



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
Quezon City

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

CRIM. CASE NO. SB-11-CRM-0309
For: Violation of Sec. 3 (e) RA 3019

- versus -

CRIM. CASE NO. SB-11-CRM-0310
For: Malversation

CRIM. CASE NO. SB-11-CRM-0311
to SB-11-CRM-0315
For: Technical Malversation

YASSER HASSAN SAMPORNA,
Accused.

Present:

DE LA CRUZ, J., *Chairperson*
ECONG, J.
CALDONA, J.

Promulgated on:

NOV 23 2018

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DECISION

DE LA CRUZ, J.:

Accused Yasser Hassan Samporna stands charged for violation of Section 3(e) of RA 3019, Malversation, and Technical Malversation, in separate Informations the respective accusatory portions of which read:

Criminal Case No. SB-11-CRM-0309

That on or about February 27, 2008 to July 31, 2008 or sometime prior or subsequent thereto in the Municipality of Kauswagan, Lanao del Norte, and within the jurisdiction on (sic) this Honorable Court, the accused **YASSER HASSAN SAMPORNA (SG 27)**, a high ranking official, being the Mayor of Kauswagan, Lanao del Norte, while in the performance of his official functions and committing the offense in relation to his duty,

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taking advantage of his official position, and acting with evident bad faith, did then and there, willfully, unlawfully and criminally approve and issue DBP checks payable to himself for programs and projects that neither had program of works nor inspection conducted by the Office of the Municipal Engineer, namely:

(1.)	Rehab of farm to market road	P60,000.00	22485516;
(2.)	Brgy Road Maintenance	200,000.00	22485596;
(3.)	Farm to Market Road	150,000.00	27579509;
(4.)	Project Implementation	240,000.00	27579622

resulting in undue injury to the government in the amount of **P650,000.00.**

CONTRARY TO LAW.

Criminal Case No. SB-11-CRM-0310

That on or about February 27, 2008 to July 31, 2008 or sometime prior or subsequent thereto in the Municipality of Kauswagan, Lanao del Norte, and within the jurisdiction on (sic) this Honorable Court, the accused **YASSER HASSAN SAMPORNA (SG 27)**, a high ranking official, being the Mayor of Kauswagan, Lanao del Norte, and committing the offense in relation to his office, did then and there willfully, unlawfully, and feloniously malverse, misappropriate public funds by approving and issuing DBP checks payable to himself for programs and projects that neither had program of works nor inspection conducted by the Office of the Municipal Engineer, namely:

(1.)	Rehab of farm to market road	P60,000.00	22485516;
(2.)	Brgy Road Maintenance	200,000.00	22485596;
(3.)	Farm to Market Road	150,000.00	27579509;
(4.)	Project Implementation	240,000.00	27579622

to the damage and prejudice of the government in the aforesaid amount of **P650,000.00.**

CONTRARY TO LAW.

Criminal Case No. SB-11-CRM-0311

That on or about 11 July 2008 or sometime prior or subsequent thereto, in Kauswagan, Lanao del Norte, Philippines, and within the jurisdiction of this Honorable Court, accused high ranking public officer **YASSER HASSAN SAMPORNA (SG 27)** being the Municipal Mayor of Kauswagan, Lanao del Norte committing the offense in relation to office, did then and there willfully, unlawfully and feloniously, divert and appropriate the public funds in the amount of P200,000.00 intended for his 11

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July 2008 travel to intelligence activity in support of the military's effort in gathering information and providing food supplies for the peace-keeping forces, a public use different for which such fund was appropriated.

CONTRARY TO LAW.

Criminal Case No. SB-11-CRM-0312

That on or about 11 July 2008 or sometime prior or subsequent thereto, in Kauswagan, Lanao del Norte, Philippines, and within the jurisdiction of this Honorable Court, accused high ranking public officer **YASSER HASSAN SAMPORNA (SG 27)** being the Municipal Mayor of Kauswagan, Lanao del Norte committing the offense in relation to office, did then and there willfully, unlawfully and feloniously, divert and appropriate the public funds in the amount of P300,000.00 intended for his 21-31 July 2008 travel to intelligence activity in support of the military's effort in gathering information and providing food supplies for the peace-keeping forces, a public use different for which such fund was appropriated.

CONTRARY TO LAW.

Criminal Case No. SB-11-CRM-0313

That on or about 11 July 2008 or sometime prior or subsequent thereto, in Kauswagan, Lanao del Norte, Philippines, and within the jurisdiction of this Honorable Court, accused high ranking public officer **YASSER HASSAN SAMPORNA (SG 27)** being the Municipal Mayor of Kauswagan, Lanao del Norte committing the offense in relation to office, did then and there willfully, unlawfully and feloniously, divert and appropriate the public funds in the amount of P307,822.05 intended for the 20% Development Fund to payment of gasoline, repairs and maintenance of motor vehicle and for the Hugyaw sa Kadagatan Festival and Local Government counterpart, a public use different for which such fund was appropriated.

CONTRARY TO LAW.

Criminal Case No. SB-11-CRM-0314

That on or about 11 July 2008 or sometime prior or subsequent thereto, in Kauswagan, Lanao del Norte, Philippines, and within the jurisdiction of this Honorable Court, accused high ranking public officer **YASSER HASSAN SAMPORNA (SG 27)** being the Municipal Mayor of Kauswagan, Lanao del Norte committing the offense in relation to office, did then and there

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willfully, unlawfully and feloniously, divert and appropriate the public funds in the amount of P446,641.00 intended for the 5% Reserved Fund to the following: (1.) Calamity Fund for the months of October and November 2008; (2.) Purchase of materials/equipment; and (3.) Peace and Order, a public use different for which such fund was appropriated.

CONTRARY TO LAW.

Criminal Case No. SB-11-CRM-0315

That on or about 11 July 2008 or sometime prior or subsequent thereto, in Kauswagan, Lanao del Norte, Philippines, and within the jurisdiction of this Honorable Court, accused high ranking public officer **YASSER HASSAN SAMPORNA** (SG 27) being the Municipal Mayor of Kauswagan, Lanao del Norte committing the offense in relation to office, did then and there willfully, unlawfully and feloniously, divert and appropriate the public funds in the amount of P501,379.50 intended for the utilization of Gender and Development to the following: (1.) Maintenance of Peace and Order; (2.) Araw ng Kauswagan Celebration; (3.) Cash Assistance; (4.) Araw ng Lanao Celebration; (5.) Tourism Council; and (6.) Hugyaw sa Kadagatan Festival, a public use different for which such fund was appropriated.

CONTRARY TO LAW.

Upon arraignment on October 20, 2011, the accused, duly assisted by his counsels *de parte*, separately pleaded "Not Guilty" to all the charges against him.¹

At the pre-trial, the parties stipulated that during the period material to these cases, the accused Yasser Hassan Samporna was the Municipal Mayor of Kauswagan, Lanao del Norte, although he had been suspended several times during his term of office.²

The parties proposed the following issues:³

As proposed by the prosecution:

a. *SB-11-CRM-0309* – Whether or not the accused is guilty of violation of Section 3(e) of RA 3019, as amended.

¹ Records, Vol. I, p. 131

² Pre-trial Order, Records, Vol. I, pp. 251-299

³ Ibid

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b. *SB-11-CRM-0310* – Whether or not the accused is guilty of malversation amounting to ₱650,000.00.

c. *SB-11-CRM-0311* – Whether or not the accused is guilty of technical malversation amounting to ₱200,000.00.

d. *SB-11-CRM-0312* – Whether or not the accused is guilty of technical malversation amounting to ₱300,000.00.

e. *SB-11-CRM-0313* – Whether or not the accused is guilty of technical malversation amounting to ₱307,822.05.

f. *SB-11-CRM-0314* – Whether or not the accused is guilty of technical malversation amounting to ₱446,641.00.

g. *SB-11-CRM-0315* – Whether or not the accused is guilty of technical malversation amounting to ₱501,379.50.

As proposed by the accused:

a. Whether or not the accused is guilty of violation of Section 3(e) of RA 3019.

b. Whether or not the accused is guilty of Malversation.

c. Whether or not the accused is guilty of Technical Malversation.

EVIDENCE FOR THE PROSECUTION

The prosecution presented eight (8) witnesses, namely, Marietta D. Salvanera, Fortunato A. Densing, Saidale S. Maruhom, Melicent Juliada, Milagros P. Rico, Ma. Pauline C. Gimeno, Grace A. Requiron-Florentin, and Mastura I. Mananggolo, whose testimonies are set forth below.

Marietta D. Salvanera, the Municipal Accountant of Kauswagan, Lanao del Norte at the time material to the cases, testified as follows:

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Criminal Case Nos. 0309 and 0310

Salvanera testified that the accused, as then Mayor of Kauswagan, requested a cash advance of ₱200,000.00, out of which ₱60,000.00 was used for the rehabilitation of a farm-to-market road. Salvanera presented an Allotment and Obligation Slip,⁴ Disbursement Voucher,⁵ and Journal Entry Voucher,⁶ all showing the amount of ₱200,000.00, and Check No. 22485516,⁷ payable to the accused, and was encashed by him as shown by a DBP Bank Statement for January 2008.⁸ As the accused has not liquidated the ₱200,000.00, Salvanera sent him a Demand Letter.⁹

As to the cash advance of ₱200,000.00 given to the accused for the barangay road maintenance, Salvanera explained that the Municipal Treasurer, Melicent Juliada, insisted that she sign the Accountant's Advice¹⁰ for the said amount, as the accused got angry and would not leave unless he gets what he wants. Hence, Check No. 22485596 amounting to ₱200,000.00 was released to the accused, as shown by the Accountant's Advice, Obligation Slip,¹¹ Disbursement Voucher,¹² and Bank Statement. The amount has not been liquidated which prompted Salvanera to send the accused a Demand Letter.¹³

As to the ₱150,000.00 cash advance for the implementation of the farm to market road project, Salvanera claimed that she has not yet signed the Disbursement Voucher¹⁴ but it was already approved by the accused, and Check No. 27579509 was issued to the latter, as shown by the Accountant's Advice.¹⁵ The accused has encashed the check, as shown in the DBP Bank Statement,¹⁶ but has not liquidated the amount, prompting Salvanera to write

⁴ Exhibit L

⁵ Exhibit N

⁶ Exhibit M

⁷ Exhibit O

⁸ Exhibit E¹³⁻¹

⁹ Exhibit B¹³⁻¹

¹⁰ Exhibit S

¹¹ Exhibit Q

¹² Exhibit R

¹³ Exhibit B¹³⁻²

¹⁴ Exhibit U

¹⁵ Exhibit V

¹⁶ Exhibit E¹³⁻¹

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him a Demand Letter¹⁷ but the accused did not submit a liquidation report.

With respect to the Project Implementation amounting to ₱240,000.00 under Check No. 27579622, Salvanera presented the Accountant's Advice,¹⁸ Obligation Slip,¹⁹ Bank Statement,²⁰ and Disbursement Voucher,²¹ with the accused as claimant, and which states that the cash advance was for the project implementation from the 20% Miracle Program. Even if the Disbursement Voucher was not supported by documents, and the accused has pending unliquidated cash advances, Salvanera still signed the Advice as she was informed by Juliada that the accused already has the check. If she will not sign the advice, Salvanera feared that the check will be dishonored and the accused will be embarrassed, and will get angry. As the accused failed to liquidate the ₱240,000.00, Salvanera reminded him in a letter,²² but he did not submit a liquidation report.

Criminal Case Nos. 0311 and 0312

According to Salvanera, sometime in July 2008, the accused secured cash advances amounting to ₱200,000.00 and P300,000.00 for his travel. Salvanera presented the Accountant's Advice²³ showing Check Nos. 27579586²⁴ and 27579593²⁵ for ₱200,000.00 and ₱300,000.00, respectively, both with the accused as the payee.

For the amount of ₱200,000.00, Salvanera presented the Obligation Slip,²⁶ and the Disbursement Voucher,²⁷ which lacks her signature because it did not pass her office. In addition, while the cash advance of ₱200,000.00 will be used for the accused's travel on July 11, 2008, the Accountant's Advice was brought to Salvanera's office only on August 15, 2008. She was informed by

¹⁷ Exhibit A¹³

¹⁸ Exhibit Y

¹⁹ Exhibit W

²⁰ Exhibit K¹³⁻¹

²¹ Exhibit X

²² Exhibit A¹⁸⁻¹

²³ Exhibit KK

²⁴ Exhibit KK-1

²⁵ Exhibit KK-2

²⁶ Exhibit AA

²⁷ Exhibit CC-1

ff
ja
d

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the Municipal Assistant Treasurer that the travel was aborted but the accused was still insistent that the check be issued to him.

As to the ₱300,000.00, Salvanera presented the Obligation Slip,²⁸ and the Disbursement Voucher,²⁹ which she did not sign because it lacks supporting documents such as the approved Travel Order and the Itinerary of Travel. Nevertheless, she signed the Accountant's Advice out of fear. Salvanera also presented the Journal Entry Vouchers,³⁰ the logbook,³¹ showing that the accused was able to encash the checks, the copy of the checks,³² with the accused's signatures at the back, and the bank statement,³³ pertaining to the two amounts. She later on wrote the accused a letter,³⁴ reminding him to liquidate said cash advances. The accused submitted a Liquidation Report³⁵ for the ₱200,000.00, but Salvanera found that it was for his other cash advance, hence, the amount is still unliquidated. The Municipal Planning and Development Officer, Dionesio Fuentes, told her that the money was used for Peace and Order expense. For the cash advance amounting to ₱300,000.00, the accused submitted a Liquidation Report,³⁶ stating that the money was used for Peace and Order Program and Activities by reason of the volatile peace and order condition of Kauswagan, Lanao del Norte. Attached therewith are the project proposal for the seminar workshop, the DILG Circular, the list of attendance for the two-day workshop for the 13 barangays, the official receipt, and the Reimbursement Expense Receipts.

Criminal Case No. 0313

Salvanera testified that the 20% Development Fund amounting to ₱307,822.05 was used for the following: (1) to purchase gasoline at ₱1,200.00; (2) repair and maintenance of motor vehicles at ₱50,072.05; and (3) the Hugyaw sa Kadagatan Festival amounting to ₱247,550.002, as shown by the Journal

²⁸ Exhibit FF
²⁹ Exhibit GG
³⁰ Exhibits BB & HH
³¹ Exhibit LL
³² Exhibits DD & II
³³ Exhibit L
³⁴ Exhibit Z
³⁵ Exhibit EE
³⁶ Exhibit JJ

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Entry Voucher, Allotment and Obligation Slip.³⁷ For the repair and maintenance of motor vehicles amounting to ₱50,072.05, Salvanera enumerated the payees thereof, as follows: Regina Flores, ₱5,044.00; Cebu Hydraulic Center, ₱5,250.00; E. Padayhag, ₱4,900.00; JN Electroplating, ₱3,300.00; Lomex Car, ₱11,512.00; Denso Motors, ₱3,960.30; Melicent Juliada, ₱4,000.00, ₱1,550.00 and ₱2,399.75; Demetrio Vicente, Jr., ₱3,400.00; Carmina Taratingan, ₱2,476.00 and ₱1,200.00; and Estrellanes Merchandise, ₱1,080.00. All the payments were approved by the accused as then Municipal Mayor, as shown in the Disbursement Vouchers³⁸ and Purchase Requests.³⁹ The payments to Cebu Hydraulic Center, JN Electroplating, Juliada (for the ₱1,550.00 and ₱2,399.75), Taratingan, and Vicente, Jr. were requested by the latter,⁴⁰ the ₱4,000.00 paid to Juliada was requested by her,⁴¹ the ₱1,080.00 to Estrellanes requested by Fuentes,⁴² and all the other transactions were requested by the accused as shown in the Obligation Slips/Allotment and Obligation Slips.⁴³

As to the ₱247,550.002 spent on the Hugyaw sa Kadagatan Festival, Salvanera enumerated the payees as follows: Divina M. Bayno, Madid Otto, Rasmia Musa, Rasmia L. Dimandi, Myrna Radia, at ₱10,000.00 each; Emperial Aluminum and Paint Supply, ₱3,500.00; Melicent Juliada, ₱32,000.00, ₱60,000.00, ₱9,500.00, and ₱7,550.00; Barrio Canton/Procopio Chang, ₱9,000.00; Engr. Saidale Maruhom, ₱21,000.00; Amenah Taratingan, ₱23,583.00; Felomino Estrellanes, ₱5,417.00; Marietta Salvanera, ₱16,000.00; and Malic Macabato at ₱10,000.00. The payments are supported by Obligation Slips,⁴⁴ Disbursement Vouchers,⁴⁵ Journal Entry Vouchers,⁴⁶ and Checks.⁴⁷

³⁷ Exhibit MM

³⁸ Exhibits TT, WW, B³-E³, J³, N³, S³, V³, Y³, C⁴, H⁴, L⁴ & P⁴

³⁹ Exhibits F³, K³, P³, T³, W³, A⁴, D⁴, I⁴ & M⁴

⁴⁰ Exhibits VV, D³⁻², U³, X³, B⁴, G⁴ & K⁴

⁴¹ Exhibit R³

⁴² Exhibit O⁴

⁴³ Exhibits SS, A³⁻², I³⁻² & M³

⁴⁴ Exhibits R⁴, T⁴, W⁴, A⁵, E⁵, H⁵, L⁵, O⁵, Q⁵, S⁵, X⁵, Z⁵, D⁶, F⁶, J⁶ & N⁶

⁴⁵ Exhibits S⁴, U⁴, Y⁴, B⁵, F⁵, I⁵, M⁵, P⁵, R⁵, T⁵, W⁵, A⁶, E⁶, G⁶, K⁶ & M⁶

⁴⁶ Exhibits X⁴, Z⁴, D⁵, H⁵, L⁵, O⁵, Q⁵, X⁵, Z⁵, D⁶, F⁶, J⁶ & N⁶

⁴⁷ Exhibits V⁴, V⁴⁻¹, C⁵, C⁵⁻¹, G⁵, K⁵, N⁵, V⁶, V⁶⁻¹, Y⁶, C⁶, I⁶, L⁶ & O⁶

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Salvanera clarified that the amount taken from the 20% Development Fund was only ₱298,822.05, and not ₱307,822.05 as stated in the Information, which was due to a double entry of ₱9,000.00,⁴⁸ corresponding to the voucher of Barrio Canton.

Criminal Case No. 0314

For the amount of ₱446,641.00 intended for the 5% Reserved Fund, Salvanera testified that it was used for the disbursement of the following: (1) calamity fund for the months of October and November 2007 amounting to ₱150,875.00; (2) purchase of materials and equipment amounting to ₱57,000.00; and (3) peace and order amounting to ₱238,766.00. For the calamity fund, Salvanera enumerated the payees thereof, as follows: Teresita Escalicas, ₱40,500.00 and ₱4,650.00; Dionesio Fuentes, ₱35,000.00 and ₱14,375.00; Pedro Requiron, ₱7,000.00; and Melicent Juliada, Dionesio Fuentes, Teresita Escalicas, Demetrio Vicente, and Dra. M. Rico at ₱9,870.00 each. Salvanera presented the Obligation Slips and Journal Entry Vouchers,⁴⁹ Disbursement Vouchers,⁵⁰ Purchase Requests,⁵¹ Certificates of Emergency Purchase,⁵² and Checks⁵³ as supporting documents.

As to the purchase of materials and equipment amounting to ₱57,000.00, Salvanera stated that it was disbursed to the following payees: Melicent Juliada, ₱32,000.00; Teresita Calicas, ₱15,000.00; and Saidale Maruhom at ₱10,000.00. She presented the Allotment and Obligation Slips and Journal Entry Vouchers,⁵⁴ Disbursement Vouchers,⁵⁵ and a Purchase Request.⁵⁶

On the other hand, the amount of ₱238,766.00 was used for peace and order, the payees thereof are as follows: Yasser Samporna, the accused, was paid ₱15,000.00, ₱50,000.00,

⁴⁸ Exhibit 16-a

⁴⁹ Exhibits P⁶, S⁶, X⁶, Z⁶, D⁷, G⁷, K⁷, N⁷, P⁷ & T⁷

⁵⁰ Exhibits Q⁶, T⁶, W⁶, A⁷, E⁷, H⁷, L⁷, O⁷, O⁷⁻¹, R⁷, U⁷ & U⁷⁻¹

⁵¹ Exhibit B⁷

⁵² Exhibit C⁷

⁵³ Exhibits R⁸, V⁸, Y⁸, F⁷, J⁷, M⁷, S⁷ & V⁷

⁵⁴ Exhibits D⁹, I⁹ & L⁹

⁵⁵ Exhibits E⁹, H⁹ & K⁹

⁵⁶ Exhibit F⁹

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₱69,020.00, ₱5,000.00, ₱10,000.00, ₱30,000.00, ₱15,000.00, ₱15,000.00, ₱15,000.00, and ₱8,500.00; Joey Fuentes, ₱2,046.00; and Julieta Ofonda, ₱4,000.00. The payments were supported by Disbursement Vouchers,⁵⁷ Journal Entry Vouchers,⁵⁸ Obligation Slips/Allotment and Obligation Slips,⁵⁹ a Purchase Request,⁶⁰ and Checks.⁶¹

Criminal Case No. 0315

Salvanera testified that the Gender and Development Fund was utilized on the following: (1) maintenance of peace and order at ₱190,694.50; (2) Hugyaw sa Kadagatan Festival at ₱2,872.00; (3); (4) Cash Assistance at ₱44,586.00; (5) Araw ng Kauswagan, at ₱133,585.00; and (6) Araw ng Lanao Celebration, at ₱128,442.00.

For the maintenance of peace and order amounting to ₱190,694.50, the payees thereof are the following: Melicent Juliada, ₱25,769.50; Yasser Samporna, the accused, at ₱50,000.00, ₱48,500.00, ₱5,000.00, ₱30,000.00, ₱2,000.00, ₱20,000.00, ₱3,000.00 and ₱4,000.00; and Julieta Ofonda, ₱2,425.00.⁶² Salvanera presented Allotment and Obligations Slips,⁶³ Disbursement Vouchers,⁶⁴ Journal Entry Vouchers,⁶⁵ Certificates of Emergency Purchase,⁶⁶ Purchase Requests,⁶⁷ and Checks.⁶⁸

For the Hugyaw sa Kadagatan Festival, and the Tourism Council, the amounts of ₱2,872.00 and ₱1,300.00 were paid to Melicent Juliada and Engr. Saripada Tawantawan, respectively, as

⁵⁷ Exhibits M⁹, R⁹, S⁹, W⁹, Z⁹, C¹⁰, D¹⁰, H¹⁰, K¹⁰, M¹⁰, P¹⁰ & V¹⁰

⁵⁸ Exhibits N⁹, O⁹, T⁹, Y⁹, B¹⁰, G¹⁰, J¹⁰, N¹⁰, Q¹⁰ & U¹⁰

⁵⁹ Exhibits N⁹, P⁹, T⁹, V⁹, Y⁹, B¹⁰, E¹⁰, G¹⁰, J¹⁰, N¹⁰, O¹⁰ & U¹⁰

⁶⁰ Exhibit Q¹⁰

⁶¹ Exhibits O⁹, U⁹, A¹⁰, F¹⁰, I¹⁰, L¹⁰ & R¹⁰

⁶² Exhibit W^{7A}

⁶³ Exhibits X⁷, D⁸, G⁸, L⁸, P⁸, S⁸, U⁸, X⁸, Z⁸ & C⁹

⁶⁴ Exhibits Y⁷, E⁸, H⁸, M⁸, Q⁸, R⁸, V⁸, Y⁸, A⁹ & G⁹

⁶⁵ Exhibits F⁷, G⁷, L⁷, O⁷, S⁷, X⁷, C⁸ & C^{9A}

⁶⁶ Exhibits Z⁷ & J⁸

⁶⁷ Exhibits A⁹, B⁹ & K⁹

⁶⁸ Exhibits N⁸, N^{8A}, T⁸, T^{8A} & W⁸

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shown by the Disbursement Vouchers,⁶⁹ Obligation Slips,⁷⁰ Journal Entry Vouchers,⁷¹ and Check.⁷²

For the cash assistance amounting to ₱44,586.00, it was paid to the following: The accused, ₱15,000.00 and ₱28,086.00, as shown by the Obligation Slip,⁷³ Disbursement Voucher,⁷⁴ Budget Proposal,⁷⁵ and Checks⁷⁶; and Antonia Dativas, ₱1,500.00, as shown by the Allotment and Obligation Slip,⁷⁷ Journal Entry Voucher,⁷⁸ Disbursement Voucher,⁷⁹ and the Certificate of Eligibility.⁸⁰

For the amount of ₱133,585.00 used in Araw ng Kauswagan, the payees were as follows: The accused, ₱5,000.00; Melicent Juliada, ₱65,000.00 and ₱51,585.00; Malic Macabato, ₱10,000.00; and Normila Samporna, ₱2,000.00. The payments were shown by the Obligation Slips,⁸¹ Disbursement Vouchers,⁸² Journal Entry Voucher,⁸³ and Checks.⁸⁴

Finally, for the Araw ng Lanao Celebration amounting to ₱128,442.00, Salvanera enumerated the payees thereof as follows: Kris Tara Singco, ₱30,000.00; Saripada Tawantawan, ₱5,000.00 and ₱23,000.00; Melicent Juliada, ₱31,000.00, ₱15,180.00, and ₱10,000.00; Joey Fuentes, ₱7,787.00; and Noel Abregondo, ₱6,475.00. Salvanera presented the Obligation Slips,⁸⁵ Journal Entry Vouchers,⁸⁶ Disbursement Vouchers,⁸⁷ Reimbursement Expense Receipt,⁸⁸ Purchase Request,⁸⁹ and the checks.⁹⁰

⁶⁹ Exhibits X¹⁰ & A¹¹

⁷⁰ Exhibits Y¹⁰ & Z¹⁰

⁷¹ Exhibits Y^{10A} & Z^{10A}

⁷² Exhibit B¹¹

⁷³ Exhibits C¹¹ & E¹¹

⁷⁴ Exhibits D¹¹ & F¹¹

⁷⁵ Exhibit G¹¹

⁷⁶ Exhibits H¹¹ & H^{11A}

⁷⁷ Exhibit I¹¹

⁷⁸ Exhibit I^{11A}

⁷⁹ Exhibit J¹¹

⁸⁰ Exhibit K¹¹

⁸¹ Exhibits L¹¹, N¹¹, R¹¹, R^{11A}, S¹¹ & U¹¹

⁸² Exhibits L^{11A}, O¹¹, Q¹¹, T¹¹ & W¹¹

⁸³ Exhibit T¹¹

⁸⁴ Exhibits M¹¹, R^{11B} & V¹¹

⁸⁵ Exhibits X¹¹, C¹¹, E¹¹, K¹¹, S^{11A} & V¹¹

⁸⁶ Exhibits Y¹¹, J¹¹, M¹¹, P¹¹, S¹¹ & W¹¹

⁸⁷ Exhibits Z¹¹, D¹¹, F¹¹, L¹¹, N¹¹, Q¹¹, T¹¹ & X¹¹

⁸⁸ Exhibit A¹¹

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Salvanera submitted separate reports on the utilization of the 20% Development Fund,⁹¹ Gender and Development Fund,⁹² and 5% Reserve Fund,⁹³ to Acting Municipal Mayor Mananggolo. She also wrote the accused letters,⁹⁴ reminding him about his unliquidated cash advances. As proof that the payees in the Disbursement Vouchers have been paid by the municipality, Salvanera presented the bank statements⁹⁵ issued by DBP Iligan City.

On cross-examination, Salvanera admitted that she was part of the processing of the disbursement vouchers as one of its signatories. As to the Obligation Slip, the previous form (Allotment and Obligation Slip) requires her signature, but in the current form, the signatures of the requisition officer and the budget officer are enough. The prosecution stipulated that Salvanera did not actually witness who affixed the signature over and above the name of the accused in the documents, but that she is familiar with the signature of the accused. As to the handwritten notations with respect to the source of the fund, it was also stipulated that they are not the handwriting of the accused but that of the Budget Officer.

Fortunato A. Densing, the Secretary to the Sangguniang Bayan of Kauswagan. He admitted issuing a Certification,⁹⁶ which attests to the fact that there was no resolution passed by the Sangguniang Bayan declaring a state of calamity in Kauswagan or any of its barangays or portion thereof during the months of January, February and March of 2008.

Saidale S. Maruhom, the Municipal Engineer of Kauswagan at the time material to the cases. He testified that he issued a Certification, dated January 12, 2009,⁹⁷ that his office has neither prepared nor inspected the following projects, programs or activities which were funded by the 20% Municipality Development

⁹¹ Exhibit Y¹²

⁹² Exhibits B¹², I¹², I^{12-A}, L^{12-A}, O^{12-A}, R¹² & U¹²

⁹³ Exhibit F

⁹⁴ Exhibit G

⁹⁵ Exhibit H

⁹⁶ Exhibits Z¹² to D¹², inclusive

⁹⁷ Exhibits E¹³ to O¹³

⁹⁸ Exhibit J

⁹⁹ Exhibit I

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Fund: (1) Rehab of farm to market road, at ₱60,000.00; (2) Barangay Road Maintenance, at ₱200,000.00; (3) Farm to Market Road, at ₱150,000.00; and (4) Project Implementation, at ₱240,000.00.

Melicent Juliada, the Municipal Treasurer of Kauswagan at the time material to the cases. In her Judicial Affidavit,⁹⁸ she explained that as the municipal treasurer, she signs the cash availability in the Disbursement Voucher, and the check. For the separate checks on the barangay road maintenance, farm to market road project, project implementation, amounting to ₱200,000.00, ₱150,000.00, and ₱240,000.00, respectively, Juliada corroborated Salvanera's testimony that the accused demanded the issuance of the checks despite the Disbursement Voucher lacking Salvanera's signature. Out of fear of the accused who was already angry, Juliada got scared and issued the checks. She also told Salvanera that the accused was angry as he wants the check to be released on that day as he has to settle a personal account. This prompted Salvanera to sign the Accountant's Advice in all instances so that the checks will be honored by the bank. As to the ₱300,000.00 cash advance requested by the accused for his travel to Manila on July 21-31, 2008, Juliada claimed that despite the lacking signatures in the documents, she still issued the check because she was afraid of the accused. Juliada also confirmed as her signature the ones found in box C of the Disbursement Vouchers, and in the checks issued, as presented by Salvanera. She also admitted being the payee in some of the transactions mentioned by Salvanera.

Upon receipt of a letter⁹⁹ from State Auditor Talib Ali Macalabo, Juliada made the reports on the utilization of the 20% Development Fund, the Gender and Development Fund, and the 5% Reserved Fund.

During cross-examination, Juliada admitted that she did not actually see the accused sign in the documents, but that she is familiar with the signature of the accused. As to the notations found in the Allotment and Obligations Slips/Obligations Slips,

⁹⁸ Records, Vol. II, pp. 15-133

⁹⁹ Exhibit 5¹³

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stating the source of the fund, Juliada testified that the same were written by the Budget Officer.

Milagros P. Rico, the Municipal Budget Officer of Kauswagan at the time material to the cases. In her Judicial Affidavit,¹⁰⁰ Rico confirmed that it was her who made the handwritten entries or erasures in the Allotment and Obligation Slips/Obligation Slips (ALOBS/OBS). She explained that the Municipal Accountant and the Treasurer knew about her practice of writing notations to remind herself where to charge the transaction. Rico testified that when the amount for the rehabilitation of farm to market road was requested, there was no sufficient allocation. The MPDC Head advised Juliada to get the money from different funds, but Rico told the latter that such charging is in violation of the approved budget of the municipality. As the check was already released to the accused, Rico signed the document out of fear of the consequences. For the ₱240,000.00 cash advance for the Project Implementation Miracle Program, Rico denied that the document passed her office and that the municipality has appropriation for it. As to the charges against the 20% Development Fund, 5% Calamity Fund, and GAD Fund, Rico made notations in the ALOBS/OBS because the particulars therein do not reconcile with the approved budget appropriation, following the Municipal Annual Budget of Kauswagan for 2007¹⁰¹ and 2008,¹⁰² and the Supplemental Budget for Calendar Year 2008.¹⁰³

Ma. Pauline C. Gimeno, State Auditor IV of the Commission on Audit (COA) assigned in the Municipality of Kauswagan. In her Judicial Affidavit,¹⁰⁴ Gimeno presented the documents,¹⁰⁵ she received from retired Auditor Talib Ali Macalabo pertaining to the present cases, such as the demand letters sent by Macalabo to the accused, Audit Observation Memorandum No. 001-2009 (101), dated October 14, 2009, copy of Annual Audit Report CY 2008, and the original checks.

¹⁰⁰ Records, Vol. II, pp. 208-293

¹⁰¹ Exhibit P¹⁵

¹⁰² Exhibit R¹⁵

¹⁰³ Exhibit Q¹⁵

¹⁰⁴ Records, Vol. II, pp. 373-527

¹⁰⁵ Exhibit V¹⁵

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During cross-examination, it was stipulated that Gimeno was only the custodian of the documents, and has no personal knowledge about the preparation and investigation thereof.

Grace A. Requiron-Florentin, Administrative Aide IV at the Office of the Municipal Treasurer at the time material to the cases. In her Judicial Affidavit,¹⁰⁶ Requiron-Florentin corroborated Juliada's testimony that in two separate instances, or on July 11, 2008 and August 15, 2008, the accused requested Juliada to issue him checks even if his vouchers did not contain the signatures of the Budget Officer and the Accountant. Also, when Juliada told the accused that they do not have enough funds, the accused would tell her to just follow his order.

Mastura I. Mananggolo, the private complainant who instituted the present cases. In his Judicial Affidavit,¹⁰⁷ Mananggolo testified that he assumed as Acting Municipal Mayor of Kauswagan when the accused was suspended in 2008. In filing the Complaint-Affidavit with the Office of the Ombudsman, Mananggolo used the information from the reports¹⁰⁸ submitted to him by the Municipal Accountant and Municipal Treasurer in relation to the 20% Development Fund, 5% Gender and Development Fund, and 5% Calamity Fund (Reserved Fund), as requested by COA Auditor Macalabo in his letter,¹⁰⁹ dated January 5, 2009.

On September 4, 2017, the prosecution filed its Formal Offer of Exhibits,¹¹⁰ all of which the Court admitted in evidence in the tenor that they were testified on.¹¹¹

The accused filed a Motion for Leave of Court to File Demurrer to Evidence, which the Court denied.¹¹²

EVIDENCE FOR THE DEFENSE

The accused waived his right to testify in his defense.¹¹³

¹⁰⁶ Records, Vol. III, pp. 70-74

¹⁰⁷ Records, Vol. III, pp. 75-129

¹⁰⁸ Exhibits F, G & H

¹⁰⁹ Exhibit 5¹³

¹¹⁰ Records, Vol. III, pp. 181-518 to Vol. III-A, pp. 13-857

¹¹¹ Records, Vol. IV, p. 42

¹¹² Records, Vol. IV, pp. 79-80

¹¹³ Records, Vol. IV, p. 111

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On September 27 and 28, 2018, the accused and the prosecution filed their respective memoranda.¹¹⁴

THE FACTS

Based on the evidence adopted and presented, and the stipulations between the prosecution and the accused, the Court finds the facts below:

Accused Yasser Hassan Samporna was elected Municipal Mayor of Kauswagan, Lanao del Norte in 2007. Owing to an administrative complaint filed against him, accused Samporna was suspended in 2008, and Vice-Mayor Mastura Mananggolo assumed as Acting Mayor. In a letter,¹¹⁵ dated January 5, 2009, COA State Auditor Talib Ali Macalabo requested from Mananggolo the disbursement reports on the municipality's 20% Development Fund and 5% Calamity Fund utilization for the year 2008.

Alleging that the accused has requested and/or arbitrarily approved in bad faith some illegal disbursements of public funds, charged against the 20% Development Fund, 5% Calamity Fund/Reserved Fund, and Gender and Development Fund, Mananggolo filed a Complaint against Samporna before the Office of the Deputy Ombudsman for Mindanao.

Finding probable cause to indict Samporna for violation of Section 3(e) of RA 3019, Malversation, and Technical Malversation, the Office of the Ombudsman, on July 15, 2011, filed seven (7) Informations against him.

Hence, this Decision.

DISCUSSION

Criminal Case No. SB-11-CRM-0309

Section 3(e) of RA 3019, as amended, provides:

Section 3. Corrupt practices of public officers. In addition to acts or omissions of public officers already penalized by

¹¹⁴ Records, Vol. IV, pp. 120-143, and pp. 144-165

¹¹⁵ Exhibit S¹³

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existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

xxx

(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.

xxx

In *Fuentes v. People of the Philippines*,¹¹⁶ the Supreme Court enumerated the essential elements of violation of Sec. 3 (e) of RA 3019, thus:

1. That the accused must be a public officer discharging administrative, judicial or official functions (or a private individual acting in conspiracy with such public officers);
2. That he acted with manifest partiality, evident bad faith or inexcusable negligence; and
3. That his action caused any undue injury to any party, including the government, or giving any private party unwarranted benefits, advantage or preference in the discharge of his functions.

The first element is present. As stipulated by the parties, the accused was the municipal mayor of Kauswagan, Lanao del Norte at the time material to the cases. He was discharging administrative and/or official functions when he requested for the disbursement of funds to be used allegedly on four (4) projects/programs of the municipality.

The second element is also sufficiently proved by the prosecution.

In *Ampil v. Office of the Ombudsman*,¹¹⁷ the Supreme Court explained what constitutes bad faith and gross negligence, thus:

¹¹⁶ G.R. No. 186421, April 17, 2017

¹¹⁷ July 31, 2013, 703 SCRA 1, 27

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"Bad faith does not simply connote bad judgment or negligence; it imputes a dishonest purpose or some moral obliquity and conscious doing of a wrong; a breach of sworn duty through some motive or intent or ill will; it partakes of the nature of fraud." "Gross negligence has been so defined as negligence characterized by the want of even slight care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally with a conscious indifference to consequences in so far as other persons may be affected. It is the omission of that care which even inattentive and thoughtless men never fail to take on their own property."

Evident bad faith was further defined in *Consigna v. People*¹¹⁸ in this manner:

"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, which manifested in petitioner's actuations and representation.

In the present case, it has been established that the accused requested for and was issued four (4) DBP checks, with a total amount of ₱650,000.00, corresponding to the following purported programs and/or projects of Kauswagan: (1) Rehab of farm to market road, for ₱60,000.00; (2) Brgy. Road Maintenance, ₱200,000.00; (3) Farm to Market Road, ₱150,000.00; and (4) Project Implementation, for ₱240,000.00. However, Municipal Engineer Maruhom denied preparing any program of works for the said projects, in a Certification¹¹⁹ which reads:

TO WHOM IT MAY CONCERN:

THIS IS TO CERTIFY THAT, per records file available, this office has NOT PREPARED any program of works to the following projects, programs or activities (PPAs) funded by the Twenty Percent (20%) Municipal Development Fund CY 2008, to it [sic]:

	Amount	Program/Project
1.	P60,000.00	Rehab Farm to Market Road
2.	P200,000.00	Brgy. Road Maintenance
3.	P150,000.00	Farm to market road

¹¹⁸ April 2, 2014, 720 SCRA 350, 368

¹¹⁹ Exhibit I

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4. P240,000.00 Project Implementation

THIS TO CERTIFY FURTHER THAT, *aforesaid Projects/Programs/Activities have not been inspected by this office from the start of implementation up to this time pending instruction from higher office. xxx*

As gleaned from the above Certification, Municipal Engineer Maruhom also denied having inspected any of the aforementioned projects as there was no instruction from higher office. Aside from the accused's failure to substantiate the application of the funds on the purported projects, likewise noteworthy is the fact that he continually failed to liquidate such cash advances, despite repeated reminders¹²⁰ from Municipal Accountant Salvanera. This leads to the conclusion that the accused did not actually intend to use the ₱650,000.00 on any of the supposed program or project which he represented in the Allotment and Obligation Slips, and Disbursement Vouchers. Such dishonest purpose partaking the nature of fraud reeks of evident bad faith.

That the accused acted with evident bad faith in securing the cash advances was further strengthened by the testimonies of Municipal Treasurer Juliada, her staff Requiron-Florentin, and Municipal Accountant Salvanera. Juliada's testimony on how the accused demanded the issuance of the checks for the barangay road maintenance, farm to market road project, and project implementation, despite the Accountant's Advice lacking Salvanera's signature, is consistent and corroborated by both Requiron and Salvanera. Also telling is the fact that the accused still insisted on the disbursement, to the point that Juliada felt threatened, despite being fully informed that he still needs to liquidate his previous cash advances in accordance with law. These actuations definitively reflect some motive of self-interest or ill will on the part of the accused.

The third element is likewise sufficiently established. As previously discussed, the Municipal Engineer categorically testified that his office has not prepared any program of works in connection with the four (4) subject programs/projects. Likewise, said programs/projects have not been inspected by the Office of the Municipal Engineer from the start of implementation, as there was no instruction from higher office. There being no showing that any

¹²⁰ Exhibits Z¹² to D¹³, inclusive

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of the said projects was in fact started or implemented, or that the amount of ₱650,000.00 or a portion thereof redounded to the benefit of the municipality, the government suffered undue injury from the actions of the accused.

All told, the Court finds and so rules that the prosecution has sufficiently proved all the essential elements of violation of Section 3(e) of RA 3019.

Criminal Case No. SB-11-CRM-0310

The crime of Malversation of Public Funds under Article 217 of the Revised Penal Code, as amended, must have the following elements to sustain a criminal conviction:

1. That the offender is a public officer;
2. That he had custody or control of funds or property by reason of the duties of his office;
3. That those funds or property were public funds or property for which he was accountable; and
4. That he appropriated, took, misappropriated or consented or, through abandonment or negligence, permitted another person to take them.¹²¹

The first element is stipulated. The accused was the municipal mayor of Kauswagan, Lanao del Norte at the time material to the cases.

The second and third elements are likewise present. As Municipal Mayor, the accused requested for and was issued cash advances totalling ₱650,000.00, for four (4) programs or projects of the municipality. The funds were taken from the municipality's 20% Development Fund, hence, they are public funds. That the checks were issued to and encashed by the accused was proved by the prosecution through the testimonies of the Municipal Treasurer and Municipal Accountant, as well as the bank statements. Thus, the accused has custody or control of the said public funds.

¹²¹ *Manuel, et al. v. Sandiganbayan (Fourth Division)*, February 8, 2012, 665 SCRA 266, 284

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In addition, the accused, as then mayor of Kauswagan, is considered an accountable public officer pursuant to Section 340 of the Local Government Code, as enunciated in *Manuel v. Sandiganbayan*.¹²² Section 340 states:

Section 340. Persons Accountable for Local Government Funds. — Any officer of the local government unit whose duty permits or requires the possession or custody of local government funds shall be accountable and responsible for the safekeeping thereof in conformity with the provisions of this title. Other local officials, though not accountable by the nature of their duties, may likewise be similarly held accountable and responsible for local government funds through their participation in the use or application thereof.

As to the fourth element, the Court finds and so holds that it has been sufficiently proved by the prosecution.

It is not disputed that the accused requested for and approved four (4) checks payable to himself for the supposed programs/projects of the municipality. However, the Office of the Municipal Engineer denied having prepared a program of works for any of the said project, or inspecting the same. When COA Auditor Macalabo demanded from the accused to liquidate the said cash advances, the latter failed to do so. Up to this date, the accused has yet to submit proof that the funds disbursed to him were in fact used for the municipality's projects.

In *Cantos v. People*,¹²³ the Supreme Court explained the effect when a public officer fails to account for funds in his custody, upon demand. Thus:

The presumption in Article 217 of the Revised Penal Code, as amended, states that the failure of a public officer to have duly forthcoming any public funds or property with which he is chargeable, upon demand by any duly authorized officer, is *prima facie* evidence that he has put such missing fund or property to personal uses. The presumption is, of course, rebuttable. Accordingly, if petitioner is able to present adequate evidence that can nullify any likelihood that he put the funds or property to personal use, then that presumption would be at an end and the *prima facie* case is effectively negated.

¹²² *Ibid*, 285

¹²³ July 3, 2013, 700 SCRA 535, 545

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In the case of the accused, he failed to present proof that will rebut the presumption that he misappropriated the missing funds for personal use. Hence, the presumption stands.

As further held in *Mesina v. People*:¹²⁴

Malversation is committed either intentionally or by negligence. The *dolo* or the *culpa* is only a modality in the perpetration of the felony. Even if the mode charged differs from the mode proved, the same offense of malversation is still committed; hence, a conviction is proper. All that is necessary for a conviction is sufficient proof that the accused accountable officer had received public funds or property, and did not have them in his possession when demand therefor was made without any satisfactory explanation of his failure to have them upon demand. For this purpose, direct evidence of the personal misappropriation by the accused is unnecessary as long as he cannot satisfactorily explain the inability to produce or any shortage in his accounts. xxx

In view of the foregoing, the Court finds and so holds that the prosecution has proved beyond reasonable doubt all the elements of the crime of Malversation, defined and punished under Article 217 of the Revised Penal Code. The conviction of the accused is thus warranted.

Criminal Case Nos. SB-11-CRM-0311 and SB-11-CRM-0312

Technical malversation as penalized under Article 220 of the Revised Penal Code has the following elements:

- (a) that the offender is an accountable public officer;
- (b) that he applies public funds or property under his administration to some public use; and
- (c) that the public use for which such funds or property were applied is different from the purpose for which they were originally appropriated by law or ordinance.¹²⁵

In Criminal Case Nos. SB-11-CRM-0311 and SB-11-CRM-0312, the accused is being charged of technical malversation for

¹²⁴ June 17, 2015, 758 SCRA 639, 652

¹²⁵ *Ysiklaro v. People*, 685 SCRA 637, November 14, 2012, 641

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applying his travel expense funds amounting to ₱200,000.00 and ₱300,000.00, respectively, to "intelligence activity in support of the military's effort in gathering information and providing food supplies for the peace-keeping forces."

The first element is not disputed. During the period material to these cases, the accused was the Municipal Mayor of Kauswagan, Lanao del Norte. He received separate amounts of ₱200,000.00 and ₱300,000.00 as travelling expenses, as shown by the Obligation Slips,¹²⁶ Journal Entry Vouchers,¹²⁷ and Disbursement Vouchers.¹²⁸ The funds came from the municipality's coffers, making the accused an accountable public officer.

The second element is also present, but only as to the cash advance amounting to ₱300,000.00. The accused presented Liquidation Reports on the two (2) cash advances. For the ₱200,000.00, the accused stated in his report¹²⁹ that the fund was used for "Peace and Order Expenses." However, prosecution witness Salvanera admitted that said liquidation report pertains to another cash advance of the accused, who he has yet to submit proof on how the fund was actually used. Hence, the prosecution failed to establish with certainty that the ₱200,000.00 was indeed used for a public purpose.

For the cash advance amounting to ₱300,000.00, the accused indicated in his report¹³⁰ that the money was used for "Peace and Order Program & Activities (Diverted from July 21-31, 2008 Aborted Travel)" by reason of the volatile peace and order condition of Kauswagan, Lanao del Norte. He also attached thereto the following documents: project proposal for the seminar workshop, the DILG Circular, the list of attendance for the two-day workshop for the 13 barangays, the official receipt, and the Reimbursement Expense Receipts. For this amount, it has been sufficiently established that the accused applied the cash advance of ₱300,000.00 to a public use.

¹²⁶ Exhibits AA and FF

¹²⁷ Exhibits BB and HH

¹²⁸ Exhibits CC-1 and GG

¹²⁹ Exhibit EE

¹³⁰ Exhibit JJ

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The third element requires that the public use for which the funds were applied is different from the purpose for which they were originally appropriated by law or ordinance. The respective particulars of the DVs of the ₱200,000.00 and ₱300,000.00 cash advances specifically stated that the amounts are meant for "Follow-up Project in Manila" and "TEV - Follow up of various Farm to Market Road Projects xxx." The travel expenses of the accused, as municipal mayor, are appropriated in the Municipal Annual Budget for 2008 which was approved through an ordinance. Hence, the travel expense serves a public purpose. For the disbursed amount of ₱200,000.00, while the intended purpose is to use it for travel, no proof was presented that it was actually used for a different public purpose, or for any purpose for that matter, thus, not satisfying the third element. As to the disbursement of ₱300,000.00 to the accused, the prosecution has sufficiently shown that the use for which it was applied, which is for "peace and order", is different from "travel expense", the purpose for which it was originally appropriated.

With the foregoing, this Court finds and so holds that the elements of Technical Malversation charged against the accused for the amount of ₱300,000.00 in Criminal Case No. SB-11-CRM-0312, has been sufficiently proved by the prosecution.

Criminal Case Nos. SB-11-CRM-0313 to SB-11-CRM-0315

In these cases, the prosecution alleges that the accused committed Technical Malversation when he diverted and appropriated the following public funds to a public use different from the purposes for which they were originally appropriated: (1) 20% Development Fund in the amount of ₱307,822.05; (2) 5% Reserved Fund amounting to ₱446,641.00; and (3) Gender and Development Fund in the amount of ₱501,379.50.

With respect to the first element, is the accused an accountable public officer? The documentary evidence of the prosecution shows that the accused did not request or approve all the transactions covered by the allegations. However, as earlier discussed, the accused as municipal mayor of Kauswagan is considered as an accountable public officer by virtue of Section 340 of the Local Government Code. In addition, the Supreme

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Court in *Manuel v. Sandiganbayan*¹³¹ held that pursuant to Section 102 of the Government Auditing Code of the Philippines, a municipal mayor is responsible for all government funds pertaining to the municipality. Section 102 provides:

Section 102. *Primary and secondary responsibility.* – (1) The head of any agency of the government is immediately and primarily responsible for all government funds and property pertaining to his agency.

Hence, the accused is an accountable public officer. The first element is thus present.

As to the second element, the prosecution alleged in the Informations that the funds were used for the following purposes:

(1) For the 20% Development Fund in the amount of ₱307,822.05, it was used for the following: (i) payment of gasoline; (ii) repairs and maintenance of motor vehicle; and (ii) the Hugyaw sa Kadagatan Festival and Local Government counterpart;

(2) For the 5% Reserved Fund in the amount of ₱446,641.00, it was used for the following: (i) Calamity Fund for the months of October and November 2008; (ii) Purchase of materials/equipment; and (iii) Peace and Order; and

(3) For the Gender and Development in the amount of ₱501,379.50, it was used for the following: (i) Maintenance of Peace and Order; (ii) Araw ng Kauswagan Celebration; (iii) Cash Assistance; (iv) Araw ng Lanao Celebration; (v) Tourism Council; and (vi) Hugyaw sa Kadagatan Festival.

Based on the Allotment and Obligation Slips, Disbursement Vouchers, Journal Entry Vouchers, Checks, and other supporting documents presented by the prosecution, it is sufficiently established that the purposes for which the funds were used or applied were for public purpose.

As to the third and final element, which requires that the funds were applied for a public use different from the purpose for

¹³¹ February 8, 2012, 665 SCRA 266, 286

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which they were originally appropriated by law or ordinance, this Court finds that the prosecution failed to establish the same.

Kauswagan's Municipal Annual Budget for 2008,¹³² which was approved through Appropriation Ordinance No. 13-001-2208, enumerates the following Object of Expenditure for the 20% Municipal Development Fund:

ECONOMIC SERVICES:

xxx

- 17. Repair of Heavy Equipments/municipal vehicles
- 18. Hugyaw sa Kadagatan LGU counterpart for 13 Barangays

xxx

While the prosecution argues that the 20% MDF shall be used for social development, economic development, and environment management, the appropriation provided by the municipality's 2008 Annual Budget, approved through a valid ordinance, must be respected. Hence, the actual use of the ₱307,822.05 taken for the 20% MDF to pay for the gasoline, repair and maintenance of vehicles, and the Hugyaw sa Kadagatan Festivals, is not different from the purpose for which the fund was appropriated by the municipality through its ordinance.

As to the 5% Reserved Fund, this was clarified by witnesses Juliada, Rico and Mananggolo to be the same as the Calamity Fund. The Municipal Annual Budget for 2008 enumerates the following objects of expenditures for said fund:

Object of Expenditure	Budget Year
DISASTER RE-ENTRY PLAN	
xxx	
4. Purchase of construction materials	P159,000.00
MAN-MADE DISASTER RELIEF AND MITIGATION	
xxx	
4. Peace and Order programs/activities"	P120,000.00

¹³² Exhibit P¹⁵

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Considering that the 5% Reserved Fund is also known as the Calamity Fund, then its use as a calamity fund for the months of October and November 2008 is not different from the purpose for which it was appropriated. The same goes for the use of the fund to purchase materials/equipment, and for peace and order, as these objects or activities are some of the purposes for which the 5% Reserved Fund or Calamity Fund was appropriated by the municipal ordinance approving the annual budget.

Finally, the Gender and Development (GAD) has the following approved program appropriation pursuant to the Municipal Annual Budget, thus:

Object of Expenditure	Budget Year
1. POLITICS AND GOVERNANCE	
xxx	
1.d Araw ng Kauswagan	P75,000.00
1.e Araw ng Lanao del Norte	P75,000.00
2. PEACE AND UNITY	
2.a Maintenance of Peace and Order	P271,729.00
3. ECONOMY	
3.a Cash Assistance Program	P100,000.00

Given said program appropriation for the GAD, the use of the fund for the maintenance of peace and order, celebration of Araw ng Kauswagan and Araw ng Lanao, and cash assistance, is for a public purpose which does not differ from how the fund is appropriated. As to the alleged use of the fund for the Hugyaw sa Kadagatan Festival, the Disbursement Voucher (DV)¹³³ thereto has a handwritten note stating that the amount shall be "charged to 20%", or the 20% Development Fund. As to the use of the fund purportedly on the Tourism Council, the DV¹³⁴ corresponding thereto describes the particulars of the cash advance as meant for "transport of Booth Decoration & Display Items for WOW – Lanao del Norte," which can be concluded as part of the Araw ng Lanao del Norte celebration – a purpose to which the GAD Fund was appropriated for. Hence, the accused should be absolved from criminal liability as regards these cases.

¹³³ Exhibit X¹⁰

¹³⁴ Exhibit A¹¹

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WHEREFORE, in light of all the foregoing, the Court hereby renders judgment as follows:

1. In Criminal Case No. SB-11-CRM-0309, accused **YASSER HASSAN SAMPORNA** is found **GUILTY** beyond reasonable doubt of violation of Section 3(e) of RA 3019, and pursuant to Section 9 thereof, is hereby sentenced to suffer the indeterminate penalty of imprisonment of six (6) years and one (1) month as minimum up to ten (10) years as maximum, with perpetual disqualification from holding public office.

2. In Criminal Case No. SB-11-CRM-0310, accused **YASSER HASSAN SAMPORNA** is found **GUILTY** beyond reasonable doubt of the crime of Malversation, defined and penalized under Article 217 of the Revised Penal Code, and is hereby sentenced to suffer the indeterminate penalty of imprisonment of four (4) years of *prision correccional*, as minimum, to eight (8) years and eight (8) months of *prision mayor*, as maximum, there being no mitigating or aggravating circumstance attendant to the commission of the crime. He is further sentenced to suffer the penalty of perpetual special disqualification, and is likewise ordered to pay a fine equivalent to the amount malversed, or the amount of ₱650,000.00.

3. In Criminal Case No. SB-11-CRM-0311, accused **YASSER HASSAN SAMPORNA** is **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt.

However, considering that the accused had not liquidated the amount of ₱200,000.00 which he took as a cash advance for his travel, he is hereby ordered to pay the Municipality of Kauswagan the amount of ₱200,000.00, with interest at the legal rate from the finality of this Decision.

4. In Criminal Case No. SB-11-CRM-0312, accused **YASSER HASSAN SAMPORNA** is found **GUILTY** beyond reasonable doubt of violation of Technical Malversation, defined and penalized under Article 220 of the Revised Penal Code, and is hereby ordered to pay a fine equivalent to 50% of the amount misapplied, or the amount of ₱150,000.00, there being no damage or embarrassment to the public service.

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5. In Criminal Case No. SB-11-CRM-0313 to SB-11-CRM-0315, accused **YASSER HASSAN SAMPORNA** is **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt.

As the act or omission from which the civil liability might arise did not exist, no civil liability may be adjudged against the accused.

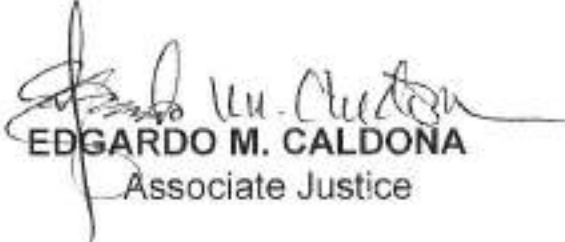
Let the hold departure orders against the accused in connection with Criminal Case Nos. SB-11-CRM-0311, SB-11-CRM-0313, SB-11-CRM-0314 and SB-11-CRM-0315 be lifted and set aside, and his bonds released, subject to the usual accounting and auditing procedure.

SO ORDERED.


EFREN N. DE LA CRUZ
Associate Justice

We Concur:


GERALDINE FAITH A. ECONG
Associate Justice


EDGARDO M. CALDONA
Associate Justice

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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.


EFREN N. DE LA CRUZ
Chairperson, First Division

CERTIFICATION

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


AMPARO M. CABOTAJE-TANG
Presiding Justice

