayos at/o’ pagpapagawa ng mga lansangan, daang patubig at iba pang mga imprastrakturang Gawain;

YAYAMANG, mas magiging malawak at marami ang mga proyektong magagawa kung kasabay ng mga imprastrakturang proyekto ng Pamahalaang Panlalawigan, ay nagsasagawa rin ang mga nabanggit na bayan, sa tulong ng mga heavy equipment at iba pang kagamitang ipagkakaloob ng Pamahalaang Panlalawigan;

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⁹⁵ TSN dated September 5, 2017, p. 18

⁹⁶ Exhibit “4”

On cross-examination, Garcia expounded that the recipient Municipalities had requested for heavy equipment and other equipment.⁹⁷ *Kapasiyahan Blg. 37-A, S. 2007* did not precisely mention which equipment would be the subject of the donation.⁹⁸

On re-direct examination, Garcia explained that the intent of the Sangguniang Panlalawigan was to include heavy equipment *and* other equipment, which had been requested by the recipient Municipalities.⁹⁹

Upon being questioned as to the discussion of the Sangguniang Panlalawigan leading up to the enactment of *Kapasiyahan Blg. 37-A, S. 2007*, Garcia disclosed that it was not debated whether the equipment to be donated should be serviceable or unserviceable; the discretion would lie with accused Tomas Joson as then Governor.¹⁰⁰

3. Edward Thomas F. Joson (“Edward Thomas Joson”), former Vice Governor of Nueva Ecija from 2007 to 2010.

In his Judicial Affidavit dated September 26, 2017¹⁰¹, Edward Thomas Joson corroborated that the Sangguniang Panlalawigan did not revoke the donations made by accused Tomas Joson because it opined that the same were reasonable and in accordance with the stipulations of *Kapasiyahan Blg. 37-A, S. 2007*. He then identified his Affidavit dated July 25, 2011 which he signed along with the other former members of the Sangguniang Panlalawigan.¹⁰²

Edward Thomas Joson admitted that he is the son of accused Tomas Joson. The donations made by accused Tomas Joson were made prior to the 2007 Election. Since he was elected Vice Governor in 2007, his term as a member of the Sangguniang Panlalawigan ended in June of even year, and as such, he could not have participated in the passage of any resolution that would have revoked *Kapasiyahan Blg. 37-A, S. 2007*.¹⁰³ He stated that he was unaware if Governor Umali, who succeeded accused Tomas Joson as Governor of Nueva Ecija, filed actions to recover the equipment subject of the donations.¹⁰⁴

In his answers to clarificatory questions from the Court, Edward Thomas Joson stated that there had not been a committee created to inventory the existing equipment of the Provincial Government, the intent of which would be to determine which properties could be donated. He averred that proper administrative procedure was followed in the making of the donations.¹⁰⁵ The GSO officials and the provincial engineer were entrusted to choose which vehicles would be the subject of donation. At the time of *Kapasiyahan Blg. 37-A, S. 2007* was issued, he corroborated the notion that the intent was to include standard vehicles aside from heavy equipment

⁹⁷ TSN dated September 5, 2017, pp. 24-25

⁹⁸ *Id.* at 27

⁹⁹ *Id.* at 32

¹⁰⁰ *Id.* at 33-35

¹⁰¹ Records, Vol. 4, pp. 129-133

¹⁰² Exhibit “2”

¹⁰³ TSN dated October 9, 2017, p. 18

¹⁰⁴ *Id.* at 25

¹⁰⁵ *Id.* at 28

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because infrastructure projects would also need support vehicles.¹⁰⁶ Furthermore, Edward Thomas Joson admitted that well-functioning vehicles could be the subject of donation as long as the infrastructure project would be fulfilled.¹⁰⁷

4. **Bella Aurora A. Dulay (“Dulay”)**, former Member of the Sangguniang Panlalawigan, Nueva Ecija.

In her undated Judicial Affidavit,¹⁰⁸ Dulay corroborated the statements of the other defense witnesses that *Kapasiyahan Blg. 37-A, S. 2007* was enacted to aid in the rendering of infrastructure projects in the recipient Municipalities, but that no specific equipment was named because accused Tomas Joson was in a better position which particular equipment should be donated. She reiterated the sentiment that the donations made by accused Tomas Joson were within the scope of said Resolution because none of the donations had been revoked by the Sangguniang Panlalawigan. Dulay then identified her signature in the Affidavit dated July 25, 2011 along with the other former members of the Sangguniang Panlalawigan.

5. **Cesar V. Cucio** and

6. **Jose Bernardo V. Yango**, whose intended testimonies were stipulated that:¹⁰⁹ if Cesar V. Cucio and Jose Bernardo V. Yango would be presented before the Court, they would testify in the same tenor as that of Bella Aurora Dulay.

With this stipulation, the presentation of said intended witnesses was dispensed with.

7. **Accused Tomas N. Joson III (“accused Tomas Joson”)**, former Provincial Governor of Nueva Ecija whose last term ended on June 30, 2007.

In his Judicial Affidavit dated August 31, 2017,¹¹⁰ Tomas Joson recalled having executed Deeds of Donations in 2007 which involved heavy equipment and some vehicles in favor of the Municipality of Quezon through accused Eduardo Joson, the Municipality of Bongabon through accused Gamilla, the Municipality of Guimba through Mayor Jose Pocholo Dizon, and the Municipality of San Leonardo through Mayor Marvin Martin. These donations were made on the basis of *Kapasiyahan Blg. 37-A, S. 2007*.¹¹¹

As additional proof of his authority to donate was the Affidavit dated July 25, 2011¹¹² executed by former Sangguniang Panlalawigan Members Edward Thomas Joson, Bella Aurora Dulay, Allan Gamilla, Cesar Cucio, Jose Bernardo Yango, Cesar Eduardo, Leonardo Garcia, and Mark Alvin Diaz. The Affidavit dated August 10, 2011¹¹³ of former Sangguniang Panlalawigan

¹⁰⁶ *Ibid.*

¹⁰⁷ *Id.* at 29

¹⁰⁸ Records, Vol. 4, pp. 123-128

¹⁰⁹ TSN dated October 10, 2017, pp. 18-19

¹¹⁰ Records, Vol. 4, pp. 176-182

¹¹¹ Exhibit “5”

¹¹² Exhibit “8”

¹¹³ Exhibit “8-a”

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Member Mark Alvin Diaz also affirmed his authority to donate heavy equipment, other motor vehicles, and mobile clinic.

After the donations were accomplished, the 2007 Elections soon followed, in which Aurelio M. Umali emerged as the winner for the gubernatorial seat. Accused Tomas Joson was subsequently surprised when Dr. Sarmiento, pursuant to the instructions of Governor Umali, filed a complaint against him, including all the Sangguniang Panlalawigan members, and the donee-mayors before the Office of the Ombudsman. Accused Tomas Joson answered by filing his counter-affidavit.¹¹⁴ Eventually, all the charges against the Sangguniang Panlalawigan Members, Mayors Dizon and Martin, were dismissed, but probable cause was found to indict the accused.

Upon receiving notice of the Office of the Ombudsman's Resolution finding probable cause to indict him in the present charges, accused Tomas Joson filed a motion for reconsideration. Later on, he learned that the Office of the Special Prosecutor had recommended the reversal of the Resolution finding probable cause, recommending the dismissal of the criminal cases against the accused herein, and the withdrawal of the Information already filed before this Court. Accused Tomas Joson averred that the findings of the Office of the Special Prosecutor were contained in the Memorandum dated September 1, 2011.¹¹⁵

Accused Tomas Joson disputed the charges because the *Kapasiyahan Blg. 37-A, S. 2007* authorized him to donate "*iba pang mga kagamitan*" to the Municipalities. He had even asked the Sangguniang Panlalawigan if he could donate vehicles together with the heavy-duty vehicles, to which he was told that he had been given sufficient discretion to decide what properties would be conveyed. After the donations were made, the Sangguniang Panlalawigan approved of the same, and accused Tomas Joson believed it was unfair to charge him with a crime on the basis of his generosity to his constituents.

Accused Tomas Joson underscored that there were no political undertones behind the donations. The donated vehicles had substantially depreciated, and the donations helped to facilitate the delivery of basic services within the Province.

On cross-examination, accused Tomas Joson communicated that he understood the wordings and tenor of *Kapasiyahan Blg. 37-A, S. 2007*.¹¹⁶ He believed that the terms of said Resolution limited his power to donate properties, and that he may not go beyond the mandate conferred by the Sangguniang Panlalawigan.¹¹⁷ Accused Tomas Joson opined that he could not make a donation to other Municipalities not named in the Resolution.¹¹⁸

Kapasiyahan Blg. 37-A, S. 2007 was limited to the three purposes, which were: (1) *pagsasaayos* or *pagpapagawa ng lansangan*, (2) *daang*

¹¹⁴ Exhibit "9"

¹¹⁵ Exhibit "10"

¹¹⁶ TSN dated February 5, 2018, p. 26

¹¹⁷ *Id.* at 28-30.

¹¹⁸ *Id.* at 32

*patubig, pagsasaayos or pagpapagawa ng daang patubig, and (3) iba pang imprastrakturang gawain.*¹¹⁹ Accused Tomas Joson agreed that gravel and cement could not be loaded onto a mobile clinic vehicle, neither could construction materials be loaded onto a Ford F-150.¹²⁰ He admitted that donating the F150 was not in-line with the three purposes in the *Kapasiyahan Blg. 37-A, S. 2007.*¹²¹ Accused Tomas Joson was not aware of any authority which had declared the Ford Expedition as unserviceable.¹²²

Regarding the Memorandum of the Office of the Special Prosecutor, accused Tomas Joson admitted that he received a copy from the Law Office of Asuncion Padilla, from Atty. Ed Asuncion.¹²³

On re-direct examination, accused Tomas Joson believed that the Sangguniang Panlalawigan gave him the authority to donate other properties based on the wordings of *Kapasiyahan Blg. 37-A, S. 2007.*¹²⁴

When asked on re-cross examination if he believed that he could donate anything under the phrase "*iba pang kagamitang ipinagkaloob ng Pamahalang Panlalawigan,*" accused Tomas Joson replied in the affirmative.¹²⁵

In responding to clarificatory questions propounded by the Court, accused Tomas Joson said that he had made other donations on the basis of the Resolution, such as batching plants to the Municipalities of Guimba and San Leonardo, and two dump trucks to the Municipality of Bongabon, but the other Municipalities could not receive any donations due to non-availability of other vehicles at the time of the donation.¹²⁶ For instance, the Municipality of Talugtug also made a request, but no donation was made thereto.¹²⁷

Accused Tomas Joson described the procedure he followed in the donation of the Provincial Government's properties as follows: there would be a request, then he would deliver it to the Sangguniang Panlalawigan for their action, and after seeing the Resolution of the Sangguniang Panlalawigan, he would simply take action.¹²⁸

While accused Tomas Joson claimed that he initiated an inventory of properties before the donations were made, and that there were available dump trucks, loaders, graders, bulldozers, said inventory was never presented in court.¹²⁹

When accused Tomas Joson was questioned about the disparity as to why there were three Elf series vehicles, one Nissan Terrano and two Ford

¹¹⁹ *Id.* at 38

¹²⁰ *Id.* at 39-40

¹²¹ *Id.* at 42

¹²² *Id.* at 43

¹²³ *Id.* at 54

¹²⁴ *Id.* at 55

¹²⁵ *Id.* at 60

¹²⁶ *Id.* at 61-63

¹²⁷ *Id.* at 62

¹²⁸ *Id.* at 64-65

¹²⁹ *Id.* at 66-67

vehicles, whereas no vehicles had been transferred to the Municipality of Talugtog, he stated that if they asked for it, he made it available.¹³⁰

Upon the conclusion of accused Tomas Joson's testimony, both accused Eduardo Joson and Gamilla opted not to testify in their own behalf.

After the presentation of its evidence, the accused jointly offered the following exhibits:¹³¹

Exhibit	Description
"1", "5", and "11"	<i>Kapasiyahan Blg. 37-A, S. 2007</i>
"2"	Deed of Donation dated February 15, 2007
"3" et seq.	Joint Counter-Affidavit dated November 11, 2008 of accused Eduardo Joson and Gamilla, et al.
"4", "8," and "12" et seq.	Affidavit dated July 25, 2011 of Edward Thomas Joson, Dulay, Garcia, Allan Gamilla, Cesar Cucio, Jose Bernardo Yango, and Cesar Eduardo
"8-a"	Affidavit dated August 10, 2011 of Mark Alvin Diaz
"9"	Counter-Affidavit dated November 17, 2008 of accused Tomas Joson
"9-a"	Signature of accused Tomas Joson
"10"	Memorandum dated September 1, 2011 of the Office of the Special Prosecutor, Office of the Ombudsman

In a Resolution¹³² dated May 29, 2018 the Court admitted the offered exhibits *save for* Exhibits "3" et seq., "8-a", and "10."

REBUTTAL EVIDENCE

Two witnesses were presented by the prosecution in its presentation of rebuttal evidence, namely:

1. **Teresita Palang Mañalac** ("Mañalac"), Officer-in-Charge of the Municipal Treasurer's Office, Bongabon, Nueva Ecija since 2007.

In her Judicial Affidavit dated August 24, 2018¹³³, Mañalac could not recall any donations of equipment from the Provincial Government to the Municipality of Bongabon.

On July 13, 2018, Mañalac revealed that two vehicles towing a Ford Expedition and a Nissan Terrano arrived at the motor pool area of the Municipality. She saw the chauffer of accused Gamilla returning said trucks. Mañalac prepared documentation receiving the vehicles, which were a Transfer of Money and Property Accountabilities Form and an Acknowledgement Receipt. She thereafter ordered Jayson Fajardo (Head of the motor pool) and Alexis Gervacio (a representative of the Municipal

¹³⁰ *Id.* at 67

¹³¹ Records, Vol. 4, pp. 256-261

¹³² *Id.* at 327-329

¹³³ *Id.* at 365-369

Engineer's Office) to conduct an inspection of the returned vehicles. During inspection, and upon raising the engine hoods, Mañalac noticed that the batteries were missing, the wirings had been chewed by rats, pipes were taped, and the interior of the vehicles were in shoddy condition. According to Mañalac, the sorry state of the vehicles was the reason why the same were declared unserviceable. Mañalac identified the photos of the returned vehicles because she was present when the same were taken by Jayson Fajardo and Alexis Gervacio.

Subsequently, Mañalac visited accused Gamilla at her residence to secure her signature on the prepared forms, which included an Inspection Report, all dated July 13, 2018. While accused Gamilla signed the forms brought by Mañalac, the former would not sign the Inspection Report.

On cross-examination, Mañalac admitted that she had no personal knowledge of the donation of the subject vehicles, until she had learned of an order issued by the RTC of Palayan City decreeing the return of said vehicles to Bongabon.¹³⁴ Her basis in declaring that the vehicles were unserviceable was based on the observations of the mechanic that Jayson Fajardo called to inspect the vehicles.¹³⁵

On re-direct examination, it was clarified that the inspection of the vehicles were in Mañalac's presence, and the mechanic had remarked that the same were unserviceable.¹³⁶

2. **Anaclea Dungca Arucan** ("Arucan"), Municipal employee of Quezon, Nueva Ecija since 1986, and former acting Municipal Engineer and acting Municipal Treasurer since January 23, 2012.

In her Judicial Affidavit dated October 29, 2018¹³⁷, Arucan testified that she received a subpoena from the Office of the Ombudsman requesting a certification of property donated by the Provincial Government. She then researched pertinent documents in her office and in the Accounting Office. She identified the Certification¹³⁸ she issued dated October 12, 2018.

In 2007, Arucan was the OIC Municipal Budget Officer, and she would report for work every day. According to records, both the Mobile Clinic and the Nissan Urvan were serviceable when the same were donated in February 2007 by the Provincial Government. Regarding the Ford F-150, Arucan noticed that the same was frequently used by municipal officials from 2007 to 2011. However the Ford F-150 was eventually sold at a public auction which fact Arucan learned when she saw a COA letter dated January 23, 2017.¹³⁹

On cross-examination, Arucan stated that at the time of donation, the Mobile Clinic, Ford F-150, and Nissan Urvan were serviceable, and her basis were the deeds of donation and the acknowledgement receipts, although it did

¹³⁴ TSN dated August 30, 2018, p. 30

¹³⁵ *Id.* at 40-41, 43

¹³⁶ *Id.* at 46

¹³⁷ Records, Vol. 4, pp. 422-427

¹³⁸ Exhibit "MM-Rebuttal"

¹³⁹ Exhibit "NN-Rebuttal"

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not expressly state therein whether the same were serviceable or unserviceable.¹⁴⁰ Arucan presumed that said vehicles were serviceable because she would always see the same being used by the officials of Quezon.¹⁴¹

Arucan remarked that, at present, the Nissan Urvan was unserviceable because she personally saw it at the repair shop, and it was no longer being used.¹⁴² She had seen that the vehicles were frequently being used by municipal officials for projects which included infrastructure works.¹⁴³

On re-direct, Arucan averred that the Mobile Clinic had not been used for infrastructure projects, but for medical missions and distribution of food.¹⁴⁴ On the other hand, the Ford F-150 was put to use by officials who would inspect the progress of an infrastructure projects.¹⁴⁵

On re-cross examination, Arucan affirmed that she would have to obtain authority from the mayor to use the vehicles.¹⁴⁶

On clarificatory questioning by the Court, Arucan averred that the vehicles were always available for use by municipal officials, and that they were parked in the vicinity of the Municipal Building.¹⁴⁷ The keys thereto were retained by the mayor's secretary.¹⁴⁸ As a procedure in requesting to use the vehicles, Arucan would approach the secretary who would then relay the request to the mayor for approval.¹⁴⁹ Trip tickets would show the dates and times and that the vehicles were used.¹⁵⁰ The expenses for gasoline would be shouldered by the Municipal Government.¹⁵¹

The prosecution thereafter verbally offered the exhibits listed below:

Exhibit	Description
"II-Rebuttal"	Transfer of Money and Property Accountabilities Form dated July 13, 2018
"JJ-Rebuttal"	Acknowledgement Receipt dated July 13, 2018
"KK-Rebuttal", "KK-1 Rebuttal"	Inspection Reports dated July 13, 2018
"LL-Rebuttal"	Pictures
"MM-Rebuttal"	Certification dated October 12, 2018
"NN-Rebuttal"	Letter dated January 23, 2017

¹⁴⁰ TSN dated November 15, 2018, pp. 15-18

¹⁴¹ *Id.* at 18

¹⁴² *Id.* at 29

¹⁴³ *Id.* at 33-34

¹⁴⁴ *Id.* at 41

¹⁴⁵ *Ibid.*

¹⁴⁶ *Id.* at 45-46

¹⁴⁷ *Id.* at 49-50

¹⁴⁸ *Id.* at 51-52

¹⁴⁹ *Id.* at 52

¹⁵⁰ *Id.* at 53

¹⁵¹ *Ibid.*

The Court admitted all of the above rebuttal exhibits as per Order¹⁵² November 15, 2018.

Thereafter, the parties filed their respective memoranda as follows:

Party	Pleading Filed	Dated
Accused Eduardo Joson	Memorandum for Accused Eduardo Basilio Joson ¹⁵³	February 12, 2019
Prosecution	Memorandum ¹⁵⁴	February 11, 2019
Accused Tomas Joson	Memorandum ¹⁵⁵	February 27, 2019
Accused Eduardo Joson	Counter-Memorandum to Prosecution's Memorandum Dated 11 February 2019 ¹⁵⁶	dated March 6, 2019
Accused Gamilla	Memorandum for Accused Amelia A. Gamilla ¹⁵⁷	February 25, 2019

MEMORANDUM OF THE PROSECUTION

Essentially, the prosecution argued that undue injury was caused to the Province of Nueva Ecija, and that the donations executed by accused Tomas Joson were grossly and manifestly disadvantageous to the government: the nearly Two Million inhabitants of the Province were deprived of the use and enjoyment of Provincial property in order to satisfy the caprices of a select few, namely accused Eduardo Joson and Gamilla. Accused Tomas Joson had known that the donation of the subject vehicles was for a purpose outside of his scope of authority to donate under *Kapasiyahan Blg. 37-A, S. 2007*, specifically that the said vehicles were not heavy equipment intended to carry out infrastructure projects. The subject vehicles were even serviceable vehicles at the time of their donation, the disposal of which was prohibited by Sections 379 and 381 of the *Local Government Code of 1991*. During trial, accused Tomas Joson demonstrated that he played favorites at the expense of the province when he admitted that he bequeathed more vehicles to the towns which were respectively headed by his political allies, accused Eduardo Basilio Joson and Amelia Gamilla, than to any other political subdivision. Some of the subject vehicles (e.g. the Nissan Terrano and the Ford Expedition [the "yacht-on-wheels"]) were even dilapidated beyond all repair when they were "returned" by accused Gamilla, who was then no longer the incumbent Municipal Mayor of Bongabon. Worse, accused Gamilla herself had kept some of the subject vehicles for her own personal use when the same were supposed to have been turned over to the Municipality of Bongabon. The prosecution thus prayed that the accused be convicted of the crimes charged.

¹⁵² Records, Vol. 4, pp. 441-442

¹⁵³ *Id.* at 465-478

¹⁵⁴ *Id.* at 479-527

¹⁵⁵ *Id.*, Vol. 5, pp. 26-56

¹⁵⁶ *Id.* at 59-61

¹⁵⁷ *Id.* at 93-99

MEMORANDUM OF THE ACCUSED

While the accused each filed separate memoranda, they commonly invoked the defense of presumption of regularity in the performance of official functions. The donations involving the subject vehicles were made on the basis of and within the scope of *Kapasiyahan Blg. 37-A, S. 2007* passed by the Sangguniang Panlalawigan of Nueva Ecija, which authorized then Governor accused Tomas Joson to donate not only “heavy equipment,” but also “*iba pang mga kagamitan.*” That accused Tomas Joson could donate other equipment, such as the service vehicles, were corroborated by several former members of the Sangguniang Panlalawigan who had participated in the passage of said Resolution. Furthermore, the accused challenged the existence of undue injury because what were involved were government-to-government transactions, and that the any benefits enjoyed by the constituents of the Municipalities-donees extended to the Province.

Particularly regarding accused Eduardo Joson and Gamilla, they countered that their only participation in the donations was to merely accept or sign the contract, which act did not prove that they were part of a conspiracy with accused Tomas Joson.

The accused thus prayed that they each be acquitted of the charges.

THIS COURT’S RULING

Did the gratuitous donations made by Provincial Governor Tomas Joson to the Municipalities of Quezon and Bongabon pass the system of property disposal under existing law?

Under the *Manual on Disposal of Government Property*¹⁵⁸ issued by the Department of Budget and Management (DBM), it would appear that the only property disposal recognized by DBM is “*when a piece of equipment or property can no longer provide efficient service or, though still working, has been rendered useless due to obsolescence.*” Property disposal is recognized as the third and last phase in the supply management cycle; the first two phases being procurement, and utilization and maintenance. As the *Manual* instructs, disposal proceedings should be immediately initiated to avoid further deterioration of the property and consequent depreciation in its value. A systematic and timely disposal will yield benefits in terms of, among others,

¹⁵⁸ Manual on Disposal of Government Property, Department of Budget and Management available at <https://www.dbm.gov.ph/27-publications/168-manual-on-disposal-of-government-property> (last accessed on July 4, 2019)

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a higher appraised value and by enabling storage areas available for other purposes.¹⁵⁹

The same concept of property disposal is reiterated under *Presidential Decree No. 1445 (P.D. 1445)*, otherwise known as the *Government Auditing Code of the Philippines*, where it expressly provides that the disposal of properties rendered unserviceable for any cause, or which are no longer needed, may be made through destruction or sale at public auction, depending on whether they are found to be valueless or valuable. Section 79 of *P.D. 1445* reads:¹⁶⁰

SECTION 79. Destruction or Sale of Unserviceable Property. — When government property has become **unserviceable** for any cause, or is **no longer needed**, it shall, upon application of the officer accountable therefor, be inspected by the head of the agency or his duly authorized representative in the presence of the auditor concerned and, if found to be valueless or unsalable, it may be destroyed in their presence. If found to be valuable, it may be sold at public auction to the highest bidder under the supervision of the proper committee an award or similar body in the presence of the auditor concerned or other duly authorized representative of the Commission, after advertising by printed notice in the Official Gazette, or for not less than three consecutive days in any newspaper of general circulation, or where the value of the property does not warrant the expense of publication, by notices posted for a like period in at least three public places in the locality where the property is to be sold. In the event that the public auction fails, the property may be sold at a private sale at such price as may be fixed by the same committee or body concerned and approved by the Commission. [Emphasis supplied]

For LGUs, the same concept of property disposal is echoed. LGUs are expressly empowered to dispose of their own property pursuant to *Republic Act No. 7160 (R.A. 7160)*, otherwise known as the *Local Government Code of 1991*. Thus, LGUs may dispose of property that has become **unserviceable for any cause or is no longer needed**. Section 379 of *R.A. 7160* provides:¹⁶¹

SECTION 379. Property Disposal. — When property of any local government unit has become **unserviceable for any cause or is no longer needed**, it shall, upon application of the officer accountable therefor, be inspected and appraised by the provincial, city or municipal auditor, as the case may be, or his duly authorized representative or that of the Commission on Audit and, if found valueless or unusable, shall be destroyed in the presence of the inspecting officer.

¹⁵⁹ Ibid.

¹⁶⁰ Ordaining and Instituting a Government Auditing Code of the Philippines [Government Auditing Code of the Philippines], Presidential Decree No. 1445, § 79 (1978)

¹⁶¹ An Act Providing for a Local Government Code of 1991 [Local Government Code of 1991], Republic Act No. 7160, as amended, § 379 (1991)

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If found valuable, the same shall be sold at public auction to the highest bidder under the supervision of the Committee on Awards and in the presence of the provincial, city or municipal auditor or his duly authorized representative. Notice of the public auction shall be posted in at least three (3) publicly accessible and conspicuous places, and if the acquisition cost exceeds One hundred thousand pesos (P100,000.00) in the case of provinces and cities, and Fifty thousand pesos (P50,000.00) in the case of municipalities, notice of auction shall be published at least two (2) times within a reasonable period in a newspaper of general circulation in the locality. [Emphasis supplied]

As in any government office or agency, the authority and responsibility for the disposal of government property rests on the head of office. Section 501 of Title 7, Chapter 3, of the *Government Accounting and Auditing Manual (GAAM), Volume 1*, particularly, states:¹⁶²

Section 501. Authority or responsibility for property disposal/divestment. — The full and sole authority and responsibility for the divestment and disposal of property and other assets owned by the national government agencies or instrumentalities, **local government units** and government-owned and/or controlled corporations and their subsidiaries shall be lodged in the **heads** of the departments, bureaus, and offices of the national government, the local government units and the governing bodies or managing heads of government-owned or controlled corporations and their subsidiaries conformably to their respective corporate charters or articles of incorporation, who shall constitute the appropriate committee or body to undertake the same. [Emphasis supplied]

The factual circumstances of these charges would eventually show that Provincial Governor Tomas Josen, as head of the local government unit, decided to divest the service vehicles and Mobile Clinic of the Provincial Government to the Municipalities of Quezon and Bongabon through simple donations. Whether the donations be out of benevolence or patriotism is beside the point. His act of divestment, however, will be tested against the applicable laws afore-cited.

There is no denying then this stark reality. *Before a property may be disposed, it must be determined to be unserviceable for any cause or is no longer needed.*

¹⁶² Lifted from *Re: COA Opinion on the Computation of the Appraised Value of the Properties Purchased by the Retired Chief/Associate Justices of the Supreme Court*, A.M. No. 11-7-10-SC, July 31, 2012

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Is donation recognized as a *mode of disposal* for government property owned by LGUs?

Apparently, Section 381 of *R.A. 7160* has a provision on the same, to wit:¹⁶³

SECTION 381. Transfer Without Cost. — Property which has become unserviceable or is no longer needed may be transferred without cost to another office, agency, subdivision or instrumentality of the national government or another local government unit at an appraised valuation determined by the local Committee on Awards. Such transfer shall be subject to the approval of the sanggunian concerned making the transfer and by the head of the office, agency, subdivision, instrumentality or local government unit receiving the property. (Emphasis supplied)

The act of donation, despite the liberality of its consideration, is not without its drawbacks. To be qualified as a *transfer without cost*, there is a mandated procedure required under Section 381. As afore-quoted, the property to be transferred is one that has become unserviceable or is no longer needed. The channels for the transfer are: (1) the property sought to be disposed should be appraised by the local Committee on Awards; (2) the disposal should be approved by the sanggunian concerned; and (3) there must be an acceptance by the head of the office, agency, subdivision, instrumentality or local government unit receiving the property.

In these cases, the Sangguniang Panlalawigan of Nueva Ecija passed *Kapasiyahan Blg. 37-A, S. 2007*¹⁶⁴ dated January 22, 2007, which clothed accused Tomas Josen, then Governor of Nueva Ecija, with the authority to donate "*heavy equipment*" to the Municipalities of Quezon, San Leonardo, Bongabon, Guimba, and Talugtug, among other LGUs, following the municipality's request for such, in this wise:

¹⁶³ See also Section 166 of the *Rules and Regulations on Supply and Property* (1992) which allows others modes of disposal, in this wise:

SECTION 166. Other Methods of Disposal. — For justifiable reasons, disposable supplies and property may also be disposed of in the following manner:

- a. sale thru (sic) negotiation;
- b. transfer without cost to other offices or department or other government agencies; and
- c. by destruction

¹⁶⁴ Exhibit "B"



Republika ng Pilipinas
LALAWIGAN NG NUÉVA ECJIA
Lungsod ng Palayan

2007 B
- 4/1/07

TANGGAPAN NG SANGGUNIANG PANLALAWIGAN

**KIMIS NG KATIPUKAN MHRA-3 PANGKARANIWANG PULONG NG SANGGUNIANG
PANLALAWIGAN NA GENANAP SA PANLALAWIGANG BULWAGANG PULUNGAN,
PANLALAWIGANG KAPITULOYO, LUNGSOD NG PALAYAN NUONG**

ENERO 22, 2007

DEBULO:

- Kgo. EDWARD THOMAS E. JOSON - Kagsad
- Kgo. RILLA ALBOSA A. DILAY - Kagsad (P.D.)
- Kgo. CESAR V. OCIO - Kagsad
- Kgo. JOSE EDUARDO V. YANCO - Kagsad
- Kgo. CESAR EDUARDO - Kagsad
- Kgo. LEONARDO C. GARCIA - Kagsad
- Kgo. ALLAN A. GAMILLA - Kagsad (P.D.)
- Kgo. MARK ALVIN V. DIAZ - Kagsad

DISDUMALO:

- Kgo. MARIANO CRISTINO M. JOSON - Prop. Pangangalagan (G.R.)
- Kgo. NAPOLEON G. ESTERIO - Kagsad
- Kgo. ALFREDO M. VENDORIL - Kagsad
- Kgo. JM. MAXIMINO L. VILLAREAL - Kagsad
- Kgo. IRENEO S. DE LEON - Kagsad

KAPASUYAHAN BLG. 37-A, s-2007

YAYAMANG, isa sa mga pangmamahing isinurong ng Pamahalaang Panlalawigan ay ang mga proyektong pang-infrastrukturang sa pakikipagtulungan ng mga Pamahalaang Bayan at Lungsod sa lalawigan;

YAYAMANG, ang mga bayan ng Quezon, San. Leonardo, Bongabon, Guimba at Tahugug ay paghain ng kahilingan upang sila ay matigman ng mga "heavy equipment" sa pamamagitan ng dumagdag, upang magamit ng kaniilang bayan sa pagpasa-ayos sila' pagpapagana ng mga kumintang, dahil patibig at iba pang mga infrastrukturang gawain;

YAYAMANG, mas magiging malabak at masarap ang mga proyektong umagaang kung kasabay ng mga infrastrukturang proyekto ng Pamahalaang Panlalawigan, ay nagpapagana rin ang mga nabanggit na bayan, sa tulong ng mga heavy equipments at iba pang kagamitang ipagkakatibag ng Pamahalaang Panlalawigan;

YAYAMANG, kyunin ang proyektong ito na mapalibhas ang arding kalakayan ng mga lokal na pamahalaanan na makapagagawa ng mga pagawaring bayan;

DAHIL DIPO, sa munglabin ng lahat ng mga Kagsad na dumalix;

IPNASIYA, gaya ng ngayon ay ipinasiya ng Sangguniang ito na bigyan ng kapal na kapangyarihan ang Kgo. Tomas N. Joson III, Punong Lalawigan, na pumasok at humagla sa mga "Deed of Donations," at iba pang mga kagagay na dokumento, hinggil sa pagkakatibag ng mga piling "heavy equipment" ng Pamahalaang Panlalawigan sa mga bayan ng Quezon, San. Leonardo, Bongabon, Guimba, Tahugug at iba pang mga bayan at lungsod na maaaring nangailangan nito;

IPNASIYA PA RIN, na bigyan ng sipi ng kapasilyahang ito ang lahat ng mga kismamnan, ukol sa kaniilang kasalanan.

PINAGTIBAY.

PINATUTUNAYAN KO ang katumpakan ng kapasilyahang sipi sa iuss nito.

PINATOTURANAN:

TOMAS N. JOSON III
Kakilang, Sangguniang Panlalawigan

Based on the above authority, or so as accused Tomas Joson claimed, two Deeds of Donation were executed on February 15, 2007 in favor of the Municipality of Quezon, through then Mayor accused Eduardo Joson, and the Municipality of Bongabon, through then Mayor accused Gamilla.

The Deed of Donation¹⁶⁵ in favor of the Municipality of Quezon transferred, among others, the subject vehicles, namely one unit Mobile Clinic, one Toyota Revo, one Ford F-150 and one Nissan Urvan, as follows:

¹⁶⁵ Exhibit "E"

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DEED OF DONATION

Don E

24/11/16

KNOW ALL MEN BY THESE PRESENT:

This **DEED OF DONATION**, made and executed by Provincial Government of Nueva Ecija a Local Government Unit, established and existing under the Laws of the Republic of the Philippines and represented by its Governor, **HON. TOMAS N. JOSON III**, with postal office address at Brgy. Singalat, Palayan City, hereinafter referred to as the **DONOR**, in favor of the Municipality of Quezon, likewise, a Local Government Unit, established and existing under the Laws of the Republic of the Philippines and represented by its Mayor, **HON. EDUARDO BASILIO M. JOSON**, and with postal office address at Quezon, Nueva Ecija, hereinafter referred to as the **DONEE**:

WITNESSETH:

That the **DONOR** is the owner of that certain personal properties more particularly, described as follows:

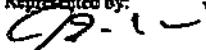
- | | |
|---|-------------------------------|
| 1) One (1) unit State Truck Volvo | 6) One (1) unit Mobile Clinic |
| 2) One (1) unit State Truck EHFAC | 7) One (1) unit Toyota Revo |
| 3) One (1) unit Lander Volvo | 8) One (1) unit Ford F150 |
| 4) Four (4) units 10 wheeler 6 cylinder Volvo | 9) One (1) unit Nissan Urvan |
| 5) One (1) unit Grader Komatsu GD 511A | |

That for and in consideration of the **DONOR**'s benevolence and concern for the welfare of its constituents and the **DONEE**'S patriotism toward the former, the said **DONOR** by these presents transfer and conveys, by way of **DONATION**, unto the said **DONEE**, its heirs and assigns, the above-described properties, free from all liens and encumbrances:

That the **DONEE** does hereby accept this Donation of the above-described properties, and does hereby express its gratitude for the kindness, liberality and concern of the **DONOR**.

IN WITNESS WHEREOF, the **DONOR** and the **DONEE** have hereunto set their hands this _____ day of _____, 2007

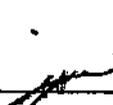
Provincial Government of Nueva Ecija
Represented by:

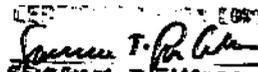
Accepted:
Municipal Government of Quezon
Represented by:

Mayor Eduardo Basilio M. Joson
Donee
CTC No. : 09170066
Issued on : January 03, 2007
Issued at : Quezon, Nueva Ecija


Governor Tomas N. Joson III
Donor
CTC No. : 09170066
Issued on : January 03, 2007
Issued at : Cabanatuan City

Signed in the presence of:







On the other hand, the Deed of Donation¹⁶⁶ in favor of the Municipality of Bongabon transferred, among others, the other subject vehicles consisting of one Nissan Terrano and one Ford Expedition, as shown below:

Handwritten marks: a vertical line, a checkmark, and the number 7.

¹⁶⁶ Exhibit "D"

DEED OF DONATION

Exm D
-4/18/16

KNOW ALL MEN BY THESE PRESENT:

This **DEED OF DONATION**, made and executed by Provincial Government of Nueva Ecija a Local Government Unit, established and existing under the Laws of the Republic of the Philippines and represented by its Governor, **HON. TOMAS N. JOSON III**, with postal/office address at Brgy. Singalat, Palayan City, hereinafter referred to as the **DONOR**, in favor of the Municipality of Bongabon, likewise, a Local Government Unit, established and existing under the Laws of the Republic of the Philippines and represented by its Mayor, **HON. AMELIA GAMILLA**, and with postal /office address at Bongabon, Nueva Ecija, hereinafter referred to as the **DONEE**;

WITNESSETH:

That the **DONOR** is the owner of that certain personal properties more particularly described as follows:

- 1) Two (2) units Isuzu 10 wheeler 10 cylinder Truck
 - 2) One (1) unit Hyundai 10 wheeler 10 cylinder Truck
 - 3) One (1) unit Hyundai 10 wheeler 8 cylinder Truck
 - 4) One (1) unit Road Grader 405 Mitsubishi
 - 5) One (1) unit Excavator Kumatsu
 - 6) One (1) unit Nissan Terrano
 - 7) One (1) unit Ford Expedition
 - 8) One (1) unit Kumatsu Loader
- Ex D-3' -4/18/16

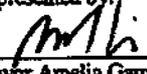
That for and in consideration of the **DONOR**'s benevolence and concern for the welfare of its constituents and the **DONEE**'S patriotism toward the former, the said **DONOR** by these presents transfer and conveys, by way of **DONATION**, unto the said **DONEE**, its heirs and assigns, the above-described properties, free from all liens and encumbrances;

That the **DONEE** does hereby accept this Donation of the above-described properties, and does hereby express its gratitude for the kindness, liberality and concern of the **DONOR**.

IN WITNESS WHEREOF, the **DONOR** and the **DONEE** have hereunto set their hands this _____ day of _____, 2007

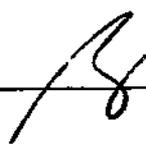
Provincial Government of Nueva Ecija
Represented by:

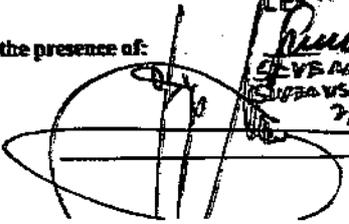
Accepted:
Municipal Government of Bongabon
Represented by:


Mayor Amelia Gamilla
Donee
CTC No. : 09320824
Issued on : Jan. 24, 2007
Issued at : Bongabon, Nueva Ecija


Gov. Tomas N. Josen III
Donor
CTC No. : 09170066
Issued on : January 03, 2007
Issued at : Cabanatuan City

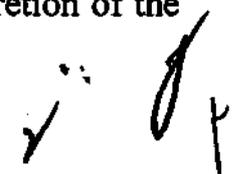
Signed in the presence of:




CERTIFIED TRUE & CORRECT
CLERK
7/11/2015

Essentially, the accused contended that the donations of the subject vehicles were valid for being under the authority and within the scope of *Kapasiyahan Blg. 37-A, S. 2007* issued by the Sangguniang Panlalawigan of Nueva Ecija. They pointed out that it was not the intent of the Sangguniang Panlalawigan to restrict the properties that could be donated to "heavy equipment" only, but that "other equipment" could also be gratuitously transferred at the discretion of accused Tomas Josen.

The donations were unconventional at the outset. They were made at the sole discretion of the Provincial Governor to which the Sangguniang Panlalawigan gave its endorsement to. No matter how the discretion of the



Provincial Governor as head of the LGU is invoked, it is undeniable that basic rules and procedure on the disposal of property, as provided in *R.A. 7160* and its implementing rules, tainted the donations in question.

Firstly, it bears stressing that Section 379 of *R.A. 7160* requires that for property to be considered disposable, it must be unserviceable for any cause or is no longer needed. Section 4 of the implementing rules of *R.A. 7160* defines “*unserviceable property*” as “*a property that is not operational. It may be economically repairable or beyond economical repair.*”¹⁶⁷ In addition thereto, Section B, Part II of the *Department of Budget and Management Manual on Disposal of Government Property* expounds on conditions which would render property as disposable, viz:

B. Determination of Disposable Property

Any or all of the following conditions shall constitute disposable property:

- 1.0 Property which can no longer be repaired or reconditioned;
- 2.0 Property whose maintenance cost/costs of repair more than outweighs the benefits and services that will be derived from its continued use;
- 3.0 Property that has become obsolete or outmoded because of changes in technology;
- 4.0 Serviceable property that has been rendered unnecessary due to change in the agency’s functions or mandate;
- 5.0 Unused supplies, materials, and spare parts that were procured in excess of requirements; and
- 6.0 Unused supplies and materials that has become dangerous to use because of long storage or use of which is determined to be hazardous. [Emphasis supplied]

In these charges, there is absolutely nothing in the evidence presented to show that the service vehicles subject of the donations were unserviceable. The records do not likewise disclose that there were inventories showing that the same were unserviceable for any cause or were no longer needed by the Provincial Government at the time the same were donated to the Municipalities of Quezon and Bongabon.

The condition of the service vehicles could only be surmised from the testimonies of the following witnesses:

¹⁶⁷ Entitled “Rules and Regulations on Supply and Property” (1992), and enacted under authority of Section 383 of the *Local Government Code of 1991*, which states:

SECTION 383. Implementing Rules and Regulations. — The Chairman of the Commission on Audit shall promulgate the rules and regulations necessary to effectively implement the provisions of this Title, including requirements as to testing, inspection, and standardization of supply and property.

Prosecution witness Arturo Cerdeñas, then Chief of the Provincial General Services Office, who recalled:¹⁶⁸

xxx xxx xxx

[ON DIRECT EXAMINATION]:

[Prosecutor Edgardo Noel B. Cruz]:

Q Mr. witness, at the time the subject vehicles were donated by Governor Joson, representing the Provincial Government of Nueva Ecija, who was then using that particular Ford F-150?

A The Province of Nueva Ecija, sir.

Q How about the Toyota Revo donated to the Municipality of Quezon?

A It was used by the Provincial Government of Nueva Ecija; one (1) unit mobile clinic donated to the Municipality of Quezon, represented by Eduardo Basilio Joson was used by the [P]rovince.

Q How about the Nissan Urvan?

A The same, sir.

Q How about the Nissan Terrano donated to the Municipality of Bongabon, as represented by Amelia Gamilla?

A It was used by the Province of Nueva Ecija.

Q The Ford Expedition unit also donated to the Municipality of Bongabon, Nueva Ecija, who used it?

A The same, sir.

xxx xxx xxx

Rebuttal witness Anacleta D. Arucan, who has been a Municipal employee of Quezon, Nueva Ecija since 1986, even remembered that after Quezon received the vehicles in question, she would see the same plying the roads in her town, and would thus assume them to be serviceable :¹⁶⁹

xxx xxx xxx

[ON CROSS-EXAMINATION]:

Atty. Paredes:

Q Ms. Witness, will you agree with me that based on these documents that you referred to, it does not state the serviceability or unserviceability of those vehicles you mentioned in your Judicial Affidavit?

A Yes, Sir.

Q So, would you agree with me also that you merely assumed the serviceability of those vehicles because in those records that you referred to, it does not say whether it is serviceable or not, Ms. Witness?

A **Yes, Sir. I assumed that these properties are serviceable because I always see these vehicles used by the Officials of the Municipality of Quezon.**

¹⁶⁸ TSN dated October 3, 2016, p. 9

¹⁶⁹ TSN dated November 15, 2018, pp. 18-23

Chairperson:

How would you know that they are the same vehicles donated? Are you telling us that for every [. . .] (paused) just a minute we'll just identify the vehicles.

Pros. Tan:

Mobile Clinic, Your Honors, Ford F-150 and Nissan Urvan.

Chairperson:

For every Toyota Revo, Ford 150 and Nissan Urvan, you would know that those are the vehicles donated?

Pros. Tan:

Mobile Clinic, Your Honors.

Chairperson:

The Mobile Clinic. How would you know that they are the same vehicles subject of the donation, every time you see them on the road?

Witness:

I learned it and I often see being used (sic) in the Municipality, Your Honors. I always see the vehicles, Your Honors.

xxx xxx xxx

Hon. Justice Jacinto

Paano [ninyo] po nakikilala na [iyon] [iyong] sasakyan na [iyon]?

Witness:

I always see in (sic) the Municipality used by the Officials of the Municipality, Your Honors.

Hon. Justice Trespeses:

Were there markings on it?

Witness:

There were, Your Honors.

xxx xxx xxx

Chairperson:

Are you telling us that there is one (1) Nissan Urvan that you see in the Municipality, only one (1)?

Witness:

Yes, Your Honors.

Chairperson:

So most likely it belongs to the Municipality?

Witness:

Yes, Your Honors.

Chairperson:

The Mobile Clinic, how many Mobile Clinics did the Province of Nueva Ecija have before its donation to Quezon?

Witness:

Only one (1), Your Honors. [Emphasis supplied]

XXX XXX XXX

While the serviceability or unserviceability of the vehicles could not be speculated, it may be interesting to note that accused Tomas Joson himself was not aware of any authority which had declared the Ford Expedition, for one, as unserviceable:¹⁷⁰

XXX XXX XXX

[ON CROSS-EXAMINATION]:

[Prosecutor Joshua A. Tan]:

Q By the way, the Ford Expedition that you donated is a Ford Expedition 2002 Model, correct?

A Yes, Sir.

Q It was then donated on 2007, correct?

A Yes, Sir.

Q And by that time, it has not been declared unserviceable, correct?

A Yes, Sir.

XXX XXX XXX

Also, accused Tomas Joson could not even justify the donation of the subject vehicles on the basis that the same were no longer needed by the Provincial Government. While he alleged that there was an inventory of the Provincial Government's properties, and that the donations only involved those items that exceeded the needs of its constituents, the fact of the matter was that there was nothing in the records which could support this claim, viz.¹⁷¹

XXX XXX XXX

Chairperson:

Q Did you initiate an inventory of properties before donations were made, Governor Joson?

A Yes, Your Honors.

Q With all these donations of Mobile Clinics, utility vehicles, dump truck, what equipment was left with the Province of Nueva Ecija, if that is the case?

A The Province of Nueva Ecija, Your Honors, owns a lot of equipments (sic) and I think based on the situation during that time, we can spare and still maintain the working capability of the Province of Nueva Ecija.

¹⁷⁰ TSN dated February 5, 2018, pp. 42-43

¹⁷¹ *Id.* at 66-67

Q Were there equipment or service vehicles left with the province?

A Yes, Your Honors, dump trucks, loaders, graders, bulldozers.

Q Do you have an inventory made, Mr. Witness?

A Yes, [Y]our Honors.

Chairperson:

Because it was never presented in Court. We are very concern (sic) about that. Nonetheless [. . .]

xxx xxx xxx

Without an actual inventory, or any other similar report on the assets owned by the Provincial Government, it was difficult to imagine that the donations made by accused Tomas Joson involved only the surplus vehicles that the Provincial Government had no need of or the fact that they were unserviceable. To be sure, the Province of Nueva Ecija is comprised of 5 cities, 27 municipalities, and 849 nine barangays,¹⁷² not to mention its land mass of approximately 550,000 hectares.¹⁷³ The need of the Provincial Government of these subject vehicles to carry out its mandate of administration of the subdivisions of the Province, and to deliver basic services to its constituents, was thus a looming exigency.

Besides, the consideration of the donations invoked by accused Tomas Joson, being the "*donor's benevolence and concern for the welfare of its constituents and the donee's patriotism towards the former,*" is equally unavailing as basis for the donations of subject vehicles. Liberality and loyalty has no place in the disposal of government property. These subject vehicles are not private appropriations for the head of the LGU to give away at will. If this be so, such liberality and loyalty can easily be disguised for their political underpinnings, which obviously cannot be countenanced at any given circumstance.

The donations, therefore, should have only observed the procedure in the disposal of government properties.

There being no inspection/appraisal reports, inventories, or other similar documents, accomplished by the general services office, the engineering and/or property office, or other appropriate office which would show that the subject vehicles were unserviceable (e.g. either not operational, but capable of being economically repaired, or that the same were inoperable and beyond economical repair), no donation or transfer without cost could be made. Neither was there evidence to prove that said vehicles were no longer utilized by the Provincial Government, or that the same had been in procured in excess of its requirements, among others. In the absence thereof, the inevitable conclusion is that there was absolutely no valid basis supporting

¹⁷² Philippine Standard Geographic Code – Province of Nueva Ecija, Philippine Statistics Authority available at <https://psa.gov.ph/classification/psgc/?q=psgc/citimuni/034900000> (last accessed on July 5, 2019)

¹⁷³ TSN dated April 11, 2016, p. 92

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accused Tomas Joson's donations of the subject vehicles owned by the Provincial Government.

Secondly, the accused disregarded the proper administrative procedure in the disposal, through donations, of the subject vehicles, which procedure is prescribed by *R.A. 7160* and its implementing rules.

As a rule, property sought to be disposed must be inspected and appraised by the provincial auditor, its representative, or the authorized representative of the COA, in conformity with Section 379 of *R.A. 7160*:

SECTION 379. Property Disposal. — When property of any local government unit has become unserviceable for any cause or is no longer needed, it shall, upon application of the officer accountable therefor, be inspected and appraised by the provincial, city or municipal auditor, as the case may be, or his duly authorized representative or that of the Commission on Audit and, if found valueless or unusable, shall be destroyed in the presence of the inspecting officer. [Emphasis supplied]

Particularly, when the disposal of property was to be accomplished through a transfer without cost, e.g. donation to another LGU, there must be a determination of the appraised valuation of said property by the local committee on awards *in addition* to the other requirements of an approval by the sanggunian making the transfer, and the acceptance by the head of the recipient-LGU. This is outlined in Section 381 of *R.A. 7160*:

SECTION 381. Transfer Without Cost. — Property which has become unserviceable or is no longer needed may be transferred without cost to another office, agency, subdivision or instrumentality of the national government or another local government unit at an **appraised valuation determined by the local Committee on Awards**. Such transfer shall be subject to the approval of the sanggunian concerned making the transfer and by the head of the office, agency, subdivision, instrumentality or local government unit receiving the property. [Emphasis supplied]

Even if the abovementioned requisites were satisfied, there were still further requirements prescribed by the implementing rules of *R.A. 7610*. To be specific, the provincial general services officer should have been designated as the official responsible for the disposal of the provincial government's property who must have returned the same to the head of office, who in turn should have caused the cancellation of the memorandum receipt(s). After that, an application for disposal of property must have been filed by the provincial general services officer with the provincial auditor. Sections 163 and 167 of the implementing rules and regulations of *R.A. 7160* state:¹⁷⁴

SECTION 163. Responsibility for the Disposal of Supplies or Property. — **The provincial or city general services officer or municipal or barangay treasurer, as the case may be, shall be responsible for disposal of supplies or property of the local government.**

¹⁷⁴ *Rules and Regulations on Supply and Property* (1992)

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SECTION 167. Disposal Procedures. — When the supplies or property of a local government unit have become unserviceable from any cause, or are no longer needed, the officer immediately accountable thereof shall return the same to the head of the department or office who shall cancel the corresponding Memorandum Receipt. If no longer needed in the department, the head of the department or office shall return the same to the general services officer, municipal or barangay treasurer, as the case may be, with the use of Property Return Slip (LGU Form No. 12). The [g]eneral services officer, municipal or barangay treasurer, as the case may be, shall through the local chief executive, file an application for its disposal with the provincial, city or municipal auditor who shall conduct an inspection and determination whether the subject property is with or without value. [Emphasis supplied]

It was clearly insufficient for accused Tomas Joson to supplant the above procedure provided by law with his own system of “*simply taking action,*” which he described during trial, thus:¹⁷⁵

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Hon. Justice Trespeses:

Q Mr. Witness, in this Kapasiyahan Blg. 37-A, Series of 2007, the second paragraph of the whereas clause, it says here “that this donation of heavy equipment with the specified municipalities were prompted by request” I assumed that these are request (sic) from these municipalities?

A Yes, Your Honors.

Q Did this request reach your office or were you the one who endorsed this request to the Sangguniang Panlalawigan, Mr. Witness?

A The procedure is, may I elaborate, Your Honors.

Hon. Justice Trespeses:

Yes.

Witness:

A The procedure is there is a request then I delivered to the Sanggunian for their action then after that, after seeing the resolution then I took action.

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In other words, accused Tomas Joson clearly disregarded mandatory procedure when he merely received requests from his constituents, relied on the approval of the donations by the Sangguniang Panlalawigan through *Kapasiyahan Blg. 37-A, S. 2007* dated January 22, 2007, and accepted at face value favorable action by the donees-municipal mayors in receiving the property respectively given to them. He ignored all of the documentary requirements which could have provided the basis for the disposal of property through donation.

Thirdly. It may be said that accused Tomas Joson disregarded the scope of authority given to him by the Sangguniang Panlalawigan in *Kapasiyahan Blg. 37-A, S. 2007*.

¹⁷⁵ TSN dated February 5, 2018, p. 64

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Jurisprudence teaches that when a statute is clear, plain, and free from ambiguity, the words should be given its literal meaning and applied without attempted interpretation.¹⁷⁶ This is the plain-meaning rule which is embodied in the latin maxim, “*verba legis non est recendendum* — from the words of a statute there should be no departure.”¹⁷⁷

The material provisions of *Kapasiyahan Blg. 37-A, S. 2007*¹⁷⁸ read:

xxx xxx xxx

YAYAMANG, ang mga bayan ng Quezon, San. (sic) Leonardo, Bongabon, Guimba, at Talugtug ay naghain ng kahilingan upang sila ay mabigyan ng mga “heavy equipment,” sa pamamagitan ng donasyon, upang magamit ng kanilang bayan sa pagsasa-ayos at/o’ pagpapagawa ng mga lansangan, daang patubig at iba pang mga imprastrakturang Gawain;

YAYAMANG, mas magiging malawak at marami ang mga proyektong magagawa kung kasabay ng mga imprastrakturang proyekto ng Pamahalaang Panlalawigan, ay nagsasagawa rin ang mga nabanggit na bayan, sa tulong ng mga heavy equipment at iba pang kagamitang ipagkakaloob ng Pamahalaang Panlalawigan;

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IPINASIYA, gaya ng nayon ay ipinapasiya ng Sangguniang ito na bigyan ng sapat na kapangyarihan ang Kgg. Tomas N. Joson III, Punong Lalawigan, na pumasok at lumagda sa mga “Deed of Donations,” at iba pang mga kaugnay na dokumento, hinggil sa pagkakaloob ng mga piling “heavy equipment,” ng Pamahalaang Panlalawigan sa mga bayan ng Quezon, San. (sic) Leonardo, Bongabon, Guimba, Talugtug at iba pang mga bayan at lungsod na maaaring mangailangan nito; [Emphasis supplied]

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The Resolution passed by the Sangguniang Panlalawigan of Nueva Ecija is clear and unambiguous. The property of the Provincial Government which could be validly donated by accused Tomas Joson was limited to “**heavy equipment.**” Applying the plain-meaning rule in statutory construction, the definition of “heavy equipment” should be interpreted to refer to its ordinary definition, or to “large pieces of machinery or vehicles, especially those used in the building industry[.]”¹⁷⁹ Examples of heavy equipment or heavy-duty vehicles are bulldozers, backhoe loaders, fixed cranes, and excavators, among others. In other words, ordinary motor vehicles such as cars, pick-up trucks, sport utility vehicles, and others are not included. This interpretation of the Sangguniang Panlalawigan’s Resolution is in consonance with the second paragraph thereof because said heavy equipment would be necessary in order to fulfill the *raison d’etre* of the Ordinance, which was to empower the Municipalities of Quezon, San Leonardo, Bongabon, Guimba, and Talugtug to be able to undertake the construction of roads, irrigation or water works, and other infrastructure

¹⁷⁶ *People v. Sullano*, G.R. No. 228373, March 12, 2018

¹⁷⁷ *Ibid.*

¹⁷⁸ Exhibit “B”

¹⁷⁹ Heavy Equipment Definition, Cambridge Dictionary available at <https://dictionary.cambridge.org/us/dictionary/english/heavy-equipment> (last accessed on July 5, 2019)

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projects. This notion was not lost on accused Tomas Joson when he admitted that he was fully cognizant of the underlying purpose of the Resolution, but he nonetheless donated ordinary vehicles in addition to heavy equipment:¹⁸⁰

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[ON CROSS EXAMINATION]:

Pros. Tan:

Q May I refer you to the second paragraph of the Kapasiyahan, the purpose of making the donation as stated in that Kapasiyahan are for three (3) things, first is *pagsasaayos* or *pagpapagawa ng lansangan*, second, for construction *daang patubig*, *pagsasaayos* or *pagpapagawa ng daang patubig*, and third, *at iba pang imprastrakturang gawain*, would you agree with me that that is the purpose, Mr. Witness?

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Witness:

A Yes, Sir.

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Q You cannot load gravel and sand inside the mobile clinic, correct?

A Yes, Sir.

Q You cannot also load pre-fabricated steel inside a Ford F-150, correct?

A Yes, Sir.

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Accused Tomas Joson even admitted that one of the vehicles he donated, namely the Ford F-150, was not in-line with the three purposes mentioned in the *Kapasiyahan Blg. 37-A, S. 2007*:¹⁸¹

XXX XXX XXX

Q Donating [the] F-150, is it in line with the three (3) purposes mentioned in Kapasiyahan 37-A, Series of 2007, to mention *pagsasaayos* or [*pagpapagawa*] *ng lansangan at daang patubig at iba pang imprastrakturang gawain*, donating a Ford F-150 is it in[-]line with these three (3) purposes, Mr. Witness?

A No, Sir.

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It was here that accused Tomas Joson got trapped in his own misjudged reality.

¹⁸⁰ TSN dated February 5, 2018, pp. 36-40

¹⁸¹ *Id.* at 42

The act of donation on the part of the Provincial Governor entangled the donees in a web of conspiracy.

The prosecution contended that a conspiracy existed between accused Tomas Joson, accused Amelia Gamilla, and accused Eduardo Basilio Joson in transferring, without legal basis, the subject properties in favor of the Municipalities of Quezon and Bongabon.

In *Bahilidad v. People*¹⁸² conspiracy was defined in this manner:

There is conspiracy when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. Conspiracy is not presumed. Like the physical acts constituting the crime itself, the elements of conspiracy must be proven beyond reasonable doubt. While conspiracy need not be established by direct evidence, for it may be inferred from the conduct of the accused before, during and after the commission of the crime, all taken together, however, the evidence must be strong enough to show the community of criminal design. For conspiracy to exist, it is essential that there must be a conscious design to commit an offense. Conspiracy is the product of intentionality on the part of the cohorts.

It is necessary that a conspirator should have performed some overt act as a direct or indirect contribution to the execution of the crime committed. The overt act may consist of active participation in the actual commission of the crime itself, or it may consist of moral assistance to his co-conspirators by being present at the commission of the crime or by exerting moral ascendancy over the other co-conspirators.

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It is axiomatic that conspiracy may be proved by direct or circumstantial evidence. Direct proof of conspiracy is rarely found; circumstantial evidence is often resorted to in order to prove its existence.¹⁸³ Conspiracy may be inferred from the conduct of the accused before, during and after the commission of the crime, which are indicative of a joint purpose, concerted action and concurrence of sentiments. It may be deduced from the mode and manner in which the offense was perpetrated.¹⁸⁴

At this instance, it can only be concluded that the donations effectively mirrored a conspiracy between accused Tomas Joson and accused Eduardo Basilio Joson for service vehicles donated in favor of the Municipality of Quezon, and between accused Tomas Joson and accused Amelia Gamilla for the service vehicles donated to the Municipality of Bongabon, in ultimately depriving the Provincial Government of its service vehicles.

For accused Eduardo Basilio Joson and Amelia Gamilla to separately give their full consent and accept the deeds of donations was all that was

¹⁸² G.R. No. 185195, March 17, 2010

¹⁸³ *People v. Amodia*, 602 Phil. 889 (2009)

¹⁸⁴ *People v. Macaranas*, G.R. No. 226846, June 21, 2017

necessary for the irregular transfers to prosper. It was never disputed that the Provincial Government, through accused Tomas Joson, made donations of several properties to the Municipalities of Quezon and Bongabon, including the subject vehicles, and that correspondingly, accused Eduardo Basilio Joson and Amelia Gamilla each admitted that they, as donees, received the vehicles subject of the donations.¹⁸⁵ Verily, accused Eduardo Basilio Joson and Amelia Gamilla signed their separate acceptance to the separate deeds of donation, and they each received the subject vehicles donated to them, as evidenced by their signatures found on the separate Invoice Receipts for Property.¹⁸⁶ Without the approval by accused Eduardo Basilio Joson and Amelia Gamilla of the deeds of donation, the same would not have prospered in transferring the subject vehicles.

For the very same reasons that accused Tomas Joson should be made culpable for violating the law and rules on the disposal of property, so should accused Eduardo Joson and Gamilla be equally liable. As accused Eduardo Joson and Gamilla were in their own rights the chief local executives of the Municipalities of Quezon and Bongabon, respectively, the provisions of *R.A. 7160* and its implementing rules find equal application to them. They should have been cognizant that there were infirmities in the Deeds of Donation from the outset because the properties sought to be donated were not shown to be unserviceable for any cause or are no longer needed. They should have seen the red flags that improper channels were resorted to in effecting the donation, specifically that there was no prior inventory of the properties by provincial officials, or a prior appraisal of the same, and that no application for disposal had been filed with the provincial auditor. Moreover, accused Eduardo Joson and Gamilla should have questioned the donation of the vehicles because, for obvious reasons, the same were ordinary vehicles which did not meet the specification of "heavy equipment" as approved by the Sangguniang Panlalawigan. They should have known that they can only receive what they asked for. Their concurrence or complacency in receiving the donations made by accused Tomas Joson betrayed their intent to be part of a conspiracy.

Having alluded to the existence of a conspiracy between the accused, what now remains to be seen is the presence, or absence of, the elements of the crimes for which the accused were charged.

Criminal Case Nos. SB-11-CRM-0205 to 206
(for Violation of Section 3 (e) of R.A. 3019)

¹⁸⁵ In prosecution's Request for Admission (Records, Vol. 3, pp. 151-156) paragraphs 1, 2, 4, 5, and 8 were admitted by the accused in their respective Comments (Comment of accused Tomas Joson [Records, Vol. 3, pp. 176-179], Comment of accused Eduardo Joson [Records, Vol. 3, pp. 187-188], and the Comment of accused Gamilla [Records, Vol. 3, pp. 204-205])

¹⁸⁶ Exhibits "D-1" and "E-1"



Republic Act No. 3019 (R.A. 3019) punishes graft and corrupt practices of public officers. Section 3 thereof provides:¹⁸⁷

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

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

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The elements of Violation of Section 3 (e) of *R.A. 3019* follow:¹⁸⁸

(a) the accused must be a public officer discharging administrative, judicial or official functions;

(b) the accused must have acted with manifest partiality, evident bad faith or inexcusable negligence; and

(c) the action of the accused caused any undue injury to any party, including the government, or giving any private party unwarranted benefits, advantage or preference in the discharge of his functions.

The evidence will show that:

Accused Tomas Josen, Eduardo Josen, and Gamilla were all public officers of the Province of Nueva Ecija.

It is a stipulated fact that the accused were all public officers of the Province of Nueva Ecija at the time material to the present cases, in this wise: accused Tomas Josen held the position of Provincial Governor; accused Gamilla held the position of Municipal Mayor of Bongabon; and accused Eduardo Josen held the position of Municipal Mayor of Quezon.¹⁸⁹

Manifest partiality and evident bad faith pervaded not only in the execution of the deeds of donation, but also in the acceptance thereof.

¹⁸⁷ Anti-Graft and Corrupt Practices Act [Anti-Graft and Corrupt Practices Act], Republic Act No. 3019, § 3 (e) (1960)

¹⁸⁸ *Saunar v. Ermita*, G.R. No. 186502, December 13, 2017

¹⁸⁹ Joint Stipulations dated March 12, 2015 (Records, Vol. 3, p. 315, 318)

In *Tiongco v. People*, which cited *People v. Atienza*, the Court defined manifest partiality and evident bad faith, as follows:¹⁹⁰

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. [Emphasis supplied]

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That accused Tomas Joson acted with manifest partiality in executing the Deeds of Donations was alluded to by his apparent favoritism of some of the Municipalities of Nueva Ecija over others. The basis of *Kapisiyahan Blg. 37-A, S. 2007* was in response to the requests for heavy equipment made by the Municipalities of Quezon, San Leonardo, Bongabon, Guimba, and Talugtug. In response, accused Tomas Joson had collectively donated the following units of heavy equipment to the Municipalities of Quezon and Bongabon, alone, including the subject vehicles:¹⁹¹

For the Municipality of Quezon:

- One unit State Truck Volvo
- One unit State Truck Elf JAC
- One unit Loader Volvo
- Four units 10 wheeler 6 cylinder Volvo
- One unit Grader Romatsu GD 511A
- One unit Mobile Clinic
- One unit Toyota Revo
- One unit Ford F-150
- One unit Nissan Urvan

For the Municipality of Bongabon:

- Two units Isuzu 10 wheeler 10 cylinder Truck
- One unit Hyundai 10 wheeler 10 cylinder Truck
- One unit Hyundai 10 wheeler 8 cylinder Truck
- One unit Road Grader 405 Mitsubishi
- One unit Excavator Kumatsu
- One unit Nissan Terrano
- One unit Ford Expedition
- One unit Kumatsu Loader

While the aforementioned heavy equipment were delivered to the Municipalities of Quezon and Bongabon, it bears emphasizing that the Municipality of Talugtug had also made a request for such equipment, which

¹⁹⁰ G.R. Nos. 218709-10, November 14, 2018, which cited 688 Phil. 122, 132 (2012)

¹⁹¹ See Exhibits "D" and "E"

was seemingly brushed aside by accused Tomas Josen. The reason therefor was explained by said accused himself:¹⁹²

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Justice Jacinto

Q What equipment did you donate on the basis of this Kapasiyahan, Mr. Witness?

A In the town of Guimba, Your Honors. I transferred to them a Batching Plant in Barangay Lima-Lima of [] said town.

Q How about for San Leonardo, Mr. Witness?

A For San Leonardo, I donated a Batching Plant, Your Honors.

Q In Talugtug?

A There was no donation made in Talugtug, Your Honors.

Q Why was that, Mr. Witness?

A Simply because we gave priorities to the towns listed in the affidavit, Your Honors.

Q Talugtug [also made] a request, Mr. Witness?

A Yes, Your Honors.

Q But no donation was made?

A Yes, Your Honors, no donation was made.

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Q Were donations of similar nature [] also made to other municipalities that were not mentioned in the Kapasiyahan, Mr. Witness?

A Most probably, Your Honors, the donations [were] not done because of the non-availability of other vehicles during the time of the donation.

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Justice Jacinto:

Q You mentioned [a while] ago that you were not able to donate to Talugtug because you're (sic) run out of vehicles to donate[,] but I noticed that you made three (3) donations of pick-up Elf vehicles to the Municipality of Bongabon, you donated one (1) Nissan Terrano and two (2) Ford F-150[s], how come you did not just give one (1) to Talugtug, Mr. Witness?

A The reason, Your Honors, is that this is what they asked for. So, have it available (sic).

Q You gave more to one (1) [m]unicipality over the other, Mr. Witness?

A Yes, Your Honors. [Emphasis supplied]

¹⁹² TSN dated February 5, 2018, pp. 61-67

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The allusion of accused Tomas Joson to the “non-availability of other vehicles” to deprive the other political subdivisions of Nueva Ecija of “heavy equipment” or similar luxury vehicles given to the Municipalities of Quezon and Bongabon now seemed downright petty. The donation certainly reeked of manifest partiality for these municipalities. Had accused Tomas Joson not exhibited such obvious bias, he could have simply made a more equitable distribution of the heavy equipment or service vehicles which would have benefited all of the Municipalities who had made similar requests.

Verily, this Court is in a quandary how accused Tomas Joson could have donated the service vehicles and Mobile Clinic in the first place. There in nothing on record which could justify the need for such donation, given the concession made by the Sangguniang Panlalawigan that much latitude has been given the Provincial Governor to execute the donations. Did the Municipalities of Quezon and Bongabon have the least amount of heavy equipment to be preferred in the divestment of government property, or did said political subdivisions suffer the worst damage in times of calamity? Were the other political subdivisions who had coursed requests for equipment given a feedback why they were least serviced or were they instead procured a heavy equipment? As it stands, no acceptable explanation was given by accused Tomas Joson as to his blatantly one-sided distribution of the heavy equipment, and the subject vehicles, which were disposed through the donations. This could only show that he acted with manifest partiality.

Furthermore, the execution of the donations and their acceptance by the donees was tainted with evident bad faith because the same were made in violation of the law and rules on the disposal of government property as per *R.A. 7160*. In the first place, the subject vehicles were not proper subjects for disposal because *R.A. 7160* mandates that only properties rendered unserviceable for any cause or those that are no longer needed may be disposed. Evidently, while there was no finding that the subject vehicles (referring to the Mobile Clinic, Toyota Revo, Ford F-150, Nissan Urvan, Nissan Terrano and Ford Expedition) were serviceable, there was no concrete proof that the same were unserviceable for any cause at the time of their donations. Neither was it shown that said properties were no longer needed by the Provincial Government. Secondly, there was no compliance with the procedure outlined in *R.A. 7160*, and its implementing rules, for the disposal of said properties. The accused failed to produce the required documents forming the basis of the necessity of the disposal of properties, such as an inspection report, an appraisal valuation, and application for disposal involving the subject vehicles. Also, the disposal should have been carried out by the provincial general services officer, who is designated by law as the official responsible to cause the cancellation of the memorandum receipts. Instead, accused Tomas Joson, with the concurrence of accused Eduardo Joson and Gamilla, merely took matters into his own hands after having secured a Resolution enacted by the Sangguniang Panlalawigan authorizing the donation of properties. Thirdly, the donations of the subject vehicles may

even be said to be *ultra vires* acts because *Kapasiyahan Blg. 37-A, S. 2007* only authorized the donation of heavy equipment, under which said vehicles cannot be categorized.

The donations of the subject vehicles caused undue injury to the Provincial Government of Nueva Ecija.

The third element may be established by the undue injury suffered by any party, including the government. Undue injury, as applied to *R.A. 3019*, has a meaning akin to that civil law concept of actual damage.¹⁹³ *Llorente, Jr. v. Sandiganbayan* elaborates:¹⁹⁴

The solicitor general, in his manifestation, points out that "undue injury" requires proof of actual injury or damage, citing our ruling in *Alejandro vs. People* and *Jacinto vs. Sandiganbayan*. Inasmuch as complainant was actually paid all her claims, there was thus no "undue injury" established.

This point is well-taken. Unlike in actions for torts, **undue injury in Sec. 3[e] cannot be presumed even after a wrong or a violation of a right has been established.** Its existence must be proven as one of the elements of the crime. In fact, the causing of undue injury or the giving of any unwarranted benefits, advantage or preference through manifest partiality, evident bad faith or gross inexcusable negligence constitutes the very act punished under this section. Thus, it is required that the undue injury be specified, quantified and proven to the point of moral certainty.

In jurisprudence, "undue injury" is consistently interpreted as "actual damage." Undue has been defined as "more than necessary, not proper, [or] illegal;" and injury as "any wrong or damage done to another, either in his person, rights, reputation or property [; that is, the] invasion of any legally protected interest of another." Actual damage, in the context of these definitions, is akin to that in civil law.

In turn, actual or compensatory damages is defined by Article 2199 of the Civil Code as follows:

"Art. 2199. Except as provided by law or by stipulation, one is entitled to an adequate compensation only for such pecuniary loss suffered by him as he has duly proved. Such compensation is referred to as actual or compensatory damages."

Fundamental in the law on damages is that one injured by a breach of a contract, or by a wrongful or negligent act or omission shall have a fair and just compensation commensurate to the loss sustained as a consequence of the defendant's act. Actual pecuniary compensation is awarded as a general rule, except where the circumstances warrant the allowance of other

¹⁹³ *Vide: Alvarez v. People*, G.R. No. 192591, June 29, 2011

¹⁹⁴ G.R. No. 122166, March 11, 1998

kinds of damages. Actual damages are primarily intended to simply make good or replace the loss caused by the wrong.

Furthermore, damages must not only be capable of proof, but must be actually proven with a reasonable degree of certainty. They cannot be based on flimsy and non-substantial evidence or upon speculation, conjecture or guesswork. They cannot include speculative damages which are too remote to be included in an accurate estimate of the loss or injury. [Emphasis supplied]

The subject vehicles donated by accused Tomas Joson belonged to the Provincial Government, which had the following valuations:

- Nissan Terrano donated to the Municipality of Bongabon valued at One Million Twenty-Five Thousand Pesos (P1,025,000.00) as per COA Annual Audit Report for year ended December 31, 2007.¹⁹⁵
- Ford Expedition donated to the Municipality of Bongabon valued at One Million Two Hundred Fifty Thousand Pesos (P1,250,000.00) as per COA Annual Audit Report for year ended December 31, 2007.¹⁹⁶
- Ford F-150 donated to the Municipality of Quezon in 2007 had been eventually sold via public auction in December 2015 for the price of Twenty Thousand Two Hundred Fifty Pesos (P20,250.00) as per COA Letter dated January 23, 2017.¹⁹⁷

While the prosecution's evidence did not specifically state the valuations of the other subject vehicles,¹⁹⁸ namely the Mobile Clinic, the Toyota Revo, and the Nissan Urvan which had been donated to the Municipality of Quezon, surely, said vehicles would still have monetary values, albeit unreported, as there had not been any official declaration, appraisal, or valuation by the Provincial Government in whose charge the same remained prior to being donated that the same were rendered unserviceable.

It is easy to discern that the impropriety of the donations of the subject vehicles caused damage to the Provincial Government as its ability to render basic services to its constituents was undermined by the deprivation of the use of its vehicles. This is especially true considering the large size of the Province of Nueva Ecija, the land mass of which, to reiterate, is approximately 550,000 hectares,¹⁹⁹ comprising 5 cities, 27 municipalities, and 849 nine barangays.²⁰⁰ Witness Dr. Sarmiento gave a glimpse of the effect caused by the loss by the Provincial Government of its vehicles, viz:²⁰¹

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¹⁹⁵ Exhibit "EE-2"

¹⁹⁶ Exhibit "EE-2"

¹⁹⁷ Exhibit "NN-Rebuttal"

¹⁹⁸ Both the Invoice-Receipt for Property and the Acknowledge Receipt (Exhibits "E-1" and "E-2") failed to assign a value to the Mobile Clinic, Ford F-150, Toyota Revo, and Nissan Urvan which were donated to the Municipality of Quezon

¹⁹⁹ TSN dated April 11, 2016, p. 92

²⁰⁰ Philippine Standard Geographic Code – Province of Nueva Ecija, Philippine Statistics Authority available at <https://psa.gov.ph/classification/psgc/?q=psgc/citimuni/034900000> (last accessed July 18, 2019)

²⁰¹ TSN dated April 11, 2016, p. 69

Prosecutor Cruz:

What was the effect to the [P]rovince of Nueva Ecija of these donated vehicles that were made outside the scope of the [Kapasiyahan]?

Atty. Toboso:

The witness is incompetent, Your Honors.

Chairperson:

Let him answer.

Witness:

A The immediate and long-term impact of the donations of all vehicles and equipment in the [P]rovince of Nueva Ecija resulted [in] its failure to deliver its services, especially when several typhoons hit the [P]rovince. Remember, the [P]rovince of Nueva Ecija is a disaster-prone province. For a long period of time after the donations, we failed to deliver the services needed, especially when the calamities hit the [P]rovince, Sir.

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The undue injury suffered by the Provincial Government, therefore, was all too real.

In fine, all the elements of Violation of Section 3 (e) of *R.A. 3019* were established.

Criminal Case Nos. SB-11-CRM-0207 to 208
(for Violation of Section 3 (g) of R.A. 3019)

Another kind of corrupt practices of public officers, punishable by law, is found in Section 3 (g) of *R.A. 3019* which reads:²⁰²

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

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(g) Entering, on behalf of the Government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby.

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The essential elements for Violation of Section 3 (g) of *R.A. 3019* are below:²⁰³

a) the accused is a public officer;

²⁰² Anti-Graft and Corrupt Practices Act, § 3 (g)

²⁰³ *Miranda v. Sandiganbayan*, G.R. Nos. 144760-61, 167311-12, 167316-17, & 167625-26, August 2, 2017

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b) the accused entered into a contract or transaction on behalf of the government; and

c) that such contract or transaction is grossly and manifestly disadvantageous to the government.

A discussion on the above elements follows:

Accused Tomas Joson, Eduardo Joson, and Gamilla were all public officers of the Province of Nueva Ecija.

To reiterate, it has already been admitted by the parties that the accused held the following public positions at the time material to these cases:²⁰⁴ Accused Tomas Joson was the Provincial Governor; accused Eduardo Joson was the Municipal Mayor of Quezon; and accused Gamilla was the Municipal Mayor of Bongabon.

The accused entered into the Deeds of Donations subject of these cases on behalf of their respective political subdivisions.

The parties have conceded on the fact that the Provincial Government, through accused Tomas Joson, executed Deeds of Donations of several properties (heavy equipment), including the subject vehicles, to the Municipalities of Quezon and Bongabon.²⁰⁵ It was undisputed that accused Eduardo Joson and accused Gamilla accepted said donations on behalf of the Municipalities of Quezon and Bongabon, respectively, which was evidenced by their own signatures on each of the Deeds of Donations.²⁰⁶ There is no doubt, therefore, that the Deeds of Donation qualified as contracts or transactions the accused could enter into in their respective capacities as heads of the LGUs.

The Deed of Donation executed by accused Tomas Joson and Amelia Gamilla in favor of the Municipality of Bongabon was grossly and manifestly disadvantageous to the Provincial Government. However, the donation to

²⁰⁴ Joint Stipulations dated March 12, 2015 (Records, Vol. 3, p. 315, 318)

²⁰⁵ In prosecution's Request for Admission (Records, Vol. 3, pp. 151-156) paragraphs 1, 2, 4, 5, and 8 were admitted by the accused in their respective Comments (Comment of accused Tomas Joson [Records, Vol. 3, pp. 176-179], Comment of accused Eduardo Joson [Records, Vol. 3, pp. 187-188], and the Comment of accused Gamilla [Records, Vol. 3, pp. 204-205])

²⁰⁶ Exhibits "D" and "E"

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the Municipality of Quezon entered into by accused Tomas Joson and Eduardo Joson appears to have benefitted the constituents residing therein, which benefit also devolves on the Provincial Government.

The Deeds of Donations transferred the subject vehicles (specifically, the Mobile Clinic, Toyota Revo, Ford F-150, Nissan Urvan, Nissan Terrano and Ford Expedition) from the Provincial Government to the Municipalities of Quezon and Bongabon. What prosecution's evidence shows is that these properties were still in-need by the Provincial Government, and therefore, could have been used in the delivery of basic services to its constituents, such as providing transportation on official business, a means to be able to conduct inspections of programs or projects, or to conduct medical missions for the health and convenience of people living in remote or far-flung areas, among others. Certainly, without any concrete evidence that the subject vehicles were unserviceable, or that the same were in excess of the required number of vehicles needed by the Provincial Government, the divestment of supposedly functioning vehicles were grossly and manifestly disadvantageous to the Provincial Government.

This conclusion is best highlighted by accused Gamilla's use of the vehicles she received purportedly on behalf of the Municipality of Bongabon.

For accused Gamilla, there is nothing on record which would show that the donation of the Nissan Terrano and Ford Expedition was actually used to benefit the municipality. What was apparent was that the Deed of Donation was merely used as a ruse to rush the transfer of said properties to accused Gamilla who immediately benefitted from her private use of the same at the expense of the Municipality of Bongabon.

Circumstances point to the reality that the Nissan Terrano and Ford Expedition that were donated to the Municipality of Bongabon were not being used in official functions, but *were actually put to use in the personal service of accused Gamilla*. This was the subject of the report received by Jaime P. Pallanan, the former Provincial Administrator of Nueva Ecija, from the Provincial Civilian Security Unit that said vehicles were actually in the personal possession of accused Gamilla, and not the Municipal Government of Bongabon.²⁰⁷ Here, the disadvantage did not just affect the Provincial Government itself, but the Municipality of Bongabon, too. Apparently, the Municipality of Bongabon was never even given the chance to avail of the services of subject vehicles. The private use of accused Amelia Gamilla of subject vehicles became all too evident during the attempted restitution of subject vehicles by the same accused. As testified to by witness Teresita Palang Mañalac, former OIC of the Treasurer's Office of the Municipality of Bongabon, in July 2018, the Nissan Terrano and Ford Expedition were

²⁰⁷ TSN dated July 12, 2016, pp. 30-31

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delivered to the Municipal Government by the chauffer of accused Gamilla, and that the same were found to be in a shoddy, unserviceable state.²⁰⁸ Mañalac recalled, following the return of the vehicles, that she was constrained to visit the personal residence of accused Gamilla in order to secure the latter's signatures on the paperwork that accompanied the return of said properties.²⁰⁹ These circumstances raised too many concerns: since the vehicles were delivered to the Municipal Government by accused Gamilla's personal chauffer, why was there no formal turnover of said vehicles to the next mayor instead who succeeded her administration; and why were the same still in the possession of accused Gamilla in July of 2018, at which point in time her term as local chief executive had already ended? The only plausible answer to such questions is that accused Gamilla had appropriated the vehicles for her own use, which was made all too convenient by her participation in the conspiracy with accused Tomas Josen.

On the other hand, *for accused Eduardo Josen*, there seemed to be a gap of evidence at this instance. The vehicles donated to accused Eduardo Josen on behalf of the Municipality of Quezon appear to have been utilized as intended for the benefit of the town. This was alluded to by witness Anacleta Dungca Arucan, former Municipal Budget Officer, who even testified from the prosecution side.

Unlike accused Gamilla's personal appropriation of the vehicles donated to her town, Arucan remembered that she would regularly see the vehicles being put to proper use by the Municipal Officials of Quezon. With regard to the Mobile Clinic, it was alleged that it would even be used to conduct humanitarian missions, *viz:*²¹⁰

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[ON CROSS-EXAMINATION]:

Atty. Toboso:

We submit, Your Honors.

Q You've earlier said that you frequently saw these vehicles being used by the Officials of the Municipal Government, am I correct?

A Yes, Sir.

Q Would you know if there were other users of these vehicles, Ms. Witness?

A They are used during activities and projects of the Municipality of Quezon and Provincial Government of Nueva Ecija, Sir.

Q So the Nissan Urvan, the Ford F-150 and the Mobile Clinic were used for projects of the Municipality of Quezon, am I correct, Ms. Witness?

A Yes, Sir.

²⁰⁸ Judicial Affidavit of Mañalac dated August 24, 2018 (Vol. 4, pp. 366-367)

²⁰⁹ Ibid.

²¹⁰ TSN dated November 15, 2018, pp. 33-35

Q And when we say projects, you mean does not include infrastructure projects, Ms. Witness?

A Yes, Sir.

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Hon. Justice Trespeses:

Then how would you know that these are being used by the LGU? What is your basis now in saying that?

Witness:

Like the Mobile Clinic, it was used during medical mission, Your Honors.

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As a matter of fact, the donated vehicles were parked in the vicinity of the Municipal Building,²¹¹ not in the personal residence of then Mayor accused Eduardo Josen. Moreover, even the usage thereof by Municipal Officials was subject to clearance by the Office of the Mayor, and trips and expenses were duly supported by documentation, such as trip tickets:²¹²

xxx xxx xxx

Hon. Justice Trespeses:

Ms. Witness, who are in-charge of the keys? Where do you get the keys?

Witness:

The Secretary of the Municipal Mayor, Your Honors.

Hon. Justice Trespeses:

This authority that you are referring to, for example, if you intend to use that vehicle on a particular date for an official purpose, how do you [do] that, do you write a letter or do you simply call the Office of the Municipal Mayor?

Witness:

We only ask the Secretary, Your Honors.

Hon. Justice Trespeses:

You call?

Witness:

Yes, Your Honors.

Hon. Justice Trespeses:

And then the Secretary would relay the information to the Mayor, who then approve[s] the?

Witness:

²¹¹ *Id.* at 49-50

²¹² *Id.* at 51-53

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Yes, Your Honors.

Hon. Justice Trespeses:

Were there instance[s], for example, that [a] request has already been granted by the Mayor, then you are being informed to get the keys to be entrusted to whoever would ride the vehicle, correct? Is it being logged with the Municipality?

Witness:

Yes, Your Honors.

Hon. Justice Trespeses:

The date and the time that you used the vehicle?

Witness:

There is a trip ticket, Your Honors.

Hon. Justice Trespeses:

What about the gasoline, who shoulders the expenses for the gasoline?

Witness:

The Municipality of Quezon, Your Honors, who shouldered the gasoline allowance.

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Additionally, Arucan conveyed that the Ford F-150 had eventually been sold by the Municipal Government at a public auction, as per COA Letter²¹³ dated January 23, 2017, which document she had obtained.²¹⁴

These circumstances revealed that there were tangible benefits which accrued to the officials and constituents of the town of Quezon by the donation of the Mobile Clinic, the Ford F-150, the Nissan Urvan, and the Toyota Revo. The donation of the same to the Municipal Government were not exactly grossly and manifestly disadvantageous to the Provincial Government, under whose jurisdiction said town remained because the service given to the Municipality of Quezon is equally a service bestowed to it by the Province.

In fine, all the elements of Violation of Section 3 (g) of *R.A. 3019* obtain with respect to the donation of vehicles to the Municipality of Bongabon involving accused Tomas Joson and Amelia Gamilla. However, the fourth element is absent pertaining to the donation of vehicles in favor of the Municipality of Quezon involving accused Tomas Joson and Eduardo Basilio Joson.

All told, the prosecution duly established all the elements of Violation of Section 3 (e) of *R.A. 3019*, which pertain to *Criminal Case Nos. SB-11-CRM-0205 to 206*. It also proved the existence of all the elements of Violation of Section 3 (g) of *R.A. 3019* relating to *Criminal Case No. SB-11-CRM-0208*. This being the case, the conviction of accused Tomas Joson, Eduardo Joson,

²¹³ Exhibit "NN-Rebuttal"

²¹⁴ Records, Vol. 4, pp. 424-425

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and Gamilla is warranted. Conspiracy having been established, said accused are all equally liable under the rule that when conspiracy is established, the responsibility of the conspirators is collective, not individual, rendering all of them equally liable regardless of the extent of their respective participations.²¹⁵

On the other hand, since not all of the elements were proven in *Criminal Case No. SB-11-CRM-207* for Violation of Section 3 (g) of *R.A. 3019*, the acquittal of accused Tomas Joson and Eduardo Joson in this instance is warranted.

WHEREFORE, judgment is rendered as follows:

- 1) In *Criminal Case No. SB-11-CRM-0205*, accused Tomas N. Joson III and Eduardo Basilio M. Joson are found **GUILTY** beyond reasonable doubt of Violation of Section 3 (e) of *Republic Act No. 3019*, and are hereby sentenced to each suffer an indeterminate penalty of imprisonment of **SIX (6) YEARS and ONE (1) MONTH as minimum to TEN (10) YEARS as maximum**. Additionally, said accused are sentenced to suffer perpetual disqualification to hold public office. No actual damages will be imposed despite evidence presented on actual damages since none was alleged in the Information.
- 2) In *Criminal Case No. SB-11-CRM-0206*, accused Tomas N. Joson III and Amelia A. Gamilla are found **GUILTY** beyond reasonable doubt of Violation of Section 3 (e) of *Republic Act No. 3019*, and are hereby sentenced to each suffer an indeterminate penalty of imprisonment of **SIX (6) YEARS and ONE (1) MONTH as minimum to TEN (10) YEARS as maximum**. Additionally, said accused are sentenced to suffer perpetual disqualification to hold public office. No actual damages will be imposed despite evidence presented on actual damages since none was alleged in the Information.
- 3) In *Criminal Case No. SB-11-CRM-0207*, for failure of the prosecution to prove the guilt of accused Tomas N. Joson III and Eduardo Basilio M. Joson beyond reasonable doubt, they are **ACQUITTED** of Violation of Section 3 (g) of *Republic Act No. 3019*.
- 4) In *Criminal Case No. SB-11-CRM-0208*, accused Tomas N. Joson III and Amelia A. Gamilla are found **GUILTY** beyond reasonable doubt of Violation of Section 3 (g) of *Republic Act No. 3019*, and are hereby sentenced to each suffer an indeterminate penalty of imprisonment of **SIX (6) YEARS**

²¹⁵ *People v. Elizalde y Sumagdon*, G.R. No. 210434, December 5, 2016

and **ONE (1) MONTH** as minimum to **TEN (10) YEARS** as **maximum**. Additionally, said accused are sentenced to suffer perpetual disqualification to hold public office.

SO ORDERED.


MA. THERESA DOLORES C. GOMEZ-ESTOESTA
Associate Justice
Chairperson

WE CONCUR:


LAEDY V. TRESPESES
Associate Justice


GEORGINA D. HIDALGO
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.


MA. THERESA DOLORES C. GOMEZ-ESTOESTA
Chairperson, Seventh Division

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairman'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.


EFREN N. DE LA CRUZ
Acting Presiding Justice

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