



REPUBLIC OF THE PHILIPPINES  
SANDIGANBAYAN  
Quezon City  
**FIRST DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
*Plaintiff,*

-versus-

**SB-11-CRM-0319 to  
0320**

For: Estafa through  
Falsification of Public  
Document

**DAVID A. PONCE DE LEON**  
Vice-Governor,

**ADONIS T. GRANDE,**  
Executive Assistant V,

**TEOFILO S. PALANCA, JR.,**  
Provincial Treasurer

**ORLANDO R. COLOBONG,**  
Provincial Accountant,

**LUIS M. MARCAIDA II,**  
Provincial Budget Officer,

**ANITA G. SALAS,**  
Management and Audit Analyst II  
Accounting Office

All of: Provincial Government of Palawan  
Provincial Capitol Compound  
Puerto Princesa City, Palawan

*Accused.*

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

PROMULGATED:

JAN 18 2019

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## DECISION

*Econg, J:*

The prosecution charged **David A. Ponce De Leon, Adonis T. Grande, Teofilo S. Palanca, Jr., Orlando R. Colobong, Luis M. Marcaida II, Anita G. Salas** of Estafa through Falsification of Public Document, defined and penalized under Article 315 in relation to Article 171 (6) of the Revised Penal Code, under the following Informations:<sup>1</sup>

(SB-11-CRM-0319)

That on or about 29 July 2002, or sometime prior or subsequent thereto, in the Province of Palawan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused public officers of the Provincial Government of Palawan namely: **David A. Ponce de Leon, Salary Grade 28**, Vice Governor of the Province of Palawan, **Adonis T. Grande, Salary Grade 24**, Executive Assistant V, **Teofilo S. Palanca, Jr., Salary Grade 26**, Provincial Treasurer, **Orlando R. Colobong, Salary Grade 26**, Provincial Accountant, **Luis M. Marcaida II, Salary Grade 26**, Provincial Budget Officer, **Anita G. Salas, Salary Grade 15**, Management and Audit Analyst II, Accounting Office, committing the offense in the discharge of their official functions, conspiring and confederating with one another, with intent to gain, by means of deceit, false pretense and fraudulent means, defrauded the Provincial Government of Palawan in the amount of Ten Thousand Pesos (P10,000.00), Philippine Currency, by altering the amount in Official Receipt No. 121240 dated 29 July 2002 issued by Badjao Sea Front representing payment for meals and snacks, paid in advance by the accused for the account of the Vice Governor's Office, making it appear that the amount paid is Twelve Thousand Nine Hundred Seventy Five and 50/100 (P12,975.50), Philippine Currency, instead of Two Thousand Nine Hundred Seventy-Five and 50/100 (P2,975.50), Philippine Currency, and by virtue of said official receipt which is considered as public document as it has been made part of the public record, the Provincial Government of Palawan reimbursed to the above-named accused the amount of Twelve Thousand Nine Hundred Seventy-Five and 50/100 (P12,975.50), Philippine Currency, to the damage

<sup>1</sup> Records, Vol. I, p. 1.

<sup>2</sup> Id. at 88.

<sup>3</sup> Id. at 216

<sup>4</sup> Id. at 255.

<sup>5</sup> Id. at 256, 259 and 306.

<sup>6</sup> Id. at 412.

<sup>7</sup> Records, Volume II, p. 73.

<sup>8</sup> Id. at 75.

and prejudice of the Provincial Government of Palawan in the amount of Ten Thousand Pesos (P10,000.00), Philippine Currency.

Contrary to Law.<sup>2</sup>

(SB-11-CRM-0320)

That on or about 18 December 2002, or sometime prior or subsequent thereto, in the Province of Palawan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused public officers of the Provincial Government of Palawan namely, **David A. Ponce De Leon, Salary Grade 28**, Vice Governor of the Province of Palawan, **Adonis T. Grande, Salary Grade 24**, Executive Assistant V, **Teofilo S. Palanca, Jr., Salary Grade 26**, Provincial Treasurer, **Orlando R. Colobong, Salary Grade 26**, Provincial Accountant, **Luis M. Marcaida II, Salary Grade 26**, Provincial Budget Officer, **Anita G. Salas, Salary Grade 15**, Management and Audit Analyst II, Accounting Office, committing the offense in the discharge of their official functions, conspiring and confederating with one another, with intent to gain, by means of deceit, false pretense and fraudulent means, defrauded the Provincial Government of Palawan in the amount of Two Hundred Four Thousand Six Hundred Fifty Six and 89/100 (P204,656.89), Philippine Currency, by altering the amount in Official Receipt No. 17366 dated 18 December 2002 issued by The Legend Hotels International Corporation representing payment for meals and snacks, paid in advance by the accused for the account of the Vice Governor's Office, making it appear that the amount paid is Two Hundred Five Thousand Pesos (P205,000.00), instead of Three Hundred Forty Three and 11/100 (P343.11), Philippine Currency, and by virtue of said official receipt which is considered as public document as it has been made part of the public record, the Provincial Government of Palawan reimbursed to the above-named accused the amount of Two Hundred Five Thousand Pesos (P205,000.00), Philippine Currency, to the damage and prejudice of the Provincial Government of Palawan in the amount of Two Hundred Four Thousand Six Hundred Fifty-Six and 89/100 Pesos (P204,656.89), Philippine Currency.

CONTRARY TO LAW.

On July 26, 2011, accused David A. Ponce de Leon posted cash bonds for both SB-11-CRM-0319 and 0320.<sup>3</sup> On

<sup>2</sup> Id. at 88.

<sup>3</sup> Id. at 216.

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the same day, his co-accused Adonis T. Grande, Teofilo S. Palanca, Jr., Orlando R. Colobong, Luis M. Marcaida II, and Anita G. Salas also file bail for both cases.

On August 1, 2011, the Court issued a Hold Departure Order against all accused for the above-mentioned cases.<sup>4</sup> Thereafter, all accused filed separate Motions/Petitions for Reinvestigation/ Reconsideration of these cases.<sup>5</sup> Meanwhile, this case was transferred from the Fifth Division to the First Division of Sandiganbayan.<sup>6</sup>

Thereafter, in a Compliance/Manifestation <sup>7</sup> dated November 15, 2013, the prosecution attached a Memorandum<sup>8</sup> of the Assistance Special Prosecutor III Mariter V. Delfin-Santos, recommending the dismissal of the cases for lack of probable cause. This recommendation was approved by Special Prosecutor Wendell E. Barreras-Sulit and Ombudsman Conchita Carpio-Morales. Upon being furnished a copy of the Memorandum, private complainants filed their Comment to Prosecution's 15 November 2013 Compliance/Manifestation,<sup>9</sup> opposing the dismissal of the case.

The Court, in its Resolution dated October 8, 2014,<sup>10</sup> denied the prosecution's prayer to dismiss these cases, stating:

"The Court agrees with the private complainant that the payment or the return of the money misappropriated after the commission of the crime affects only the civil liability of the offender but does not extinguish his criminal liability to relieve him from the penalty prescribed by law for the offense committed. Indeed, payment or return of the money misappropriated is not one of the modes of extinction of criminal liability under Article 89 of the Revised Penal Code. At most, such payment or return may be regarded only as a mitigating circumstance, which is analogous or akin to voluntary surrender, as provided under paragraph 7 of Article 13 of the same Code.

As regards the dismissal of the charge of falsification on the ground of loss of the original documents, the Court does not share the position taken by the Office of the

<sup>4</sup> Id. at 255.

<sup>5</sup> Id. at 256, 259 and 306.

<sup>6</sup> Id. at 412.

<sup>7</sup> Records, Volume II, p. 73.

<sup>8</sup> Id. at 75.

<sup>9</sup> Id. at 230.

<sup>10</sup> Id. at 288.

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Ombudsman/Special Prosecutor on the matter. In *Pacasum v. People*, the Honorable Supreme Court decrees that even though the original of an alleged falsified document is not, or may no longer be produced in court, a criminal case for falsification may still prosper if the person wishing to establish the contents of said document via secondary evidence or substitutionary evidence can adequately show that the best or primary evidence – the original of the document – is not available for any of the causes mentioned in Section 3, Rule 130 of the Revised Rules of Court.

**WHEREFORE**, in light of all the foregoing, the prosecution's prayer that these cases be dismissed for lack of probable cause is hereby **DENIED**.<sup>11</sup>

Accused then sought the reconsideration<sup>12</sup> of the above Resolution of the Court. The Court, in a Resolution dated February 9, 2015,<sup>13</sup> denied the motions for reconsideration of all the accused, except for accused Luis M. Marcaida II. With respect only to Marcaida, and only for case SB-11-CRM-0319, the Court dismissed the case against him for lack of evidence proving his actual participation in the offense charged.<sup>14</sup>

The Resolutions dated October 8, 2014 and February 9, 2015 were elevated by accused Ponce De Leon, Palanca, Jr., Colobong and Marcaida on separate Petitions for Certiorari before the Supreme Court.<sup>15</sup> The petitions were consolidated, but the prayer for the reversal of the Resolution of the Sandiganbayan was denied by the Supreme Court in a Resolution dated June 15, 2015.<sup>16</sup> Motions for Reconsideration were filed, but was also Denied by the Supreme Court in Resolution dated September 2, 2015.<sup>17</sup>

On March 2, 2015, all the accused were finally arraigned. All six accused pleaded Not Guilty to the charges against them.<sup>18</sup> These are summarized as follows:

	Accused	Date of Posting of Bail Bond/OR No.	Date of Arraignment/Plea
1	David A. Ponce De Leon	July 26, 2011, for both cases	March 2, 2015 Not Guilty

<sup>11</sup> Id. at 302 (citations omitted).

<sup>12</sup> Id. at 310, 335, 341.

<sup>13</sup> Id. at 401.

<sup>14</sup> Id. at 406.

<sup>15</sup> Id. at 429 and Volume III, p. 13.

<sup>16</sup> Records, Volume III, p. 122.

<sup>17</sup> Id. at 221.

<sup>18</sup> Records, Volume II pp. 417-422.

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		OR No. 2313745, and OR No. 2313746 <sup>19</sup>	
2	Adonis T. Grande	July 26, 2011, for both cases OR No. 2313751, and OR No. 2313752 <sup>20</sup>	March 2, 2015 Not Guilty
3	Teofilo S. Palanca, Jr.	July 26, 2011, for both cases OR No. 2313743, and OR No. 2313744 <sup>21</sup>	March 2, 2015 Not Guilty
4	Orlando R. Colobong	July 26, 2011, for both cases OR No. 2313737, and OR No. 2313738 <sup>22</sup>	March 2, 2015 Not Guilty
5	Luis M. Marcaida II	July 26, 2011, for both cases OR No. 2313741, and OR No. 2313742 <sup>23</sup>	March 2, 2015 Not Guilty, <i>only for Case No. SB-11-CRM- 0320 (SB-11-CRM- 0319 was already dismissed as against him)</i>
6	Anita G. Salas	July 26, 2011, for both cases OR No. 2313739, and OR No. 2313740 <sup>24</sup>	March 2, 2015 Not Guilty

The Pre-trial was held on November 16, 2015, and the Amended Pre-Trial Order<sup>25</sup> showed that the following matters were stipulated upon by the parties:

1. The following accused stipulated on the positions they were holding at the Provincial Government of Palawan during the times relevant to these cases, to wit:
  - a. David Ponce de Leon – Vice Governor,
  - b. Teofilo Palanca, Jr. – Treasurer,
  - c. Adonis T. Grande – Executive Assistant V,
  - d. Anita G. Salas – Management and Audit Analyst,
  - e. Luis Marcaida II – Budget Officer,
  - f. Orlando Colobong – Accountant,

<sup>19</sup> Records, Volume I, p. 216

<sup>20</sup> Id. at 223

<sup>21</sup> Id. at 230

<sup>22</sup> Id. at 237

<sup>23</sup> Id. at 244

<sup>24</sup> Id. at 251

<sup>25</sup> Id. at Volume III, p. 324.

2. Accused Ponce de Leon stipulated having refunded to the Provincial Government of Palawan the amount of Php 214,656.89, based on the amount disallowed by the COA, which refund was evidenced by Official Receipt No. PP0642594 dated June 13, 2007 issued by the Provincial Government of Palawan;
3. The prosecution stipulated that in all the documents marked by the prosecution, the signature of accused Marcaida appears only in the Allotment Obligation Slip (Exhibit K) for the amount of Php 205,000.00.

The issues to be resolved, as proposed by the prosecution, are as follows:

1. Whether or not the act of the accused in changing the original amount in Official Receipt No. 17366 dated December 18, 2002 issued by the Legend Hotel Palawan from Three Hundred Forty-Three and 11/100 (Php 343.11) to Two Hundred Five Thousand Pesos and 11/100 Cents Only (Php 205,000.11) and receiving the amount of the difference constitute the crime of estafa through falsification;
2. Whether or the act of the accused in changing the original amount in Official Receipt No. 12140 dated July 29, 2002 issued by Badjao Seafront restaurant from Two Thousand Nine Hundred Seventy-Five Pesos and 50/100 (Php 2,975.50) to Twelve Thousand Nine Hundred Seventy-Five and 50/100 (Php 12,975.50) and receiving the amount of the difference constitute the crime of estafa through falsification; and
3. Whether the act of the accused in refunding the amount of P214,656.89 extinguished his criminal liability.

For accused Ponce de Leon and Palanca, Jr., the proposed issues to be resolved are:

1. Whether or not both accused have knowledge of the alleged tampered receipts as attachments to the disbursement vouchers after these disbursement vouchers have passed several verifications and signatories;

2. Whether or not the charge of falsification may be proved in these cases, in the absence of the original documents;
3. Whether or not the refund made in the amount of Php 214,656.89 by accused Ponce de Leon in June 2007 right after the Notice of Disallowance made by COA, or two years before the instant complaint was filed before the Office of the Ombudsman by the private complainants, negates the element of damage in the charge of estafa;
4. Whether or not the filing of the Information before the Honorable Court in 2011 was premature considering the fact that the Petition for Review of the accused with COA (of the Notice of Disallowance) was still pending.

On February 15, 2016, the prosecution started presenting its evidence. It called to the witness stand Edna P. Forto, Wilfredo F. Moreno, and Leah G. Dalisay.

#### **EVIDENCE FOR THE PROSECUTION**

**Edna P. Forto** is an Attorney V, later promoted to Attorney VI, and now Director at the Legal and Adjudication Office of the Commission on Audit (COA). In 2004, she was tasked, through Office Order No. 2003-084, 084A and 084C,<sup>26</sup> to join the audit team that would perform a special audit on the transactions of the Local Government of Palawan covering the years 1999 to 2003. In the course of their audit, they came upon a Disbursement Voucher<sup>27</sup> for the amount of Twelve Thousand Nine Hundred Seventy-Five Pesos and 50/100 (P12,975.50). Attached to it is what she claimed to be a falsified receipt.<sup>28</sup> Receipt No. 12140 was issued by Badjao Sea Front, and Forto claims that the original amount should only be Two Thousand Nine Hundred Seventy Five Pesos and 50/100. The figures in the falsified receipt however show that an additional "1" was inserted before the figure "2,975.50" to make it "12,975.50," and the word "Two" was changed to "Twelve." The audit team verified this with Badjao Sea Front in

<sup>26</sup> Exhibit C

<sup>27</sup> Exhibit F

<sup>28</sup> Exhibit H

Puerto Princesa, Palawan, and the restaurant provided them a certified true copy of the duplicate original receipt,<sup>29</sup> which shows that the original amount was only Two Thousand Nine Hundred Seventy-Five and 50/100 (P2,975.50).

The team also came upon a second Disbursement Voucher<sup>30</sup> for the reimbursement of the amount of Two Hundred Five Thousand Pesos (P205,000.00). Attached as supporting documents are the Allotment and Obligation Slip<sup>31</sup> and another alleged falsified receipt.<sup>32</sup> In this case, Receipt No. 17366 was issued by Legend Hotel. They noticed that the original amount of Three Hundred Forty Three Pesos and 11/100 was erased by a white correction fluid and replaced with the amount of Two Hundred Five Thousand Pesos. According to Forto, if one would place a mirror at the back of the receipt, the original amount can still be seen. They also verified this amount from Legend Hotel, which informed them that the amount of P205,000.00 does not appear in their records on the date it was supposedly issued (December 18, 2002), and that what appears in their record for Receipt No. 17366 is only the amount of P343.11 for meals taken at their Tanglaw Restaurant. Legend Hotel then issued a certification<sup>33</sup> dated June 21, 2005, reflecting this information, and gave them a copy of their Posting Audit Report,<sup>34</sup> and the Food Check.<sup>35</sup>

After their investigation the audit team prepared their draft report and furnished a copy to the persons concerned. They also scheduled an exit conference, but the Vice-Governor was not in attendance. The Province of Palawan submitted its written consolidated comment, which was later incorporated in the Final Audit Report.<sup>36</sup> With respect to these two falsified receipts, the audit team concluded that the government of Palawan was defrauded the total amount of Two Hundred Fourteen Thousand Six Hundred Fifty Six Pesos and 89/100 (P214,656.89), which is the difference between the original amounts in the receipt and the falsified amounts later reimbursed to Vice-Governor Ponce de Leon.

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<sup>29</sup> Exhibit G

<sup>30</sup> Exhibit J

<sup>31</sup> Exhibit K

<sup>32</sup> Exhibit L

<sup>33</sup> Exhibits M and N

<sup>34</sup> Exhibit P

<sup>35</sup> Exhibit Q

<sup>36</sup> Exhibit B.

Subsequently, they issued a Notice of Disallowance<sup>37</sup> to the concerned parties. This was furnished to Vice Governor Ponce de Leon for being the claimant and payee in the two transactions, Adonis Grande for certifying the legality of the transactions, Orlando Colobong for certifying the completeness of the documentation of the transactions when these were in fact not properly documented, Teofilo Palanca, Jr. for allowing the payment of claims which are apparently irregular, and Anita Salas for passing the transactions in pre-audit despite the same having incomplete documents.

Upon the issuance of the Notice of Disallowance, Vice Governor Ponce de Leon reimbursed the amount of P214,656.89, as evidenced by Official Receipt No. PP0642594<sup>38</sup> dated June 13, 2007, issued by the Local Government of Palawan.<sup>39</sup>

On cross-examination, Forto claims that the documents were not post-audited yet by the Resident Auditor because there were no marks yet in the disbursement vouchers.<sup>40</sup> She also admitted that they do not have any statement from any person that Ponce de Leon committed the intercalations done on the official receipts.<sup>41</sup> Forto also acknowledged that there was an anonymous complaint submitted to their office on August 18, 2003, which prompted the conduct of the investigation, but the letter only refers to the transactions in 2003, and not the subject transactions of these cases.<sup>42</sup>

With respect to the duplicate original of the receipt issued by Legend Hotel, Forto claims that the original is still with Legend Hotel, but they validated the same. At the time they visited Legend Hotel, they were told that the hotel still has to locate the duplicate original. They were, however, given the Certification by the hotel that the amount in the receipt should only be P314.11.<sup>43</sup> When asked if she thinks there was an intercalation in the entry of the date in the receipt to make it appear that the meals were taken on December 13, 2002, Forto stated that "there was an emphasis on the writing," but that she is not sure that there was really an intercalation.<sup>44</sup>

<sup>37</sup> Exhibit R

<sup>38</sup> Exhibit T

<sup>39</sup> Judicial Affidavit of COA Auditor Edna Forto.

<sup>40</sup> TSN dated February 15, 2016, pp. 34-35.

<sup>41</sup> Id. at 36-37.

<sup>42</sup> Id. at 38-39.

<sup>43</sup> Id. at 41-46.

<sup>44</sup> Id. at 50-54.

Forto also admitted that they were not able to locate the copies of the check. She acknowledged that they do not have the originals of the check used as payment for the reimbursement but that they only have the duplicate originals of the same. They do know that the payee is Vice Governor Ponce de Leon because it is his name that appears in the disbursement vouchers, and they have the presumption of correctness of these documents.<sup>45</sup>

Forto claims that the supporting documents for these transactions are incomplete, but the signatories to the disbursement vouchers are complete. From the procedure in the signing of the vouchers, Forto acknowledged that Vice Governor Ponce de Leon is the last signatory.<sup>46</sup>

During the cross-examination by the counsel of accused Colobong and Marcaida, Forto did not deny that Marcaida was not included in the persons who would be charged.<sup>47</sup> She also stated that she did not verify the signature of accused Colobong appearing in the documents, as they do not do this as a matter of procedure. Forto avers that they relied on the presumption of regularity, given the number of vouchers and documents they have to go through. She admitted, however, that there was only one special audit done for the Provincial Government of Palawan and that this is the first time that she encountered the name of Orlando Colobong or his signature.<sup>48</sup>

On the cross-examination by the counsel of accused Grande and Salas, Forto explained that when they said they scrutinized the signatures, it means that they checked if the vouchers or the documents are complete as to the signatures of the parties. She admitted that they assumed that the signature appearing above the name of accused Grande is his signature. However, when she was asked to compare if the signatures of Grande appearing in Exhibit F with the signature of Grande appearing in Exhibit J, Forto admitted that they are different. This observation was however noted in the Notice of Disallowance, where it was stated that somebody must have signed for and in behalf of accused Grande. They do not however know who that person is.<sup>49</sup> Upon further questions,

<sup>45</sup> *Id.* at 56-57.

<sup>46</sup> *Id.* at 58-61.

<sup>47</sup> TSN dated February 16, 2016, pp. 7-8.

<sup>48</sup> *Id.* at 9-11.

<sup>49</sup> *Id.* at 13-16.

Forto explained that it is in Exhibit J that the signature appearing above the name of Grande was signed by somebody else.<sup>50</sup>

As to the Legend Hotel Official Receipt, Forto stated that they did not find out the name of the cashier who signed the said receipt. They were only referred to Ms. Dalisay of Legend Hotel. They saw no need to interview the cashier because the accused Vice Governor refunded the difference in the amount, and for Forto, this means that there was indeed falsification committed.<sup>51</sup>

With respect to the signatures of accused Salas appearing in Exhibits F and J, Forto claims that Salas could have signed them before the documents went to the office of the accountant, as a matter of procedure in the pre-audit of transactions. Forto presumes that Salas' signature came before payment was made.<sup>52</sup>

With respect to the official receipt issued by Badjao Sea Front, Forto also admitted that they were not able to find out the name of the cashier or the person who signed the receipt. She also acknowledged that they do not possess the original duplicate of the receipt, but only a certified true copy of the duplicate original. She also confirmed that the Certification issued by Ms. Dalisay of Legend Hotel was not verified or sworn under oath before a notary public.<sup>53</sup>

When asked about the refund made by Vice-Governor Ponce de Leon pursuant to the order in the Notice of Disallowance to settle the above disallowance, Forto explained that the refund represents the civil liability of the person liable.<sup>54</sup>

Witness **Wilfredo F. Moreno** was next presented. Moreno has been the Manager of Badjao Sea Front Restaurant from 1996 to present. As its Manager, he is in charge of the overall operations of the restaurant, including property and records management, cashiering when the cashier is not present, and generally helping around the restaurant.

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<sup>50</sup> Id. at 18.

<sup>51</sup> Id. at 19-22.

<sup>52</sup> Id. at 24-27.

<sup>53</sup> Id. at 27.

<sup>54</sup> Id. at 33.

He remembered being subpoenaed by the Office of the Ombudsman and being asked for the original copy of Official Receipt No. 121490 dated July 29, 2002. He remembers having issued the said receipt because he was acting as the cashier on that particular day. He identified Exhibit H as the same receipt he issued, but stated that the amount appearing therein is not the original amount he wrote, which is P2,975.50. Moreno explained that although the figures and words are in his handwriting, the letters "lve" have been added to the original "two," and "1" was added before the figure "2,975.50."

Moreno stated that he is sure that the original amount was P2,975.50 because he was the one who issued the receipt, and that he even wrote the figures "P3,000.00" appearing on the upper right hand corner of the receipt, which means that the money given to him as payment was Three Thousand Pesos (P3,000.00). He usually writes the money given to him as payment when there are many clients paying, in order to help him remember how much change he should give back. He added that he is sure they did not issue a tampered receipt because when they make a mistake in the issuance of a receipt, they are required to cross it out and issue another receipt.

Moreno also stated that they were able to issue the COA a certified true copy of the duplicate original of the receipt.<sup>55</sup> However, they could no longer present the duplicate original receipt itself because it was already disposed of a long time ago, as the retention period for accounting records by the BIR is only five years, and the receipt was issued in 2002.

On cross-examination, Moreno stated that the restaurant can accommodate one hundred twenty (120) persons, and has only one floor. In the year 2002, they have five waiters, waiting on twelve tables, and the tables can seat up to ten persons. The waiters are not assigned a table because the restaurant is only a small one and the waiters could see everything.<sup>56</sup> Like most restaurants, the payment of the customers in Badjao Sea Front is given to the waiter, who in turn gives it to the Cashier, which, in this case, is Moreno. Moreno then issues a receipt and the waiter would bring the same to the customer. For that

<sup>55</sup> Exhibit G

<sup>56</sup> TSN dated March 16, 2016, pp. 14-17.

transaction, however. Moreno could no longer remember the waiter to whom he gave the receipt because it was a long time ago. He stated that waiters have no right to change anything in the receipt and that there has been no occasion where they dismissed a wait staff for changing anything in the receipt.<sup>57</sup>

Moreno testified that he has personally met Vice Governor Ponce de Leon but he could not remember if he saw him that day in the restaurant. He could also not remember if there was launching of the Palawan Anti-Drug Abuse Council (PADAC) on July 29, 2002. He also has no knowledge that his boss, Dr. Mendoza, owner of Badjao Seafront, sued Ponce de Leon for an unpaid amount in the restaurant in 2002.<sup>58</sup>

When confronted with the receipt, Moreno admitted that the words and figures written in the receipt were in his handwriting, except the word "Twelve." He also admitted writing the word "PADAC," and explained that it was upon the request of the person asking for the receipt. That person however, was not Ponce de Leon. Moreno also wrote the two double check marks on the face of the receipt and the figure "3,000.00" on the upper right portion to signify that the payment given was Three Thousand Pesos (P3,000.00). This P3,000.00 figure however does not reflect on the duplicate original, which was copied through a carbon paper placed between the two pages of the receipts, because he wrote this after he removed the original from the booklet of receipts. The two lines on the other hand signified that it was already paid.<sup>59</sup>

During the cross-examination of the counsel of accused Salas and Grande, Moreno stated that he could no longer remember the date when COA inquired at Badjao Sea Front about the receipt subject of this case. He reiterated that they threw away the receipts from 2002 because it was already beyond the five (5) year period required by the BIR and although he knew there was an ongoing investigation by the COA, they were not informed to keep the receipt. He also stated that for that day, he was the one who totaled the sales report. They also have a monthly auditor in the restaurant.<sup>60</sup>

Upon questioning by the counsel of accused Marcaida, Moreno testified that in a given month, he would serve as

<sup>57</sup> Id. at 18-23.

<sup>58</sup> Id. at 23-24.

<sup>59</sup> Id. at 25-33.

<sup>60</sup> Id. at 35-40.

cashier of the restaurant four times. He could not remember anything special about that day, July 29, 2002. He said that there are three copies of the receipt: the original in white, the second copy in blue, and the third copy in pink. The white receipt is given to the customer, while the two other copies are given to the accountant of the restaurant. He confirmed that after he gives the white receipt to the waiter, he no longer knows if the waiter would go directly to the customer. He also acknowledged that the subject receipt does not contain any erasure, only tampering.<sup>61</sup>

**Leah G. Dalisay**, former Accounting and Administrative Manager of Legend Hotel Palawan was the next witness of the prosecution. She testified that she had been with Legend Hotel since 2001, but is a housewife at present, having been diagnosed with rheumatoid arthritis since 2012. As the Accounting and Administrative Manager of Legend Palawan, she handles all accounting matters including credit and collection, income audit and disbursements, treasury, human resources, purchases, and Information and Communication Technology, among others.

In 2005, she issued a letter<sup>62</sup> to the COA as a reply to the inquiry of Atty. Edna Forto regarding a receipt they issued. The letter stated that they can no longer locate the duplicate original of the receipt, but that they are furnishing them a Certification<sup>63</sup> of the amount involving the transaction, based on their Post Audit Report and Food Check.

Dalisay explained that the Post Audit Report<sup>64</sup> is a summary of the payments or settlements for the day, whether in cash or credit card. For the Post Audit Report on December 13, 2002, there was a transaction in the amount of P343.11 at Tanglaw Restaurant under Food Check No. 7485, and that there was no transaction in the amount of P205,000.11 as reflected in the tampered receipt shown to her by the COA. Dalisay also mentioned that Tanglaw Restaurant is a small restaurant inside the hotel with a 60-seat capacity. It does not cater to banquets because the hotel has banquet halls for that purpose.

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<sup>61</sup> Id. at 41-52  
<sup>62</sup> Exhibit N  
<sup>63</sup> Exhibit M  
<sup>64</sup> Exhibit P

Dalisay also explained that the Food Check contains the charges of a customer which he or she ordered from the restaurant. For Food Check No. 7485,<sup>65</sup> it shows that the customer from Table 23 of Tanglaw Restaurant ordered one Gambas, one Chef's Salad, and one iced tea, all amounting to P343.11, that the customer gave P400.00 as payment, and was given P56.89 as change.

This particular transaction under the aforementioned Food Check corresponds to an entry in the Post Audit Report showing the amount of P343.11 and Food Check No. 7485 on the far left side of the report.

When COA showed her the official receipt,<sup>66</sup> Dalisay confirmed that it was issued by their hotel, but stated that it had been altered because their cashiers are not allowed to issue receipt with alterations, especially when the alteration is in the amount. When there is a mistake or correction, the cashiers are supposed to cross out the receipt, remove it from the booklet, and submit it to the front office, which turns it over to the accounting office. A clean receipt is issued to the client, without alterations.<sup>67</sup>

She stated that when COA asked for confirmation regarding the tampered receipt, she first referred to the documents, and thereafter prepared her letter and certification. Dalisay also inquired from the cashier who issued the receipt, who confirmed to her that she did not issue an altered receipt.

On cross-examination, Dalisay stated that she has personally met Vice Governor Ponce de Leon and has in fact voted for him when he ran as Congressman and later, as Vice Governor. During the time she was the Manager of Legend Hotel, she recalled that there were accounts receivables from the Provincial Government of Palawan, including that of the Office of the Vice Governor.<sup>68</sup>

According to Dalisay, Legend Hotel has a *lanai* which can accommodate up to 300 people. When confronted with a photo,<sup>69</sup> Dalisay recalled that there was an event of the

<sup>65</sup> Exhibit Q

<sup>66</sup> Exhibit L

<sup>67</sup> Records, Volume 7, pp. 41 to 47.

<sup>68</sup> TSN dated June 27, 2016, pp. 40-43.

<sup>69</sup> Exhibit 6

Palawan Youth Congress on Drug Use and this was held near the pool area, which is part of the lanai. She could not however recall how many participants were there, or how much was charged for that event.<sup>70</sup>

With respect to Official Receipt No. 17366 (Exhibit L), Dalisay stated that at the time her Judicial Affidavit was prepared, the duplicate copy of the receipt can no longer be found nor located. When Dalisay was shown the receipt, she stated that there is a double line on the figure "12," and "3" on the date portion, that there is no alteration on the word "five," "hundred," but that there is alteration and erasure on the figure "205,000.00." She also identified the signature on the receipt as that of their cashier, Jenny Denosta.<sup>71</sup>

With respect to the Food Check, it was pointed out that her Certification mentions that Official Receipt covers Food Check No. 8390, while her Judicial Affidavit stated that it is Food Check No. 7485. She explained that the number 7485 was the sequential number generated by their system for that transaction. However, at that time, the hotel did not have thermal paper yet or was not yet registered with the BIR for the POS system, so they were printing the food check on a pre-printed form. The form in which transaction No. 7485 bears the number "8390," a number that was from the printing press.<sup>72</sup>

Dalisay also explained that the Posting Audit Report shows the transactions for the day, after the business is closed. If a guest incurs a charge on December 13, but pays or settles it after five days, such transaction will be printed on a separate report but still on December 13, and as account receivables. Dalisay was then asked if the transaction happened on December 13, 2002 and was only paid five days later, on December 18, 2002 as it appears on the receipt. She replied that when the receipt was first presented to her by the COA, she was sure that the date was December 13, 2002. So they looked for the transactions for that particular date. The receipt also tells them Receipt No. 17366 was issued for a meal taken on December 13, 2002, which was already paid for in cash as shown by the Settlement Report for that day, December 13, 2002. All the documents and the reports

<sup>70</sup> TSN dated June 27, 2016, pp. 42-49.

<sup>71</sup> Id. at 49-53.

<sup>72</sup> Id. at 53-55.

confirm that December 13 is the actual date of the transaction. When asked if she looked for any transaction in the amount of P205,000.11 between December 13 and December 18, she replied that all payments are accounted for, recorded, and deposited the next day, and that any shortage or overage can be the subject of an audit or investigation. When asked if she looked for a P205,000.11 transaction in a separate ledger, she said that she did not bring with her that separate ledger, because at that time, they were looking for a cash transaction.<sup>73</sup>

Still on cross-examination, she confirms that the date on the receipt is December 18, 2002. As a matter of practice, when the customer asks for the bill, and they do not ask for an official receipt, they will just give the Food Check. If later, they go to them to ask for an official receipt, they would oblige. In this case, the transaction happened on December 13, 2002, and it was only five days later, on December 18, 2002, that a verbal request for the Official Receipt was made. Thus, the transaction covered by the receipt (Exhibit L) is the same transaction covered by the Food Check (Exhibit Q). The date December 18, 2002 was indicated in the Official Receipt, although the transaction happened on December 13, 2002 to follow the sequential issuance of the pre-numbered official receipts, and that they always use the actual date when such receipt was issued.<sup>74</sup>

Dalisay also mentioned that this receipt was not among those receipt submitted to the BIR, as part of "reconciliation," and as an internal policy of the hotel.<sup>75</sup> When asked what the notation or printing above No. 8390 says, Dalisay says that she could not read it.<sup>76</sup>

When asked by the Court who made the request for the official receipt, Dalisay replied that she does not know the name, but their Cashier said that it was a small lady who always facilitates or transacts with the hotel when it comes to money matters.<sup>77</sup>

Dalisay also confirmed that the Food Check and the Official Receipt were both prepared by their cashier, Jen

<sup>73</sup> Id. at 57-67.

<sup>74</sup> Id. at 68-75.

<sup>75</sup> Id. at 72, 76.

<sup>76</sup> Id. at 77.

<sup>77</sup> Id. at 77-78.

Denosta, and that the Posting Audit Report was prepared and printed by Japeth Edora, their Night Auditor. These documents were used as basis for her June 21, 2005 letters (Exhibits M and N) to the COA.<sup>78</sup>

On re-direct examination, Dalisay testified that although she recalls there are account receivables for the government of Palawan, she cannot recall if they pertain to the Youth Congress held there. She also confirmed that the original amount written in the receipt is "343.11" and not "205,000.11" so in the original amount, there is no figure "5." Dalisay also affirmed that when the receipt was issued on December 18, 2002, no cash was received by the hotel. With respect to the receipt, Food Check, and Post Audit Report, she confirmed that she was not the one who prepared them, but that she is the official custodian of these documents, being the head of the Accounting Department.<sup>79</sup>

On re-cross examination, Dalisay said that they were able to locate the duplicate copy of the receipt but that they no longer submitted it to the COA because they did not receive any reply from it when they asked if the COA needs more documents from them. She no longer has possession of the duplicate original because she is no longer with Legend Hotel since 2012.<sup>80</sup>

After presenting its witnesses, the prosecution made its Formal Offer of Exhibits.<sup>81</sup> It offered in evidence Exhibits B, C, J, F, K, G, H, L, M, N, N-1, N-2, P, W, R, R-1, and T.

The Court, in its September 16, 2016 minute resolution,<sup>82</sup> resolved to admit all the documents offered in evidence. It also admitted the originals of the documents marked as Exhibits H and L, without prejudice to the evaluation of the evidentiary weight thereof in the decision of the merits of this case.

Following this, all the accused separately filed Motions for Leave of Court to File Demurrer to Evidence.<sup>83</sup> These motions were denied by the Court in a Resolution dated

<sup>78</sup> *Id.* at 78-81.

<sup>79</sup> *Id.* at 81-84.

<sup>80</sup> *Id.* at 86-89.

<sup>81</sup> Records, Volume IV, p. 67.

<sup>82</sup> Records, Volume IV, p. 250.

<sup>83</sup> Records, Volume IV, pp. 261, 276, and 286.

December 22, 2016.<sup>84</sup> Accused sought a reconsideration of the aforementioned Resolution, but the same was again denied by the Court in its March 24, 2017 Resolution.<sup>85</sup>

### **EVIDENCE FOR THE DEFENSE**

In view of the denial of the Motions for Leave of Court to File Demurrer to Evidence, the defense, on April 24, 2017, started presenting their witnesses. They presented Rebecca T. Arquero, Abraham Kahlil B. Mitra, Ronnie G. Coralipio, Rachel R. Federico, Fortunato N. Almasco, Jr., Jonathan C. Arias, Ernesto D. Tabangay, Jr., Ma. Lourdes B. Olbes, accused David Ponce de Leon, accused Adonis T. Grande, accused Anita G. Salas, Norma R. Valencia, Luis Marcaida, Orlando Colobong, then Luis Marcaida again for Orlando Colobong, Alma Minda Dimla, Rhodora Basco and Cheryl Pascual for Palanca, as witnesses.

#### *For Accused Ponce de Leon*

**Rebecca T. Arqueta** was the Principal of the Palawan National High School in 2002 when she received an invitation from the Office of Vice-Governor Ponce de Leon to attend a meeting of the Convenor's Group, for the purpose of joining the Program ng Edukasyon Laban sa Droga (PALAD) and the Palawan Anti-Drug Abuse Council (PADAC). These activities were held on July 29, 2002 at the Badjao Seafront Restaurant. Arqueta described the restaurant as a big one, and can accommodate a hundred people. She also testified that the meeting started in the morning and lasted until 4:00 in the afternoon. There were about thirty-five (35) of them who attended, and this includes Pastor Tablason, Pastor Almasco, Teresita Marcial, Dr. Ben Carlos, Eva Ponce de Leon, and some Board Members. Accused Ponce de Leon was the one who conducted the meeting.<sup>86</sup>

During the meeting, Arqueta stated that they were served simple snacks and drinks. The meeting ended with the group deciding to hold the first Palawan Youth Congress on Drug

<sup>84</sup> Records, Volume IV, p. 347.

<sup>85</sup> *Id.* at 417.

<sup>86</sup> TSN dated April 24, 2017, pp. 20-25.

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Abuse Prevention at Legend Hotel, from December 10 to 13, 2002. This event pushed through, which she also personally attended, together with around one hundred (100) of her students. The Youth Congress was a four-day event, and she witnessed most of its activities, and she estimated the participants to be between 250 to 300 persons. Arqueta mentioned that they were also served snacks and lunch. When asked if she knows if the food and drinks were paid, Arqueta replied in the affirmative because no hotel would admit an activity that big if they are not being paid.<sup>87</sup>

During cross-examination, Arqueta stated that an order of seafood at Badjao Restaurant would cost around P350.00 per person, but barbeque on a plate would cost only about P120.00 to P150.00. Snack, on the other hand, would amount to P75.00 per person.<sup>88</sup>

**Abraham Kahlil B. Mitra**, the Congressman of Palawan from 2001 to 2009, was next presented as witness for the defense. Mitra claims that he is one of the co-authors of the Comprehensive Dangerous Drugs Act of 2002, and that his advocacy is the prevention of drug abuse. He testified that the First Palawan Youth Congress was held in Palawan on December 10-13, 2002, and every year thereafter, from 2003 to 2009. For the year 2002, he was the keynote speaker during the closing ceremony of the four-day Youth Congress event, and that he gave his speech during the last day. He even remembers commending Vice Governor Ponce de Leon for the efforts they put into that successful event. Mitra recalls that there are about 250 to 300 participants in that event. He identified seven photographs<sup>89</sup> taken from the said Youth Congress.<sup>90</sup>

On cross-examination, Mitra confirmed that he was not the one who took the pictures he identified, and that he was only present in the event during its last day.<sup>91</sup>

**Ronnie G. Coralipio** is the head teacher of Palawan National School and OIC of the Boy Scout of the Philippines

<sup>87</sup> Id. at 26-31.

<sup>88</sup> Id. at 33

<sup>89</sup> Exhibits 6C series.

<sup>90</sup> TSN dated April 25, 2017, pp. 9-11

<sup>91</sup> Id. at 17.

(BSP) in Palawan, Puerto Princesa Council. He testified that he attended the activity at the Badjao Sea Front Restaurant on July 29, 2002, together with Rebecca Arquero, the Principal of the Palawan National School, youth leaders, and representatives of religious, educational, government and non-government sectors. He stated that there were over thirty (30) participants and that they were served food during the event -- a value meal lunch around 12:00 noon, and snacks consisting of a sandwich and juice around 3:00 in the afternoon. According to Coralipio, Badjao Sea Front is a VIP restaurant, and ordinarily, he would spend around Three Hundred Pesos (P300.00) to Three Hundred Fifty Pesos (P350.00) a meal when dining there. Snacks of a sandwich and juice would also cost around Seventy-Five Pesos (P75.00). He thinks that their bill at Badjao Sea Front was settled by the staff of the Vice-Governor.<sup>92</sup>

Coralipio also claimed that he attended the activities at Legend Hotel from December 10 to 13, 2002. During the four day event, they were served lunch and snacks every day. Having eaten at the Legend Hotel before, he states that lunch there would cost around Two Hundred Ninety-Nine Pesos (P299.00) while breakfast is around One Hundred Ninety-Nine Pesos (P199.00). He also thinks that the event at the Legend Hotel was paid by the Office of the Vice Governor, since it was a program conducted by them.<sup>93</sup>

Coralipio also stated that as OIC of the BSP Palawan, their group joined PADAC as partners, and it necessitated them to coordinate with the Office of the Vice Governor about five times.<sup>94</sup>

On cross-examination, Coralipio avers that he received an invitation from the Office of the Vice Governor to attend the PADAC event in July 2002. When he attended the event at Legend Hotel, he also has a letter of authority or memorandum from his superior. However, he does not have these letters with him anymore. He misplaced the letter invitation and the letter of authority was among the documents that were lost when his office at the Palawan National School burned down. He also confirmed that there was a Youth Congress in 2003, and every year thereafter.<sup>95</sup>

<sup>92</sup> TSN dated June 27, 2017, pp. 8-11.

<sup>93</sup> *Id.* at 11-14.

<sup>94</sup> *Id.* at 15-16.

<sup>95</sup> *Id.* at 15-20.

The next witness presented was **Rachel R. Federico**, a legislative staff and the OIC of the Palawan Anti-Drug Abuse Council (PADAC) from 2002 to 2006. As OIC of PADAC, she is tasked with the implementation of the plans and programs of PADAC, the formulation of strategies, initiatives, and reports to be submitted for the approval of Vice Governor Ponce de Leon as PADAC executive officer, and in assisting the events and activities of PADAC.

She testified that PADAC was launched on July 29, 2002 at Badjao Sea Front Restaurant and that it was attended by more than thirty (30) persons. The conference lasted all day and they were served lunch and snacks. Federico said that she has been to the Badjao Sea Front several times with her family, and they would usually pay Six Hundred Pesos (P600.00) for meals for four persons.

Federico also attended the four-day event at Legend Hotel, for the First Palawan Youth Congress. Being the OIC of PADAC, she took an active role thereat, from the registration of the participants, to the physical arrangement of the venue, to overseeing the programs, workshop, and activities of the said event. This event was attended by over two hundred eighty (280) youth leaders from all over Palawan, plus guests, resource persons, and representatives from the NGOs, education, and religious sectors. The participants were served morning snacks, lunch, and afternoon snacks.

According to Federico, she has been to the hotel before, when they are having a promo buffet lunch or buffet snacks. For the buffet lunch, the cost is around Two Hundred Pesos (P200.00) to Two Hundred Fifty Pesos (P250.00) per person, and for the buffet lunch, the cost is One Hundred (P100.00) to One Hundred Fifty Pesos (P150.00).<sup>96</sup> She stated that the Closing Ceremony for the Youth Congress was held in the afternoon of December 13, 2002, at the Lanai Hall of the Legend Hotel.

During the PADAC event in December 2002, Federico also avers that they were given accommodation for four nights (December 9 to 12), and that there are three of them in the room. Their accommodation was paid for by Mrs. Olbes, one of

<sup>96</sup> TSN dated June 28, 2017, pp. 10-13.

the staff of Vice Governor Ponce de Leon.<sup>97</sup> It was also Olbes who settled their bill at Badjao Sea Front and the four-day event at Legend Hotel. As for the other activities of the Youth congress, such as field trips and group seminars, these were sponsored by other offices and organizations.

On cross-examination, Federico claims that she was not the one in charge of preparing the contract with the hotel. She confirmed sending out the invitations but that she did not know she is supposed to attach them to the disbursement voucher for the reimbursement of the expenses for the event. She also specified that when she said they visited the restaurant before, she meant Tanglaw Restaurant. When asked about the payment settled by Mrs. Olbes, she said that she is aware that those bills have been paid, but she did not personally do the transaction.<sup>98</sup>

**Bishop Fortunato N. Almasco, Jr.**, Senior Pastor at the Full Gospel Tabernacle Church, formerly ACTS Family Church. Their church has a youth organization known as the KAPA Youth Movement, which he founded. He testified to being present during the launching of the PADAC at Badjao Sea Front on July 29, 2002, that they were given light snacks, that he also attended the event at the Legend Hotel from December 10 to 13, and that the meals that were served at Legend Hotel usually cost Two Hundred Pesos (P200.00) to Two Hundred Fifty Pesos (P250.00).<sup>99</sup>

He claims that he is one of the resource persons during the plenary session in the afternoon of December 10, 2002, and that the topic of his workshop was Decision Making Skills in Drug Abuse Prevention.

The prosecution no longer cross-examined the witness.

**Jonathan C. Arias** also testified that he was the driver of Vice Governor Ponce de Leon from 2001 to 2010. He testified that he saw Mrs. Malou Olbes pay Badjao Sea Front the amount of Thirteen Thousand Pesos (P13,000.00) for the meals and snacks served to the thirty-five (35) participants in

<sup>97</sup> Id. at 13-15.

<sup>98</sup> Id. at 16-18.

<sup>99</sup> TSN dated July 25, 2017, pp. 9-11.

the launching of PADAC on July 29, 2002. He avers that at around 5 o'clock in the afternoon of that day, he was requested by Olbes to bring her bag, which was entrusted to him earlier. Arias claimed that he saw her took the amount of P13,000.00 from her bag and hand it over to Badjao Sea Front. He was beside Mrs. Olbes when she paid the bill and when a receipt was issued to her.

In December 2002, he also accompanied Vice Governor Ponce de Leon to the Legend Hotel, as driver and aide of Ponce de Leon for most of the four-day conference, and that it was attended by more than 300 people. Arias stated that the closing ceremonies were held at the big hall of the hotel, known as the Lanai Hall. After the closing ceremonies, he accompanied Mrs. Olbes, and saw her gave payment to Legend Hotel, in the sum of Two Hundred Five Thousand Pesos (P205,000.00) for the various expenses that the hotel charged to the Office of the Vice Governor/PADAC.

On cross-examination, Arias said that the PADAC activity in Badjao Sea Front and the event at the Legend Hotel were the only meeting or program he attended in 2002. He said that the Vice Governor attended a lot of meetings, but he remembers this because he was later told in 2007 that there were problems with the receipt and the COA. He stated that in 2007, Ponce de Leon called him, Mrs. Olbes, Dr. Carlos, Mrs. Arquero, Pastor Tablazon, Pastor Alamazon, Coralipio, and others, to ask them if they still remember what transpired during that Youth Congress.<sup>100</sup>

With respect to the payments made to Badjao Sea Front and Legend Hotel, Arias claims that the bills were all One Thousand Peso bills. He said that Badjao Sea Front gave change to Mrs. Olbes. As to the payment made to Legend, he stated that as Mrs. Olbes was counting the money, he was also counting it himself. When asked if there were any centavos paid, Arias replied that what he remembers is that Mrs. Olbes paid P205,000.00 to Legend Hotel. He does not have the receipt as this was given to Mrs. Olbes, who later gave it to Ponce de Leon. Those two were also the only times he accompanied Mrs. Olbes.<sup>101</sup>

<sup>100</sup> TSN dated July 26, 2017, pp. 18-23.

<sup>101</sup> *Id.* at 23-26.

The defense also presented **Ernesto D. Tabangay**, an employee of the *Sangguniang Panlalawigan* in charge of the media affairs of Vice Governor Ponce de Leon at the time material to this case. He testified that he was present during the launching of the PADAC at the Badjao Sea Front Restaurant on July 22, 2002, and during the Youth Congress event at Legend Hotel on December 10-13, 2002. Although they have an official photographer, he assisted whenever he could in the picture-taking. For the PADAC launching at Badjao Sea Front on July 22, 2002, he helped in the documentation of the conference, but another person, Julius Jarilla took the photos. For the event at the Legend Hotel, the regular photographer was not available, so he was the one who took photos of the closing ceremonies, from the entrance of the colors of the BSP, the program proper, and the speeches of the guests, including Abraham Mitra.

He had the photos developed by ImageFactor and turned them over to the Office of the Vice Governor. Sometime in 2007, they looked for the photos and found several,<sup>102</sup> but the negatives could no longer be found.

On cross-examination, he confirmed that although he turned the photos over to the Office of the Vice-Governor, he did not attach any proof of receipt of the photos. He also did not keep copies of the photos and those that were attached to his affidavits were given to him only.<sup>103</sup>

In 2002, witness **Ma. Lourdes B. Olbes** was the head executive assistant, assisting the Chief of Staff of Vice Governor Ponce de Leon particularly in the payment of the expenses of the office. She was present during the July 29, 2002 launching of the PADAC at Badjao Sea Front Restaurant and during the December 10-13, 2002 Youth Congress at Legend Hotel. In these events, morning and afternoon snacks and lunch were provided to the participants.

For the launching of the PADAC at Badjao Sea Front, they were charged Twelve Thousand Nine Hundred and Seventy-Five Pesos (P12,975.00) for the lunch and snacks of thirty-five (35) people. The bill was given to Olbes by the waiter, and she instructed Jonathan Arias, the driver of the

<sup>102</sup> Exhibit 6 and series.

<sup>103</sup> TSN dated August 29, 2017, pp. 19-22.

Vice Governor, to get her bag. From her bag, she took thirteen (13) One Thousand Pesos bills and gave them to the person at the counter. She was then given a receipt for Twelve Thousand Nine Hundred and Seventy-Five Pesos (P12,975.00). Jonathan Arias witnessed this payment. The money for the payment of this expense came from Vice Governor Ponce de Leon since their office at that time made no cash advances for the said activity.

For the four-day event held at the Legend Hotel, she paid Two Hundred Five Thousand Pesos (P205,000.00) for the accommodation, the closing ceremony, and the meals and snacks served for the three hundred (300) participants of the event. Jonathan Arias was again with her when she settled the bill with Legend Hotel. She was issued a receipt for the same amount, and she turned over this receipt to the staff of the Vice Governor in charge of processing its reimbursement. The Vice Governor never took custody of the said receipts.

Olbes explained that since the money for the payment of those expenses were advanced by the Vice Governor, the documents for the reimbursement process should be in the name of the Vice Governor.

As far as Olbes can recall, the receipts issued to her by Badjao Sea Front and Legend Hotel looked proper and correct as they reflect the correct amounts she paid. It was only five years later, in 2007, that she heard of the Notice of Disallowance issued by COA on the said receipts, for allegedly being falsified. They were then instructed by the Vice Governor to look into their records. From their files, they were only able to recover a few records, like the photos taken from the Youth Congress. She mentioned that it was difficult for them because their files were in disarray from the transfer of the offices of the Vice Governor and the *Sangguniang Panlalawigan* from the old capitol building to the new legislative building in 2003. She was not also able to discuss the matter with the staff who handled the reimbursement because there have been changes with the staff, with some of them already resigned.

With respect to the Notice of Disallowance, she later learned that Vice Governor Ponce de Leon refunded to the government the amounts of P12,975.00 as well as the P205,000.00 based on the two receipts, in good faith, and without admitting liability. She knows this because she was

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the one who delivered the letter of refund by the Vice Governor to the Provincial Treasurer. After that, she no longer heard of this matter and she assumed it had been settled with the payment of refund by the Vice Governor.

As to the unpaid accounts by the Office of the Vice Governor, she recalled that restaurants or hotels would either call the office and write letters. After checking their records, they would settle this amount. They have, however, no unpaid accounts with Badjao Sea Front or Legend Hotel. Olbes also stated that they held a Youth Congress every year, from 2002 to 2009, and they never had a similar problem with Legend Hotel.

When Olbes was asked why she paid Legend Hotel several days after the event, she explained that she initially wanted to pay on the date after the event, but was told that there are still other charges to be included in the computation, hence payment was made much later, on December 18, 2002.<sup>104</sup>

On cross-examination, Olbes acknowledged that her position at the Office of the Vice Governor is a position of confidence, and that she has been requested by the Vice Governor to testify in this case. She confirmed that at the time the cashier of Badjao Sea Front wrote the receipt for P12,975.00, there was no tampering or erasures on the receipt. She recalled the cashier to be a woman. She reiterated, however, that she no longer have a copy of the said receipt, having submitted it to the provincial government for processing. She also could not remember the name of the person to whom she handed the receipt, nor can she remember who was the staff member in charge for reimbursements. She could not recall as well who the cashier was when she paid at the Legend Hotel.<sup>105</sup>

Olbes was asked how many times she met Atty. Jean Aguilar, the lawyer who prepared her Judicial Affidavit. She answered that she has met her several times in the past, but she met her once only for her Judicial Affidavit, specifically in August 2017. She admitted however that she executed two affidavits for this case, and the second affidavit was for purposes of including Jonathan Arias as the person who

<sup>104</sup> TSN dated August 30, 2017, pp. 10-11.

<sup>105</sup> *Id.* at 11-19.

accompanied her when she paid the bills at Badjao Sea Front and Legend Hotel.<sup>106</sup>

When asked how she was able to recall the amounts in the receipts, Olbes referred to the notices of disallowances, and also because the Vice Governor told her the said amounts.<sup>107</sup>

Upon questions by the Court, Olbes repeated that she was called into a meeting by the Vice-Governor, and was informed that there were notices of disallowance because the receipts were falsified. She was then showed the receipts and was surprised, because when those were first issued to her, there were no alterations. However, when asked again if she noticed any erasures on the receipts showed to her by the Vice Governor, Olbes answered that there were no erasures.<sup>108</sup>

Accused **David A. Ponce de Leon** testified for himself and denied the charges against him. He testified that he has been a trial attorney at the now defunct Palawan Office of the Finance Ministry Intelligence Bureau from 1979 to 1982, a Barangay Captain from 1982 to 1986, OIC Vice Governor of Palawan from 1986 to 1987, Congressman for the First District of Palawan from 1987 to 1995, Dean of Palawan State University School of Law from 1995 to 2001, and elected Vice Governor of Palawan from 2001 to 2009, serving three consecutive terms.

For nine years, from 2001 to 2010, he was an executive officer of the Palawan Anti-Drug Abuse Council (PADAC), a body which still exists to this day. Ponce de Leon explained that PADAC has an action plan focused on drug abuse prevention. PADAC was launched in 2002 at the Badjao Sea Front Restaurant. It was a one-day event, where meals were served to the 35 participants. The payment for the meals came from him, which he gave to his staff, Malou Olbes. He never took possession of the receipt issued by Badjao Sea Front because their procedure at the office requires that it be immediately submitted to the staff handling the reimbursement process. These staff members are the staff of

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<sup>106</sup> *Id.* at 20-21.

<sup>107</sup> *Id.* at 21-23.

<sup>108</sup> *Id.* at 27-29.

the former Vice Governor, whom he defeated in the elections of 2001.

According to Ponce de Leon, he personally advanced the money for the payment of expenses at Badjao Sea Front because at that time, cash advances were only allowed for travelling expenses. He believed his account with Badjao Sea Front was fully settled, and that he was in fact given clearance attesting that he has no financial accountabilities with the Provincial Government.

As to the Youth Congress held at the Legend Hotel from December 10 to 13, 2002, Ponce de Leon stated that it was attended by three hundred (300) people or more, and that the activities conducted during the four-day event consist of the opening ceremony, the group discussions, field trips, athletic games, and the closing ceremony. He recalled that there were as many participants in the opening day as in the closing day.

For the four-day activities, their agreement was for the expenses to be shouldered by the Governor's Office, the Vice Governor's Office/PADAC, DDB, PDEA, and other sponsors. The share of the Office of the Vice Governor amounted to Two Hundred Five Thousand Pesos (P205,000.00), which included the cost of the closing ceremony and the accommodation of guests and the PADAC secretariat. He also personally advanced the money for the payment of this expense. Similar to the Badjao Sea Front receipt, he also did not take possession of the Legend Hotel receipt, as this was handled by Olbes, and given immediately to the staff in charge of processing its reimbursement.

Ponce de Leon also testified that he did not receive any communication from either Badjao Sea Front or Legend Hotel about any unpaid account or billing. He only learned that there was an issue regarding the said receipts in 2007, when he received a Notice of Disallowance from COA. He then discussed the matter with his staff and PADAC, and asked them to talk to the management of Badjao Sea Front and Legend Hotel. These establishments, however, said that they no longer have any records of their 2002 transactions, and that they do not wish to be involved in any legal issue. He even wrote Badjao Sea Front and Legend Hotel to officially ask for copies of their records, but received no response. Badjao Sea Front also said that their waiters in 2002 already left.

Ponce de Leon then discussed this matter with the Provincial Treasurer, who explained to him that the notice of disallowance is a preventive measure by COA to secure the public coffers, and he was advised to refund the disallowed amounts before the Notice of Disallowance became final and the matter would be considered closed.

In June 2007, he sent a letter dated May 29, 2007<sup>109</sup> to the Provincial Treasurer with a check for Two Hundred Fourteen Thousand Six Hundred Fifty Six and 89/100 (P214,656.89) representing the full refund of the disallowed amounts, and stating in the letter that he is not admitting any liability in connection with the said disallowance. The Provincial Treasurer then issued him a receipt dated June 13, 2007<sup>110</sup> for the check refund.

After refunding the amount, he was of the belief that the matter has been closed and settled, since he did not hear anything from the COA anymore. It was only in 2010 again when he received a subpoena from the Ombudsman regarding these receipts.

In 2013, Ponce de Leon pointed that there is a COA *en banc*<sup>111</sup> resolution declaring that he has no more accountability with respect to the 2002 accounts.

Ponce de Leon denied having conspired with his co-accused, stating that he only knew of Anita Salas during the arraignment for these cases. While Adonis Grande was his chief of staff, Grande already resigned in 2003 to take care of his wife who has cancer. Orlando Colobong and Luis Marcaida II are provincial employees who were already there before him, and who are the people of the Governor belonging to the opposite political party. Teofilo Palanca, Jr., on the other hand, served for 40 years at the Provincial Government until his retirement. According to Ponce de Leon, it is difficult, if not impossible to conspire with these career officials.

Ponce de Leon also claimed that as Vice Governor, he signs an average of about 100 various documents in a day, coming from various offices under his supervision. He stated

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<sup>109</sup> Exhibit 1

<sup>110</sup> Exhibit 2

<sup>111</sup> Exhibit 9

that with respect to vouchers involving finances, he signs last, or after the officials from the accounting, budget, and treasurer's office have signed, and even after his chief of staff signed. He also stated that in his thirty-one (31) years of government service, he never had any criminal, civil, or administrative case against him, except for these present two cases.

On cross-examination, Ponce de Leon admitted that it was his office who requested for the reimbursements for the two receipts, but that he signed only after all the other officials have signed. He also admitted that he checked the documents attached to the disbursement vouchers but did not find any irregularity.<sup>112</sup>

When asked about the budget for PADAC, Ponce de Leon stated that PADAC was partly included in the budget of the province, having been adopted by virtue of an ordinance passed by the *Sangguniang Panlalawigan*. He was the author of the said ordinance, and they implemented the program under that ordinance. He did not however attach a copy to his Judicial Affidavit because he did not think it was necessary.<sup>113</sup>

Ponce de Leon also confirmed that the activities held at Badjao Sea Front and Legend Hotel did not undergo bidding, because at that time, they had no budget to charge the expenses to, so as Vice-Governor and Executive Officer of PADAC, he advanced the money for that. He affirmed that he has no documents to show that the activities at Badjao and Legend indeed took place, as these documents were already attached and submitted to the previous affidavits and records of this case.<sup>114</sup>

On re-direct examination, it was pointed out that Republic Act No. 9184 mandating a public bidding was enacted only in 2003. The prosecution however argued that there was another law in place before R.A. No. 9184.<sup>115</sup>

After the testimony of Ponce de Leon, he formally offered his exhibits. The Court, in an Order dated September 27, 2017 admitted Exhibit 1, 2, and 9, there being no objection from the

<sup>112</sup> TSN dated September 25, 2017, pp. 9-10.

<sup>113</sup> Id. at 10-11.

<sup>114</sup> Id. at 11-12.

<sup>115</sup> Id. at 12-13.

prosecution. It also admitted Exhibit 6, over the objection of the prosecution.<sup>116</sup>

*For Accused Grande and Salas*

On January 15, 2018, the defense continued its presentation of evidence. Accused **Adonis T. Grande** took the witness stand and testified that he worked for Vice Governor Ponce de Leon as the latter's Executive Assistant V from July 2, 2001 to January 31, 2003. Grande claims that he is not related to any of the accused in this case. Prior to his work as Executive Assistant, he served at the Philippine Navy for twenty-five (25) years, eventually retiring as Lieutenant Commander.

With respect to the receipt issued by Legend Hotel, Grande avers that he did not sign the disbursement voucher and ALOBS for its reimbursement, and therefore did not previously see the receipt itself. He knew only that Disbursement Voucher No. 200301107<sup>117</sup> relates to the alleged altered Legend Hotel receipt because there is a notation of "O.R. No. 17366" in the voucher, and the Legend Hotel receipt, as shown to him by his counsel, bears O.R. No. 17366. In Disbursement Voucher No. 200301107, there also appears a signature above the name Adonis T. Grande, and in Boxes A and D. Grande claims that those are not his signatures, and that they are different from those appearing in his usual identification cards. Grande also disavows the signature appearing above the name Adonis T. Grande in the ALOBS.<sup>118</sup>

Grande then presented his ID<sup>119</sup> issued by the Armed Forces of the Philippines, and the ID<sup>120</sup> issued by the Office for Senior Citizens, both of which bear his signature.

According to Grande, he does not recognize whose signatures appear in the disbursement voucher and ALOBS. Although the documents were dated January 17, 2003, during which he still serves as Executive Assistant of the Vice Governor, Grande explained that he frequently took a leave of absence to attend to his sick wife in the hospital. While he

<sup>116</sup> Records, Volume V, p. 95.

<sup>117</sup> Exhibit 2-Grande

<sup>118</sup> Exhibit 3-Grande

<sup>119</sup> Exhibit 6-Grande

<sup>120</sup> Exhibit 7-Grande

does not have proof of his leave of absence at that time, having lost his records when he transferred houses, he presented his late wife's medical records, which includes her Admission Record dated July 18, 2002, February 20, 2002, and March 5, 2002, and her Certificate of Death.<sup>121</sup>

Grande also stated that when he is absent, he does not assign anyone to perform his functions. Since his co-workers, including Vice Governor Ponce de Leon is sympathetic of his situation, they would just call him on his phone if they needed anything from him, or bring the documents requiring his immediate attention, to the hospital or in his house, both of which are only ten minutes away from the Office of the Vice Governor.

As for Disbursement Voucher No. 2002085570 dated August 15, 2002,<sup>122</sup> Grande pointed out that the Badjao Sea Front receipt was not attached to the voucher annexed in the Complaint of the prosecution. His counsel, however, showed him a copy of the receipt, and he did not recognize it because the copy showed to him contains an alteration. When he signed the disbursement voucher, the receipt attached to it does not contain any alteration, otherwise, he would not have signed the voucher.

Grande could also not tell where the supporting documents of the voucher are, because these too were not attached in the Complaint of the prosecution. He could not remember what documents were attached to the voucher when he signed them because it was more than fifteen years ago, but he believes it should include the usual attachments for reimbursement of meals and snacks, such as the official receipt, reports of the activities, and names and signatures of the attendees, and pictures, if any.

In Boxes A and D of Disbursement Voucher No. 2002085570, Grande identified the signatures appearing therein to be his. He stated that he affixed his signatures to certify that the expense detailed in the voucher was actually incurred by the Office of the Vice Governor. And he knew that these expenses were actually incurred because he was present during the PADAC activity at Badjao Sea Front, which was

<sup>121</sup> Exhibits 8-Grande, 9-Grande, 10-Grande, and 11-Grande, respectively.

<sup>122</sup> Exhibit 5-Grande

attended by around 35 participants who were served meals and snacks.

Grande also denies being in collusion with the other accused, stating that his clean record with the Philippine Navy for 25 years would attest to his character, and that not being a payee of the reimbursement, he has nothing to gain from altering the receipts.

On cross-examination, Grande reiterated that it is not his signatures appearing on Disbursement Voucher No. 200301107. He, however, affirmed that it was the signatures of Vice Governor appearing in Box E. He could not however tell if it was the signature of Marcaida and Colobong appearing in the ALOBS. He also admitted that he did not investigate who signed in his behalf with respect to those documents, and he did not ask the Vice Governor about it.<sup>123</sup> He explained that at that time, he was no longer connected to the Office of the Vice Governor so he no longer has the time to see or investigate whose signature it was. He then changed his answer and said that he was able to ask the Vice Governor about it, but the latter told him that he is not familiar with the said signature.<sup>124</sup>

During the additional examination of Grande, he stated that he would sign about twenty (20) to fifty (50) vouchers in a day and that it is their usual procedure that he signs in Box A. He reiterated that it was the Vice Governor who signs last. He is no longer familiar with the procedure after that. Grande also stated that as far as he can remember, he no longer attended the December 2002 event at Legend Hotel.<sup>125</sup>

Accused **Anita G. Salas** also took the witness stand and testified that she has been with the Provincial Government of Palawan since 1978, and became a Management and Audit Analyst in 1995. As such, she reviews and checks the completeness of the supporting documents in the disbursement vouchers.

She admitted the signatures appearing in the disbursement vouchers for the reimbursement of the receipts

<sup>123</sup> TSN dated January 15, 2018, pp. 15-17.

<sup>124</sup> *Id.* at 21-22.

<sup>125</sup> *Id.* at 25-28.

issued by Badjao Sea Front and Legend Hotel, and that she did so to affirm that she reviewed the vouchers, and that based on her review, the requests for reimbursement were appropriate and were supported by the necessary documents. She could not however tell where the supporting documents are because the prosecution did not attach them to the Complaint. Salas however claimed that after she signed the vouchers, she submitted them to the Index Section for carding, and that she did not retain any copy of the vouchers or their attachments.

Salas also pointed out that the disbursement vouchers themselves state "as per supporting papers hereto attached in the amount of... ." She also avers that she would not have signed the vouchers if they do not have supporting documents. Under these circumstances, since the reimbursements were for the expenses incurred in a meeting or conference, the vouchers should have the official receipt, the list of participants, and pictures. These are the documents she customarily look for before signing. Due to the length of time that passed, Salas could no longer remember if the photocopies of the receipts showed to her by her counsel are the same documents attached to the vouchers. However, she emphasized that she would not have signed the vouchers if the receipts contain any alteration.

Salas then described how she carries out the review of the requests for reimbursements. She said that she would check the details in the vouchers, such as the date, the particulars, and the amount, and if the supporting documents correspond to these. She would also analyze if the expense is reasonable, and if the required signatories have signed all the boxes. According to her, she followed these same steps when she signed the vouchers subject of these cases.

As to the reasonableness of an expense, she found the P205,000.00 amount reasonable for the receipt issued by Legend Hotel since it was attended by 306 participants, which she noted by writing the same on the documents, and that the event was done in a hotel over a period of several days. She also has the same findings for the reimbursement of the Badjao Sea Front receipt.

Salas denied having committed estafa, since she stands to gain nothing from causing the alterations in the receipts.

During the additional direct examination, Salas stated that she does not sign the voucher after Grande, because the second person to sign is the Provincial Budget Officer. Salas claims that she signs the voucher only after their receiving clerk receives it at the Provincial Accountant's Office. She affirms that the last person to sign is the Vice Governor.<sup>126</sup>

After Grande and Salas testified, they formally offered their evidence. For Grande, the Court admitted Exhibit 2, 2-A, 3, 3-A, 5, 6, 7, 8, 9, and 10. Exhibit 11 was denied for being a mere photocopy. With respect to Salas, the Court admitted in evidence Exhibits 2, 2-A, 3, and 3-A.<sup>127</sup>

*For Accused Colobong, Palanca, and Marcaida*

The reception of evidence for accused Colobong, Palanca, and Marcaida continued.

On June 18, 2018, **Norma R. Valencia** was presented as witness. She testified that as Secretary to the *Sangguniang Panlalawigan* of the Province of Palawan, she witnessed in December 2001 the passing of Resolution No. 4899-01 entitled, "Resolution Approving and Adopting the Executive Budget of the Provincial Government of Palawan for Fiscal Year 2002," promulgated on December 18, 2001, and Provincial Ordinance No. 604, Series of 2001 entitled, "An Ordinance Appropriating the Amount of P747,659,798.00 for the General Fund Annual Budget for Fiscal Year 2002 for Personal and Operating Expenditures, Capital Outlay, Contractual and Statutory Obligations including the 5% Calamity Fund," also promulgated on December 18, 2001.

Valencia stated that she was present during the deliberations of the said resolution and that she even prepared the minutes of the session of the *Sanggunian* for this purpose. The passage of the Resolution and Ordinance can further be seen from the Excerpts from the Minutes of the 24<sup>th</sup> Regular Session of the *Sangguniang Panlalawigan* dated December 18, 2001,<sup>128</sup> which she also prepared and certified as to its

<sup>126</sup> TSN dated January 15, 2018, pp. 33-35.

<sup>127</sup> Records, Volume V, p. 141.

<sup>128</sup> Exhibit 9-Marcaida

correctness. Valencia also identified the signatures on the aforementioned documents.

On cross-examination, Valencia affirms that she did not participate in the deliberation of the budget, but she was there only as a witness. She also admitted that she was not the one who certified the Annual Budget, but Mary Chel Villanoche, a staff of the Provincial Budget Office.<sup>129</sup>

Accused **Luis M. Marcaida II**, at the onset, manifested that he is charged only under SB-11-CRM-0320. He testified for himself and stated that he was Palawan's Provincial Budget Officer at the time material to this case. He avers that he has no knowledge of the existence and the circumstances surrounding the issuance of Official Receipt No. 17366, and that he did not participate or was involved in any issuance or in the activity for which it was issued. Marcaida alleged that he only came to know of the same sometime in 2004, when COA conducted a special audit of the accounts and operations of the Province of Palawan for the periods 2001 to 2003. He admits to reading copies of the COA Report and Notice of Disallowance. The same COA Report was made as basis for the filing of the present complaint. In the said Report and Notice of Disallowance, Marcaida pointed out that his name or position was never mentioned and that the receipt was never attributed to him. Thus, he was not among those recommended to be charged criminally or administratively. Nevertheless, the Complaint against him charged him to have acted in conspiracy with his co-accused by reason of his alleged certification as to the existence of appropriation for Disbursement Voucher No. 200301107, the voucher for the reimbursement of the P205,000.00 expense under O.R. No. 17366.

Marcaida however admitted that he signed the Allotment Obligation Slip (ALOBS)<sup>130</sup> for the aforementioned voucher. He explained that under COA Circular No. 2002-003, the ALOBS is a form used by a requesting department/office, for allotments and obligations, committed to be paid by the LGU, within the approved budget or appropriation ordinance. Under the COA rules, it is the requesting office which prepares the ALOBS, forwards it to the Budget Officer, and the latter

<sup>129</sup> TSN dated June 18, 2018, pp. 22-23.

<sup>130</sup> Exhibit K/4-Marcaida

certifies only as to the existence of the appropriation by signing the appropriate box and assigning an ALOBS number thereto.

In this case, when the ALOBS was brought to him, Marcaida explained that his duty was limited to seeing whether there exists, in the approved budget for that fiscal year, an appropriation for the "Particulars" in the ALOBS, which in this case is identified as "extraordinary/misc. expenses." Marcaida reiterated that he has the duty to certify the same as it is a fact that under the Annual Budget for the Province of Palawan for 2002, as affirmed by Sangguniang Panlalawigan Resolution No. 4899-01,<sup>131</sup> the Office of the Vice Governor had an annual appropriation of P8,059,377.24 for that fiscal year, of which P700,000.00 was allocated for "extraordinary expenses," and P680,000.00 for "other expenses."<sup>132</sup>

Marcaida added that his other reason for signing the ALOBS is the prevailing jurisprudence taught to them during seminars, that a budget officer has no legal duty or obligation to go beyond what appears on the face of the document supporting the ALOBS, much less the details of the transaction, as this duty pertains to the other officers. After determining that there is an appropriation therefor, it becomes his duty to sign the ALOBS. A refusal on his part to sign the same would have exposed him to administrative or criminal liability for misfeasance or non-feasance.

On cross-examination, Marcaida stated that it is not his duty to determine if there is an irregularity in the particular transaction, as his function is only limited to determining the existence of an appropriation. He also declared that he did not see the official receipt subject of this case because the receipt is not required, and that it is not within his function to see the attachments. Upon questions by the Court, Marcaida, however, stated that if he saw the receipt's amount to be over the amount of the appropriation approved, he will not sign the ALOBS. In this case though, Marcaida said that when the ALOBS was received by them, it did not include the receipt but only the voucher. The receipt is usually attached after the ALOBS has been processed.<sup>133</sup>

<sup>131</sup> Exhibit 9-Marcaida

<sup>132</sup> Exhibit 5-Marcaida, pages 55-57 of the Annual Budget

<sup>133</sup> TSN dated June 18, 2018, pp. 34-40.

Accused **Orlando R. Colobong** next took the witness stand and stated that he was the Provincial Accountant of the Provincial Government of Palawan at the time material to these cases. As with accused Marcaida, he claims that he has no knowledge of the existence and the circumstances surrounding the issuance of O.R. No. 12140 and O.R. No. 17366, and that he did not participate or was involved in any issuance or in the activity for which those receipts were issued. Colobong also allege that he only came to know of these receipts in 2004 when COA conducted a special audit of the accounts and operations of the Province of Palawan for the periods 2001 to 2003.

Colobong acknowledged that the Complaint against him alleged that he is in conspiracy with his co-accused for certifying the completeness of the documentation of the transactions, when in fact they were not properly documented. He denies these allegations and states that he did not make such certifications, as his signature does not appear in any of the two Disbursement Vouchers and the ALOBS for the P205,000.00.<sup>134</sup> For these documents, he identified the signatures appearing above the name "Orlando R. Colobong" to be that of Danilo T. Tayona. According to him, Tayona is the Accountant IV in the Office of the Provincial Accountant, a position he occupied during the period of July to December 2002, when the documents appeared to have been accomplished and signed. Colobong knows Tayona's signature because Tayona works under his department and he has personally seen him sign documents, and in fact, many of the documents he signed passed to his desk. Being the officer next in rank to him, Tayona has the authority to sign vouchers and ALOBS in his absence, pursuant to Section 344 of the Local Government Code of the Philippines and its implementing rules.

As proof that the signatures appearing in the subject vouchers and ALOBS are not his, Colobong presented official documents bearing his specimen signature.<sup>135</sup> He also presented documents<sup>136</sup> showing the signatures of Tayona.

<sup>134</sup> Exhibits J, F, K, respectively.

<sup>135</sup> Exhibits 1-Colobong to 5-Colobong; 7-Colobong, 13-Colobong to 15-Colobong

<sup>136</sup> Exhibits 6-Colobong, 9-Colobong to 12-Colobong

On cross-examination, Colobong admitted that he filed a Counter-Affidavit<sup>137</sup> before the Office of the Ombudsman.

Accused **Luis M. Marcaida II** was then re-called to the witness stand, this time, as witness for accused Colobong. Marcaida testified that as a Management and Audit Analyst, and later, as an Administrative V and Provincial Budget Officer, he has worked with Colobong for many years. By reason of their positions, they have interacted with each other in meetings and conferences, and also in terms of official documents, which by law or procedure, pass to each other's offices. These documents bear Colobong's signature, and many times, they would sign these documents in the presence of each other.

When Marcaida was shown Exhibits 1-Colobong to 5-Colobong, 7-Colobong, 13-Colobong to 15-Colobong, the same documents Colobong earlier presented as proof of his specimen signature, Marcaida confirmed that the signatures appearing in the documents are indeed the signatures of Colobong.

For Exhibits 6-Colobong, and 9-Colobong to 12-Colobong, however, Marcaida stated that it is the signature of Tayona, whose signature is also familiar to him because he has seen him personally sign documents, for himself and in behalf of Colobong, whenever Colobong is absent or on official travel.

As to the signatures appearing above the name of Colobong in the two disbursement vouchers and ALOBS, Marcaida identified them to be the signatures of Tayona.

On cross-examination, Marcaida admitted that he did not see Colobong or Tayona personally sign the documents he identified in his Judicial Affidavit.<sup>138</sup>

To corroborate the testimony of Marcaida for accused Colobong, witness **Alma Minda V. Dimla** was presented. It was stipulated by the parties that she worked with Colobong for twenty years.<sup>139</sup> Dimla also identified the signatures of

<sup>137</sup> Exhibit S-Rebuttal

<sup>138</sup> TSN dated June 19, 2018, pp. 22-23.

<sup>139</sup> TSN dated August 13, 2018, p. 8.

Colobong and Tayona in the same documents earlier identified by Marcaida.

On cross-examination, Dimla admitted that although she is familiar with the signatures of Colobong ang Tayona, she did not see them sign the documents.<sup>140</sup>

For accused Teofilo S. Palanca, Jr., **Rhodora A. Basco** was presented as witness. She testified that she is a Local Revenue Clerk II from the Provincial Treasurer's Office of Palawan, which she has been employed from 1987 to present. She knows accused Palanca, having worked closely under his leadership from 2000 to 2010. Basco avers that as Revenue Collection Clerk, she would prepare Statement of Accounts and Certificates of Tax Clearance for requesting taxpayers, and finalize communications prepared for the Division. She would present these documents to Palanca, for his signature. In all those years, she has seen him affix his signature more than a hundred times.

Basco then identified two documents, a Special Order No. 20 dated September 27, 2001 and an Indorsement dated September 30, 2002,<sup>141</sup> showing the specimen signatures of Palanca.

Basco was then shown the two disbursement vouchers<sup>142</sup> subject of these cases, and stated that the signatures appearing above the name Teofilo S. Palanca, Jr. is not the latter's signature, but that of Conrado Y. Aguila, the then Provincial Assistant Treasurer. According to Basco, she knows his signature because she has worked with Aguila for several years, and she has personally seen him affix his signature on documents such as Tax Clearances. She also mentioned that she has seen both Palanca and Aguila sign official documents such as the payrolls of the Office of the Provincial Treasurer, and that these documents can be found in the possession of COA in Palawan.

Basco also identified a Letter dated October 1, 2001<sup>143</sup> addressed to Palanca, and testified that the signature

<sup>140</sup> *Id.* at 18.

<sup>141</sup> Exhibits 2-Palanca and 3-Palanca, respectively.

<sup>142</sup> Exhibits F and J

<sup>143</sup> Exhibit 1-Palanca

appearing above the name of Conrado Y. Aguila is that of the latter's.

On cross-examination, Basco admitted that she does not work directly under Palanca and that she is not the one in charge of the payrolls in their office. She also confirmed that Conrado Aguila, being the Provincial Assistant Treasurer, is authorized to sign for and in behalf of the Provincial Treasurer, in the absence of the latter.<sup>144</sup>

The last witness presented by the defense is **Cheryl L. Pascual**, who testified that by virtue of a job order, she worked as the secretary of Palanca from 2006 to 2008. She was later assigned as an encoder under the Land Tax Division, before being appointed to a permanent position as Local Treasury Operations Officer II in 2010.

As secretary of Palanca, her duties include placing the documents on his table and bringing them out after Palanca signs them. In doing so, she would check all the documents to verify if he has indeed signed them. On occasions when the documents are needed to be signed by Palanca immediately, she would personally hand the documents to him and he would sign them in her presence. As such, she has seen his signatures and has personally seen him sign documents hundreds of times. Pascual then identified the signatures of Palanca appearing in Special Order No. 20 dated September 27, 2001 and on an Indorsement dated September 30, 2002.<sup>145</sup>

Similar to Basco, when asked to identify the two disbursement vouchers<sup>146</sup> subject of these cases, Pascual stated that the signatures appearing above the name Teofilo S. Palanca Sr. are not his signatures but that of Conrado Y. Aguila. She claims that she is familiar with the signature of Aguila because she has personally seen him sign several times on documents such as payrolls, disbursement vouchers, and Daily Time Records (DTRs). Basco also identified the Letter dated October 1, 2001<sup>147</sup> addressed to Palanca, stating that it is the signature of Aguila appearing on the left bottom part of the document.

<sup>144</sup> TSN dated August 14, 2018, pp. 13-15.

<sup>145</sup> Exhibits 2-Palanca and 3-Palanca, respectively.

<sup>146</sup> Exhibits F and J.

<sup>147</sup> Exhibit 1-Palanca

On cross-examination, Pascual admitted that she did not work directly under Aguila and that in the documents she identified, she has not personally seen the persons sign them.<sup>148</sup>

On August 22, 2018, a Consolidated Formal Offer of Exhibits was submitted by accused Marcaida, Colobong, and Palanca. The Court, on September 7, 2018, admitted all the exhibits offered, with the exception of Exhibit 5, in view of the objection of the prosecution that the same was withdrawn and no longer presented during trial.<sup>149</sup>

The Decision of this case was then set for promulgation on January 18, 2019.

### THE COURT'S FINDING OF FACTS

In 2003, the Commission on Audit gave an order for a Special Audit to be conducted on the accounts and operations of the Province of Palawan, for the period 1999 to 2002.<sup>150</sup> In the course of the said audit, it was discovered that two reimbursements made by Palawan's Vice Governor David Ponce de Leon were supported by official receipts which contain alterations and erasures. These reimbursements were for the payments allegedly advanced by Ponce de Leon for meals taken at Badjao Sea Front Restaurant, and for the cost of the activities undertaken at the Legend Hotel, both located in Palawan.

Upon verification made by the COA from the two establishments, it was discovered that the amounts appearing on the receipts attached to the vouchers are different from the amounts of the transactions as recorded by the restaurant and the hotel. These vouchers and the corresponding transactions are summarized as follows:

	DV No.	OR Number/ Issuing Establishment	Amount in the O.R. (Php)	Amount as Verified by COA	Difference
1	2002085570	OR No. 12140 Badjao Sea Front	12,975.50	2,975.50	10,000.00

<sup>148</sup> TSN dated August 14, 2018, pp. 27

<sup>149</sup> Records, Volume V, p. 414.

<sup>150</sup> Exhibit C

			205,000.11		
2	200301107	O.R. No. 17366 Legend Hotel	(But amount being reimbursed in the DV is only P205,000.00)	343.11	204,656.89

Total: **214,656.89**

On February 20, 2007, COA sent a Notice of Disallowance<sup>151</sup> to the Provincial Government of Palawan disallowing the amount of P214,656.89 for Vice Governor Ponce de Leon as payee. On June 13, 2007, Ponce de Leon refunded<sup>152</sup> this amount to the Provincial Government of Palawan, accompanied by a letter stating that such payment was made without prejudice to the reconsideration he would seek and without admission of any liability.<sup>153</sup>

Ponce de Leon then appealed the disallowance before the COA and after presenting the Official Receipt of the refund payment, COA ruled on January 29, 2013 that he is now excluded from liability under the said Notice of Disallowance. However, COA also stated that his exclusion is without prejudice to any administrative or criminal cases pending against him.<sup>154</sup>

The two receipts subject of these cases will be further individually discussed below.

*DV No. 2002085570*

*Badjao Sea Front Receipt*

The receipt,<sup>155</sup> subject of SB-11-CRM-0319, was attached as supporting document to Disbursement Voucher No. 2002085570 was issued by Badjao Sea Front Restaurant, on July 29, 2002, and bears the written amount "twelve thousand nine hundred seventy five pesos 50/100."

<sup>151</sup> Exhibit R

<sup>152</sup> Exhibit T

<sup>153</sup> Exhibit 1-Ponce de Leon and Palanca

<sup>154</sup> Exhibit 9-Ponce de Leon and Palanca

<sup>155</sup> Exhibit H

X-----X

**Exhibit H**

**Badjao Sea Front**  
Abuag Rd., Puerto Princesa City  
Zenaida Mendoza prop.  
Tlx 102-698 002-V  
Tel No. 048 433 3531

3,000 -

**OFFICIAL RECEIPT**

Date July 29 2012

RECEIVED From VICE GOV. OFFICE (PADAC)  
the sum of two thousand nine hundred seventy five pesos  
(2,975.50) as payment for meals

Mode of Payment:  Cash  
Check No. \_\_\_\_\_  
Others \_\_\_\_\_

Received by: Wilfredo Moreno

No. 12140

BIR PERMIT NO. 09-06757  
PRINTED BY PAVLO PRINTING PRESS  
MANALO ST., P.O. PRIN. CITY  
RCV BILLS 0001 7001 32500 3 10

However, Badjao Sea Front's manager and acting cashier for that day, Wilfredo Moreno, testified that he was the one who issued the receipt and its original amount was only for "two thousand nine hundred seventy five pesos and 50/100 (2,975,50)." In fact, he wrote "3,000" at the upper right hand corner of the receipt to indicate the payment he received for the receipt. Moreno explained that he would do this as a practice, especially when there are a lot of customers, to help him remember how much change he should give. The two check marks indicated that the receipt has been paid.

When COA investigated this matter, Badjao Sea Front issued them a certified true copy of the duplicate receipt<sup>156</sup> of O.R. No. 12140, and the same shows that the amount appearing therein is only Two Thousand Nine Hundred Seventy Five Pesos and 50/100 (P2,975.50).

<sup>156</sup> Exhibit G

Handwritten initials or signature in the bottom right corner.

X-----X

**Exhibit G**

Badjao Sea Front  
1600g Rd., Puerto Princesa City  
Zambada Mendoza prop.  
Tel No. 048 433-3531

**OFFICIAL RECEIPT**

Date July 29 2002

RECEIVED FROM VIC GOV. OFFICE (PADAC)

Sum of twelve thousand nine hundred seventy five pesos  
12,975.50 as payment for bill

Mode of Payment: Check      Received by: [Signature]

Check No. 12140

Others: \_\_\_\_\_

BIN PERMIT NO. 74-10-007  
PRINC. BY PALAWAN PROVINCE  
MARKED BY: P.D. PRIN. CITY  
D.D. BILLS 8011 204-12000-0-12

Moreno explained that the figure "3,000" no longer appears in this duplicate receipt because he wrote it only on the original copy after the same has been removed from the booklet of receipts.

In their defense, accused Ponce de Leon, together with seven witnesses (Arqueta, Coralipio, Federico, Almasco, Arias, Olbes, and accused Grande), testified that on July 29, 2002, they gathered at the Badjao Sea Front Restaurant for the launching of the Palawan Anti-Drug Abuse Council (PADAC), program of the Province of Palawan. Ponce de Leon was PADAC's designated Chairman and Executive Officer. Witness Tabangay, on the other hand, testified that the launching of the PADAC happened on July 22, 2002, at the Badjao Sea Front. All the witnesses presented testified that they were served snacks and lunch that day, that the event lasted almost all day, and was attended by around thirty (30) to thirty-five (35) people.

It was also the testimony of Ma. Lourdes Olbes, a member of the staff of the Vice Governor, that after the event, she paid Badjao Sea Front for the said meals and snacks served that day, which amounted to P12,975.50. She allegedly

*[Handwritten signature]*

gave thirteen (13) One Thousand Bills as payment, and was given change. This payment was witnessed by Jonathan Arias, the driver of Ponce de Leon. The receipt was then turned over by Olbes to the staff member of the Office of the Vice Governor in charge with the reimbursement, whose identity could not longer be recalled by the witnesses.

On August 15, 2002, reimbursement of the above expense in the amount of P12,975.50 was sought by Ponce de Leon, through Disbursement Voucher No. 2002085570. The signatories of the said vouchers are accused Adonis T. Grande, Orlando R. Colobong, Teofilo S. Palanca, Jr., Anita G. Salas, and Ponce de Leon.

As their defense, Grande and Salas stated that when they signed the Disbursement Voucher, the receipt attached to it contains no alteration. Otherwise, they would not have signed the said voucher. They both admitted that it is their signatures appearing on Disbursement Voucher No. 2002085570.

Accused Colobong, on the other hand, disavows the signature appearing above his name as his, claiming that it is that of Danilo T. Tayona, the Accountant IV from the Office of the Provincial Accountant. He presented witnesses Luis Marcaida and Alma Dimla to identify his and Tayona's signatures, as well as documents showing his specimen signatures<sup>157</sup> and documents showing Tayona's specimen signatures.<sup>158</sup>

Accused Palanca also presented a similar defense, stating that it is not his signature appearing on Disbursement Voucher No. 2002085570, but that of Conrado Y. Aguila, the Assistant Provincial Treasurer. He presented witnesses Rhodora Basco and Cheryl Pascual to identify his signature and that of Aguila, as well as documents that would show his specimen signatures,<sup>159</sup> and that of Aguila.<sup>160</sup>

The signatories of Disbursement Voucher No. 2002085570, and the capacities under which they signed the same, are summarized as follows:

<sup>157</sup> Exhibits 1-Colobong to 5-Colobong, 7-Colobong, 13-Colobong to 15-Colobong.

<sup>158</sup> Exhibits 6-Colobong, and 9-Colobong to 12-Colobong.

<sup>159</sup> Exhibits 2-Palanca and 3-Palanca.

<sup>160</sup> Exhibit 1-Palanca

	Name	Position	Purpose of Signature	Admission/Denial of Signature
1	David A. Ponce De Leon	Vice Governor	Approval for Payment	Admitted the signature as his
2	Adonis T. Grande	Executive Assistant V	Certified that the expense is necessary, lawful, and incurred under his direct supervision	Admitted the signature as his
3	Orlando R. Colobong	Provincial Accountant	Certified the completeness and priority of supporting documents/previous cash advance liquidated	Denied the signature as his, stating that the signature above his name is that of Danilo T. Tayona
4	Teofilo S. Palanca, Jr.	Provincial Treasurer	Certified as to availability of cash	Denied the signature as his, stating that the signature above his name is that of Conrado Y. Aguila
5	Anita G. Salas	Management And Audit Analyst II	Certified that the voucher has been reviewed and found to be in order and may be paid in the amount indicated	Admitted the signature as hers

*DV No. 200301107  
Legend Hotel Receipt*

Disbursement Voucher No. 2022301107,<sup>161</sup> subject of SB-11-CRM-0320, has two supporting documents: the receipt issued by Legend Hotel and the Allotment Obligation Slip (ALOBS).

Legend Hotel Receipt No. 17366<sup>162</sup> shows the amount of "Two hundred five thousand pesos and 11/100 only," and indicated that it was for "meals on 12/13/02." It was, however, dated "12/18/02," and contains white marks as if from a correction fluid.

<sup>161</sup> Exhibit J

<sup>162</sup> Exhibit L

**Exhibit L**

 <b>THE LEGEND HOTELS INTERNATIONAL CORP.</b> Malvar St., Puerto Princesa City Palawan Tel. Nos (048) 433-9076 to 80 Fax (048) 433-9077 TIN 001-218-911 VAT		<b>OFFICIAL RECEIPT</b> No 17366	
Received from		Date	
Vice - Gov's Office		12/14/02	
Address			
Amount in words			
Three hundred five hundred pesos and			
11/100 units only P 343.11			
Payment of		P 400.00	
Subsistence on 12/13/02			
Form of payment		This will confirm our Provisional Receipt No. This receipt is not valid unless countersigned by our General Cashier.	
Cash	P 343.11	Collector's Signature	
Check		Cashier's Signature	
Credit Card			
Total	P 343.11		

Printed by: FUTURISTIC PRINTING PRESS, 4797 Landa Road, Puerto Princesa City 5401 Philippines Tel: 0933 896 005588 04/18/2002

According to COA, the original amount of the receipt can still be seen when viewed from the back, using a mirror, and that the original figure written was Three Hundred Forty-Three Pesos and 11/100 (P343.11). When COA inquired from Legend Hotel, the hotel was unable to produce its duplicate receipt, but informed them that from their records, Official Receipt No. 17366 corresponds to Food Check No. 7485/8390. This Food Check shows that it was issued for meals taken at the hotel's Tanglaw Restaurant, consisting of one Gambas, one Chef's Salad, and one iced tea, all amounting to P343.11. The same Food Check also shows that the customer gave P400.00 as payment, and was given P56.89 as change.

According to Leah Dalisay of Legend Hotel, they learned this because when they checked their Post Audit Report for December 13, 2002,<sup>163</sup> there is only one entry with a ".11" amount, and this is for Food Check No. 7485. The Post Audit Report is a daily listing of all the transactions or payments made for that day, whether in cash or credit card. Legend Hotel then issued a Certification to this effect.<sup>164</sup>

Dalisay also testified that as a practice, they cannot issue receipt with erasures to the customer, as their procedure requires that they surrender to their office the receipt with the mistakes, and issue the customer a new one.

<sup>163</sup> Exhibit P  
<sup>164</sup> Exhibit N.



Dalisay also explained why the date in the receipt is dated December 18, 2002, and not December 13, 2002 or the date when the meals were taken and paid for. She said that when billing a customer, they would usually just give the Food Check, and it is only later, when the customer asks for an Official Receipt, that they issue one. In this case, it could be that the person asked for an official receipt only on December 18, 2002. The Post Audit Report for December 18, 2002, was however, not presented.

In their defense, accused Ponce de Leon claims that the receipt was issued by Legend Hotel for the cost of the Closing Ceremony of the Youth Congress and the accommodation of some guests and members of the PADAC secretariat. The witnesses presented, consisting of the participants of the Youth Congress, staff of PADAC, and even the guest speaker, attested that a Youth Congress was held at the Legend Hotel for four days, from December 10-13, 2002. On the last day, Ma. Lourdes Olbes, staff of Vice Governor Ponce de Leon, claims that she paid the hotel the amount of Two Hundred Five Thousand Pesos (P205,000.00) as payment for the expenses for the Closing ceremony and the accommodation of some of the guests and staff. This payment was allegedly witnessed again by Jonathan Arias, the driver of Ponce de Leon.

Thereafter, the receipt was turned over to the staff of the Office of the Vice Governor in charge with reimbursement. As with the Badjao Sea Front receipt, the identity of the staff member could no longer be recalled.

On January 17, 2003, reimbursement of the above expense in the amount of P205,000.00 was sought by Ponce de Leon, through Disbursement Voucher No. 200301107. The signatories of the said vouchers are accused Adonis T. Grande, Orlando R. Colobong, Teofilo S. Palanca, Jr., Anita G. Salas, and Ponce de Leon. Other than the Legend Hotel Receipt No. 17366, the Allotment and Obligation Slip<sup>165</sup> was also attached to the voucher as supporting document. This was signed by Adonis Grande, Luis M. Marcaida II, and Orlando Colobong.

Accused Anita G. Salas, for her defense stated that when she certified the voucher for this reimbursement, it contains

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<sup>165</sup> Exhibit K

7571  
A

all the necessary supporting documents, and that the receipt did not have any corrections or erasures. Otherwise, she would not have signed the voucher. She also stated that she found the amount of P205,000.00 reasonable as it was for an event attended by 306 persons, which she noted on the voucher itself.

For accused Adonis Grande, he claims that it was not his signature appearing above his name on the voucher and attached ALOBS. He could not, however, identify whose signature it was. Grande emphasized that the signatures above his name were even preceded by the word "for," indicating that another person was signing for him. But he also stated that he did not authorize any person to sign for him. And that even when he took frequent leaves of absence to care for his hospitalized wife, the documents requiring his signature would be brought to him, and he would personally sign them. Grande submitted his ID<sup>166</sup> issued by the Armed Forces of the Philippines, and the ID<sup>167</sup> issued by the Office for Senior Citizens, as his specimen signatures.

Accused Colobong also disavows the signature appearing above his name as his, claiming that it is that of Danilo T. Tayona, the Accountant IV from the Office of the Provincial Accountant. He presented witnesses Luis Marcaida and Alma Dimla to identify his and Tayona's signatures, as well as documents showing his specimen signatures<sup>168</sup> and documents showing Tayona's specimen signatures.<sup>169</sup>

Similarly, accused Palanca disowned the signature above his name, claiming that it is the signature of Conrado Y. Aguila, the Assistant Provincial Treasurer. He presented witnesses Rhodora Basco and Cheryl Pascual to identify his signature and that of Aguila, as well as documents that would show his specimen signatures,<sup>170</sup> and that of Aguila.<sup>171</sup>

On the other hand, accused Luis M. Marcaida II, whose signature appears only on the ALOBS attached to the voucher, admits his signature therein. He insists, however, that he is not liable for estafa, as he merely signed his name in the

<sup>166</sup> Exhibit 6-Grande

<sup>167</sup> Exhibit 7-Grande

<sup>168</sup> Exhibits 1-Colobong to 5-Colobong, 7-Colobong, 13-Colobong to 15-Colobong.

<sup>169</sup> Exhibits 6-Colobong, and 9-Colobong to 12-Colobong.

<sup>170</sup> Exhibits 2-Palanca and 3-Palanca.

<sup>171</sup> Exhibit 1-Palanca

ALOBS to fulfill his duty as Provincial Budget Officer. As such officer, Marcaida is supposed to certify if there is an existence of appropriation for the said expense. In this case, the Annual Budget for the Province of Palawan for 2002, as affirmed by *Sangguniang Panlalawigan* Resolution No. 4899-01,<sup>172</sup> provides that the Office of the Vice Governor had an annual appropriation of P8,059,377.24 for that fiscal year, of which P700,000.00 was allocated for "extra-ordinary expenses," and P680,000.00 for "other expenses."<sup>173</sup>

The signatories of Disbursement Voucher No. 2022301107, and the capacities under which they signed the same, are summarized as follows:

	<b>Name</b>	<b>Position</b>	<b>Purpose of Signature</b>	<b>Admission/Denial of Signature</b>
1	David A. Ponce De Leon	Vice Governor	Approval for Payment	Admitted the signature as his
2	Adonis T. Grande	Executive Assistant V	Certified that the expense is necessary, lawful, and incurred under his direct supervision	Denied the signature as his
3	Orlando R. Colobong	Provincial Accountant	Certified the completeness and priority of supporting documents/previous cash advance liquidated	Denied the signature as his, stating that the signature above his name is that of Danilo T. Tayona
4	Teofilo S. Palanca, Jr.	Provincial Treasurer	Certified as to availability of cash	Denied the signature as his, stating that the signature above his name is that of Conrado Y. Aguila
5	Anita G. Salas	Management And Audit Analyst II	Certified that the voucher has been reviewed and found to be in order and may be paid in the amount indicated	Admitted the signature as hers

<sup>172</sup> Exhibit 9-Marcaida

<sup>173</sup> Exhibit 5-Marcaida, pages 55-57 of the Annual Budget.

The signatories of the ALOBS attached to Disbursement Voucher No. 2022301107, and the capacities under which they signed the same, are summarized as follows:

	<b>Name</b>	<b>Position</b>	<b>Purpose of Signature</b>	<b>Admission/Denial of Signature</b>
1	Adonis T. Grande	Executive Assistant V	Requesting party	Denied the signature as his
2	Luis M. Marcaida II	Provincial Budget Officer	Certified the existence of appropriation	Admitted his signature
3	Orlando R. Colobong	Provincial Accountant	Certified the obligation of allotment	Denied the signature as his, stating that the signature above his name is that of Danilo T. Tayona

### **ISSUES**

Whether or not the above-named accused are guilty of Estafa through Falsification of Public Document, defined and penalized under Article 315 in relation to Article 171 (6) of the Revised Penal Code.

### **RULING**

For one to be convicted of the crime of Estafa through Falsification of Public Document, defined and penalized under Article 315 in relation to Article 171 (6) of the Revised Penal Code, both the elements of Estafa and Falsification must be established.

#### Falsification under Article 171 (6)

As the falsification of the official receipts is alleged as a means of committing estafa, it will first be discussed. Article 171 states:

Art. 171. *Falsification by public officer, employee or notary or ecclesiastic minister.*- The penalty of *prison mayor* and a fine not to exceed P5,000 pesos shall be

imposed upon any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts:

1. Counterfeiting or imitating any handwriting, signature or rubric;

2. Causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate;

3. Attributing to persons who have participated in any act or proceeding statements other than those in fact made by them;

4. Making untruthful statements in a narration of facts;

5. Altering true dates;

6. Making any alteration or intercalation in a genuine document which changes its meaning;

7. Issuing in an authenticated form a document purporting to be a copy of an original document when no such original exists, or including in such a copy a statement contrary to, or different from, that of the genuine original; or

8. Intercalating any instrument or note relative to the issuance thereof in a protocol, registry, or official book.

The same penalty shall be imposed upon any ecclesiastical minister who shall commit any of the offenses enumerated in the preceding paragraphs of this article, with respect to any record or document of such character that its falsification may affect the civil status of persons. (Emphasis supplied)

It is not disputed that all the accused charged in this case are public officers, being officials of the Provincial Government of Palawan.

The two Informations under which they are charged also alleged that the falsification was committed under paragraph 6, *viz.* making alteration or intercalation in a genuine document which changes its meaning. In *Republic v. Court of Appeals*,<sup>174</sup> the Supreme Court specified the elements of the crime of falsification under Article 171(6) to be as follows:

(1) that there be an alteration (change) or intercalation (insertion) on a document;

<sup>174</sup> L-41115, September 11, 1982, 116 SCRA 505.

(2) that it was made on a genuine document;

(3) that the alteration or intercalation has changed the meaning of the document; and

(4) that the changes made the document speak something false.

In this case, the Court finds that the two receipts subject of these cases met all the aforementioned elements of the crime and were, therefore, falsified.

For the Badjao receipt, a comparison of the receipt that was attached to DV No. 2002085570 and the duplicate original from by Badjao Sea Front, shows a clear intercalation of the figure "1" before the figure "2,975.50" and the letters "lve" after "two," to form the word "twelve." These changes were made on a genuine document - the receipt that Badjao Sea Front officially issued to the Office of the Vice Governor. The intercalation and changes made to the Badjao receipt effectively increased the amount purportedly paid to the restaurant by Ten Thousand Pesos (P10,000.00), and no longer reflect the true amount paid, which is P2,975.50.

The other circumstances which further prove that the amount in the Badjao receipt is only P2,975.50 and not P12,975.50 are as follows:

1. Wilfredo Moreno, the Manager of Badjao Sea Front and the cashier who issued the receipt testified that it is the policy of the restaurant to cross out a receipt if there is a mistake or erasures therein, and just issue a new one.
2. Moreno also testified that the "3,000" handwritten figure appearing on the top right portion of the Badjao receipt was written by him, as a personal reminder to himself that the amount handed to him as payment was Three Thousand Pesos (P3,000.00), an amount that sufficiently covers the charge of P2,975.50.

The Court finds no reason to disbelieve Moreno's testimonies as these are congruent to reason and logic. The handwritten "3,000" was adequately explained, and it would not have made sense if the bill's amount is P12,975.50.

The Legend receipt also fulfills the four elements of Article 171(6) as it clearly shows an erasure of what was originally written therein, and the superimposition of the amount of "Two Hundred Five Thousand" over it. The same was also made on a receipt that was positively identified by Legend Hotel as a receipt officially issued by them on December 18, 2002. The erasures therein, and the writing of the new amount changed the receipt's original amount of Three Hundred Forty Three Pesos and 11/100 (P343.11) to Two Hundred Five Thousand Pesos and 11/100 (P205,000.11).

A physical examination of receipt itself also confirms the testimony of COA Director Edna Forto, who claimed that the original amount can still be read at the back of the receipt. Using a mirror to read the figure written at the back, the amount reads "343.11." Further, it was testified by Legend Hotel's Leah G. Dalisay that:

1. Legend Hotel, as a policy, cannot issue receipts with alterations. If a mistake in the issuance of the receipt is made, they are required to cross it out, remove the same from the booklet and submit it to their front office, which turns it over the accounting office. Only a clean receipt, without erasures, can be issued to the client.
2. Although the duplicate original of the Legend Receipt could no longer be presented, the details of the said receipt can still be found in various accounting documents of the hotel, specifically the Posting Audit Report<sup>175</sup> for December 13, 2002, which is the date of the transaction, and the Food Check,<sup>176</sup> which contains the itemized food orders for the said receipt.

For the Posting Audit Report of December 13, 2002, there is only one entry with the amount of "343.11," and this corresponds to Food Check No. 7485, which is a Food Check from the Hotel's Tanglaw Restaurant.

Quite notably, there is no entry for the amount of

<sup>175</sup> Exhibit P

<sup>176</sup> Exhibit Q

P205,000.11 in the Posting Audit Report for that day.

The defense claims that these receipts were for meals and other expenses incurred during the two events related to the anti-drug abuse campaign of the Province of Palawan -- the launching of the Palawan Anti-Drug Abuse Council (PADAC) on July 29, 2002, and the Palawan Youth Congress on December 13, 2002. Accused presented several witnesses who testified to the happening of these events, the number of people who attended, and to the fact that meals and snacks were served to them, including hotel accommodations to some, as proof that the expenses incurred are approximate and fairly accurate to amounts of P12,975.50 and P205,000.11.

However, while this Court has no doubt that these events indeed took place, and that expenses were incurred therefrom, there is a dearth of evidence showing that the these receipts subject of these cases were the same receipts issued by Badjao Sea Front and Legend Hotel for those two aforementioned events. The payment for the Legend receipt even cast doubt on the testimonies of witnesses Ma. Lourdes Olbes and Jonathan Arias who both claimed that the amount paid to Legend Hotel was P205,000.00 instead of the P205,000.11 indicated in the receipt. Whether the expenses for the launching of the PADAC and the Youth Congress were indeed advanced and paid for by accused Ponce de Leon is of no moment, as what was glaringly and unquestionably proven is that the two contents of the two receipts were altered and intercalated, and that Badjao receipt's original amount is only P2,975.50, while that of Legend is only P343.11.

*Estafa*

Having now proven the commission of Falsification under Article 171(6) of the Revised Penal Code, the crime for which it was complexed with -- estafa -- requires that the following general elements be met too:

- (1) that the accused defrauded another
  - (a) by abuse of confidence, or
  - (b) by means of deceit; and
  
- (2) that damage or prejudice capable of pecuniary estimation is caused to the offended party or third

person.<sup>177</sup>

The Informations of this case allege that defraudation was done by means of deceit. Deceit is defined as the false representation of a matter of fact, whether by words or conduct, by false or misleading allegations, or by concealment of that which should have been disclosed; and which deceives or is intended to deceive another so that he shall act upon it, to his legal injury.<sup>178</sup>

It was shown in the foregoing discussion how the two receipts were falsified, both by alteration and intercalation, to make it appear that a much larger sum of money was spent on the expenses for the anti-drug abuse campaign of the province. For the launching of PADAC, the meal expense of P2,975.50 was changed to P12,975.50, while the expenses for the Youth Congress was increased from P343.11 to P205,000.11.

In the case at bar, it is the falsification of these receipts that ultimately defrauded the government and caused it to release money to Ponce de Leon. When the said falsified receipts were attached to the disbursement vouchers for reimbursement, together with the necessary signatures of the persons certifying to the appropriateness and completeness of the supporting documents, and finally being approved by accused Ponce de Leon himself, the money was released to Ponce de Leon as payee. And although the checks evidencing payments for this amount could no longer be presented, the receipt of these reimbursed amounts was not denied.

As for the second element of damage, it is the contention of all the accused that there is no damage proven by reason of the refund made by accused Ponce de Leon of the disallowed amount. It must be recalled that when COA issued its Notice of Disallowance dated February 20, 2007, Ponce de Leon, purportedly following the advice given to him by the Provincial Treasurer, immediately refunded the amount of P214,656.89, through Official Receipt No. PP0642594 dated June 13, 2007.<sup>179</sup> This, however, does not negate the presence of damage.

Damage as an element of estafa may consist in (1) the offended party being deprived of his money or property as a

<sup>177</sup> *Domingo v. People of the Philippines*, G.R. No. 186101, October 12, 2009

<sup>178</sup> *Id.*

<sup>179</sup> Exhibit T

result of the defraudation; (2) disturbance in property right; or (3) temporary prejudice.<sup>180</sup>

From the time Ponce de Leon collected the money as reimbursement for his alleged expenses, damage was already sustained by the government. Money was taken from the public coffers and the government was deprived of its use from 2002/2003, until its return on June 13, 2007. Thus, although the disallowed amount was returned, temporary prejudice was still suffered by the Province of Palawan. Further, in a crime of estafa, the return of the misappropriated amount, after the crime has been committed, affects only the civil liability of the offender, and not his criminal liability.<sup>181</sup>

#### Liability/ Non-liability of Each Accused

There is no direct evidence as to who performed the alterations on the two receipts subject of this case. Defense witness Ma. Lourdes Olbes declared that at that time, no cash advances were made so it was accused Ponce de Leon who advanced the money for the payment of these expenses. Olbes also testified that after the receipts were given to her by Badjao Sea Front and Legend Hotel, she "turned them over to the staff handling the reimbursement process and submitting the documents for submission to the provincial accounting office xxx."<sup>182</sup> None of the witnesses, however, could identify who this staff member is, owing allegedly to the length of time that passed, and the fact that some of them are no longer with the Provincial Government of Palawan.

This Court notes, nonetheless, the statement of accused Ponce de Leon that the receipts were given to persons who take care of the initial reimbursement process, and that these persons used to be staff members of the former Vice Governor whom he defeated in the past election. It goes to show that although witness Olbes and accused Ponce de Leon himself maintain that the latter never took possession of the receipts, the custody of the same passed to the Office of the Vice Governor, through the staff members belonging to the said office. As the elected Vice Governor, Ponce de Leon stood as head of the Office of the Vice Governor and exercised supervision and control over all his staff, whether or not they

<sup>180</sup> *Nagrampa v. People*, 435 Phil. 441, 455 (2002).

<sup>181</sup> *Metropolitan Bank and Trust Company v. Tondo*, 392 Phil. 797 (2000).

<sup>182</sup> Judicial Affidavit of Ma. Lourdes B. Olbes, p. 4.

be former staff members of the defeated Vice Governor.

Moreover, it is a settled doctrine that the "possession" contemplated in this case can either be actual or constructive. The High Court, in *Elma v. Jacobi*,<sup>183</sup> cited a catena of cases in support of the legal presumption that a person who has in his possession a falsified document and *used it to his benefit* is the author of the falsification.

In the 1906 case of *U.S. v. Castillo*, the Court laid down the rule that the utterance or use of a forged instrument, when unexplained, is strong evidence tending to establish that the user himself (or herself) either forged the instrument or caused it to be forged. In this case, the accused merely denied ever presenting the forged check to the complainant or receiving the amount it represented; the Court found no merit in these denials. In *People v. De Lara* (a 1924 case), the Court again applied the presumption after finding the explanation of the accused on how he came into possession of checks that were subsequently encashed to be unusual and unreasonable as to carry conviction.

In *People v. Domingo* (1926), the Court applied the presumption because a few days after the certificate of title (over a property) was loaned to the accused, a forged deed of sale covering the property was executed by two alleged vendors. The Court ruled that the failure of the accused to explain what she did with the certificate of title loaned to her could only lead to the inference that she placed the certificate of title in the hands of her confederates as without the certificate, the forgery could not have been accomplished.

In *People v. Astudillo* (1934), the Court clarified that for the presumption to apply, the use of the forged document must be accompanied by these circumstances: the use is so closely connected in time with the forgery, or the user may be proved to have the capacity to undertake the forgery, or such close connection with the forgers to create a reasonable link. These additional circumstances have been loosely applied in subsequent cases.

In *Alarcon v. Court of Appeals* (1967), the Court applied the presumption after considering the patent irregularity in the transaction and the extraordinary interest of the accused in the property covered by the forged document/s in holding that no reasonable and fair[-]minded

<sup>183</sup> G.R. No. 155996, June 27, 2012, citations omitted.

man would say that the accused had no knowledge of the falsification. *Sarep v. Sandiganbayan* (1989 case), gave occasion for the ruling that **since the accused was the only person who stood to benefit by the falsification of the document found in his possession, the presumption of authorship of the falsification applies in the absence of contrary convincing proof by the accused.**

In the more recent (1992) *Caubang v. People*, the accused - who claimed to have the authority to transact (in behalf of an entity) with a government agency in Manila - attempted to overthrow the presumption of authorship against him by alleging intervening circumstances from the time he arrived in Manila until the transaction with the government agency was made. The accused claimed that he did not carry the forged document when he arrived in Manila and that third persons (including a fixer) actually transacted with the government. Allegedly, these claims disproved that he had any knowledge or inference in the making of the submitted forged document. Rejecting this claim, the Court ruled that:

[U]tilizing a fixer as part of the scenario becomes a convenient ploy to divert the mind of the court from the more plausible inference that the accused-petitioner engineered the spurious [document].

X X X X

Even if the allegation that some other person [did the transaction] was true, the accused-petitioner would still be subjected to the same conclusion.

X X X X

Having been the one responsible for the filing of the registration papers, including the means he felt necessary to accomplish the registration, the accused must likewise be accountable therefor. As the authorized representative, he is deemed to have been the one in custody or possession, **or at least the one who has gotten hold even for a short while, of the papers which included the [falsified document].** That he knew of the execution of the statement is a possibility not too difficult to imagine under the circumstances.

X X X X

The [submission] of the previously in-existent document [with the government] subjects the accused-petitioner to the inference that he *used* it as part of the registration papers. In the absence of a credible and satisfactory explanation of how the document came into being and then filed with the [government agency], the accused is presumed to be the forger [.] (italics supplied)

In *Dava v. People* (1991), involving an accused who misrepresented to his friend that he had no drivers license and thereafter induced his friend to deal with fixers so that he could have a drivers license, the Court ruled that the patent irregularity<sup>184</sup> that attended the procurement of the license cannot escape the conclusion that the accused knew that the license he obtained was fake and that he acted as a principal by inducement in the falsification of the license.

**The above case law instructs us that if a person had in his possession (actual or constructive) a falsified document and made use of it, taking advantage of it and/or profiting from such use, the *presumption* that he authored the falsification also applies.** (Emphasis ours)

Following the above-cited jurisprudence, it is trifling to even determine the person to whom the receipts were allegedly turned over to, as long as it was established that the receipts effectively passed under the custody of the Office of the Vice Governor, of which accused Ponce de Leon is the head. Should any remaining doubt still exist, it must be called to mind that it was accused Ponce de Leon who requested for the reimbursements of those receipts, by signing the two vouchers, and becoming the payee in the issuing check payments, ultimately benefiting therefrom.

Accused Grande, Colobong, Palanca, Salas, and Marcaida are charged with accused Ponce de Leon, allegedly for being his co-conspirators in the crime of estafa through falsification of public documents. Jurisprudence has it that conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.<sup>184</sup> In conspiracy, the act of one is the act of all. Conspiracy is present when one concurs with the criminal

<sup>184</sup> *People v. Macaranas*, G.R. No. 226846, June 21, 2017.

design of another, indicated by the performance of an overt act leading to the crime committed.<sup>185</sup> "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."<sup>186</sup>

Conspiracy may be proved by direct or circumstantial evidence. While direct proof of conspiracy is hard to come by, the Courts can resort to circumstantial evidence to prove its existence.<sup>187</sup> For this case, the Court found conspiracy to exist between accused Ponce de Leon, Anita Salas, and only for Criminal Case No. SB-11-CRM-0320 involving the Badjao Receipt, accused Adonis T. Grande.

The participation of Grande can directly be seen on his admitted signature in Disbursement Voucher No. 2002085570 when he certified that the expenses incurred from the receipt was necessary and lawful, and incurred under his direct supervision. Accused Salas likewise signed the same voucher, including Disbursement Voucher No. 200301107 (voucher for the Legend receipt), to certify that she has reviewed it and found the same to be in order.

Both Grande and Salas stated that before signing a voucher, they would examine the same – its particulars, the reasonableness of the amount, the completeness of the supporting documents which should include the official receipt, reports of the activities, and names and signatures of the attendees, and pictures, if any. However, none of the two vouchers have complete supporting documents. For Disbursement Voucher No. 2002085570, the only supporting document attached was the falsified receipt from Badjao Sea Front, and for Disbursement Voucher No. 200301107, only the ALOBS and the falsified receipt from Legend Hotel. Considering the evidence at hand vis-à-vis the bare claims of Grande and Salas, this Court found the defense of Grande and Salas to be self-serving, unsubstantiated, and without weight. What is apparent though is that through the signatures of Grande and Salas, the vouchers were accomplished and money was released to Ponce de Leon.

However, the participation of accused Grande in Disbursement Voucher No. 200301107 (voucher for the

<sup>185</sup> *Id.*

<sup>186</sup> *People v. Elizalde*, G.R. No. 210434, December 5, 2016.

<sup>187</sup> *Id.*

x-----x

Legend receipt), could not be established. He denies that the signature appearing above his name as his. This signature is shown below:

**Signature of Grande in the DV for Legend Receipt (Exh. J)**

**A** Certified  
 Expenses (Cash Advances necessary, lawful  
 and incurred under my direct supervision

*[Handwritten Signature]*

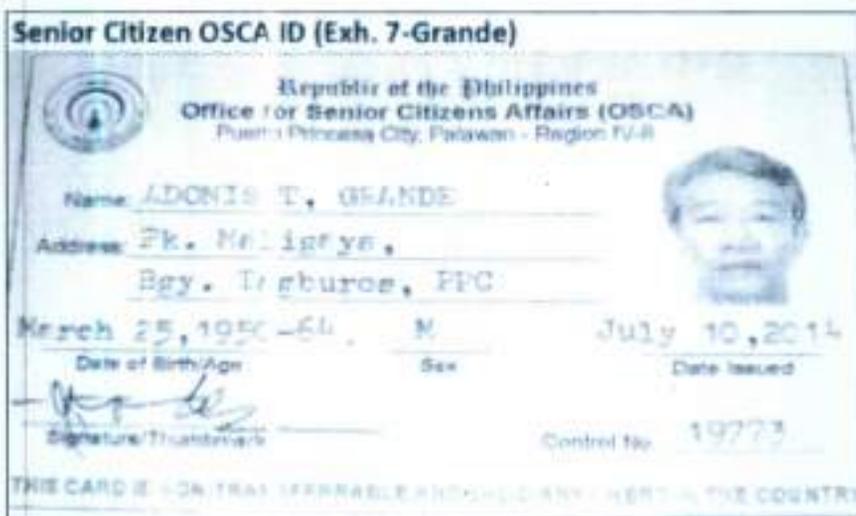
Signature Over Printed Name/Position  
**BY AUTHORITY OF THE VICE GOVERNOR**

According to Grande, the inference that another person signed for him can be gathered from the handwritten "for" preceding the signature. The said signature is likewise different from his signature, which appears in official identification cards, such as his ID as a retired officer of the Armed Forces of the Philippines (where his signature is seen at the back), and his Senior Citizen ID.

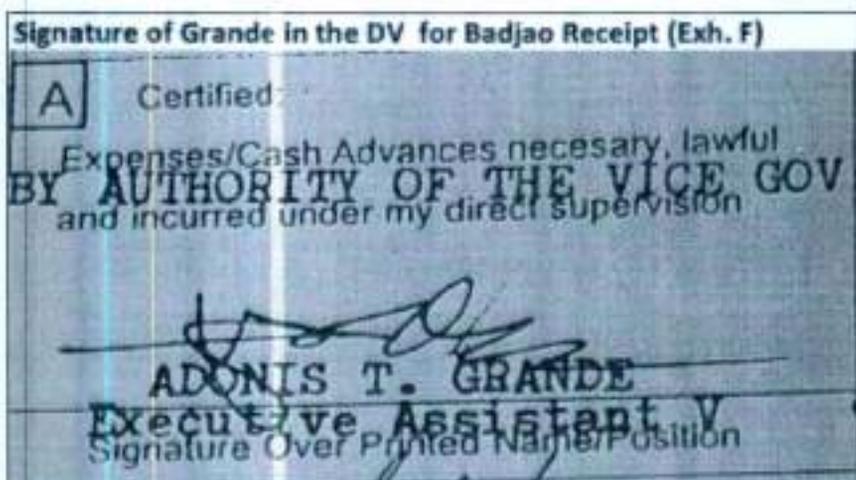
**AFP ID (Exh. 6-Grande)**

Weight <b>75kgs</b>	Height <b>172cms</b>	Eyes <b>Black</b>	Hair <b>Gray</b>	Religion <b>RC</b>
Birthdate <b>26 MAR 1950</b>	AFP-ILAI <b>6120690-240980</b>	RSSS	PhilHealth No. <b>09-050062358-0</b>	Blood Type <b>A</b>
TIN <b>145-507-984</b>	Date of Retirement <b>01 FEB 1998</b>	Other Identifying Data <b>Mole below right ear</b>		
In case of emergency, <b>AMELYN CASTRO GRANDE</b> Please notify: Right Thumbprint: <i>[Print]</i> V: v Grande Subd. Brgy. Tagburos, Puerto Princesa City C: if no. (0920) 655-1242				
<i>[Photo]</i>		Allergic to:  Card Holder's Signature <i>[Signature]</i>		
<b>WARNING</b>				
Heavy penalty will be imposed for unlawful use. If found stolen must promptly return it to the nearest AFP unit or installation or return it to The Office of the Adjutant General, AFP. For verification, please call Tel. No. 351-4001 local 6138.				

*[Handwritten initials]*

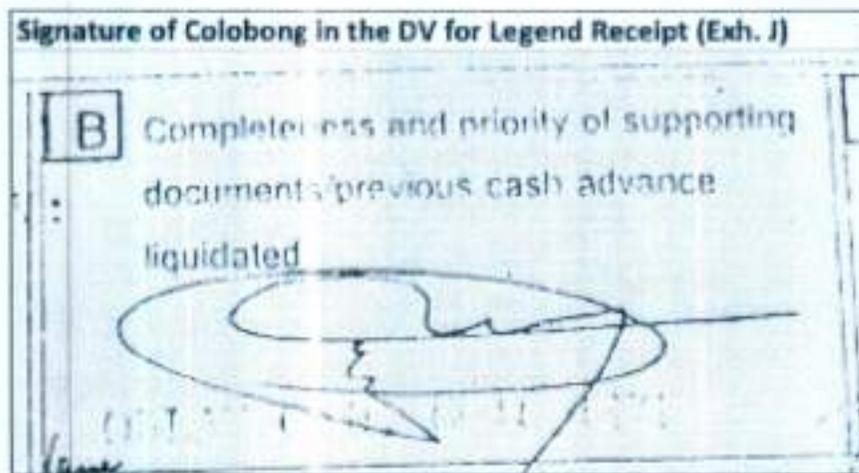
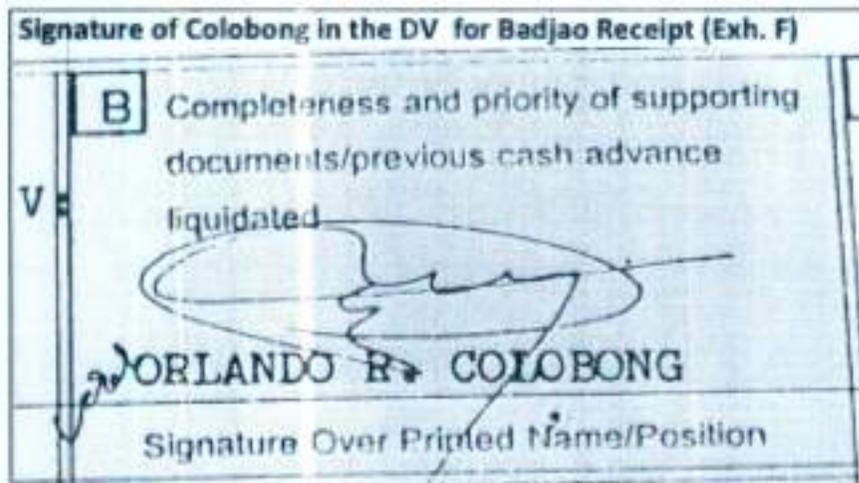


Another specimen signature that Grande pointed out is his signature in Disbursement Voucher No. 2002085570 (for the Badjao receipt), which he admitted as his. The signature appears below:



A comparison of these signatures convinces this Court that accused Grande did not sign Disbursement Voucher No. 200301107. The specimen signatures of Grande and that appearing in Disbursement Voucher No. 200301107 are very much different and do not bear the slightest resemblance to each other. As the person who signed for him could not be identified, and in the absence of any evidence that he authorized someone to sign for him, Grande's involvement and participation in Criminal Case No. SB-11-CRM-0320 could not be determined, and he could not therefore be held liable for the charges therein.

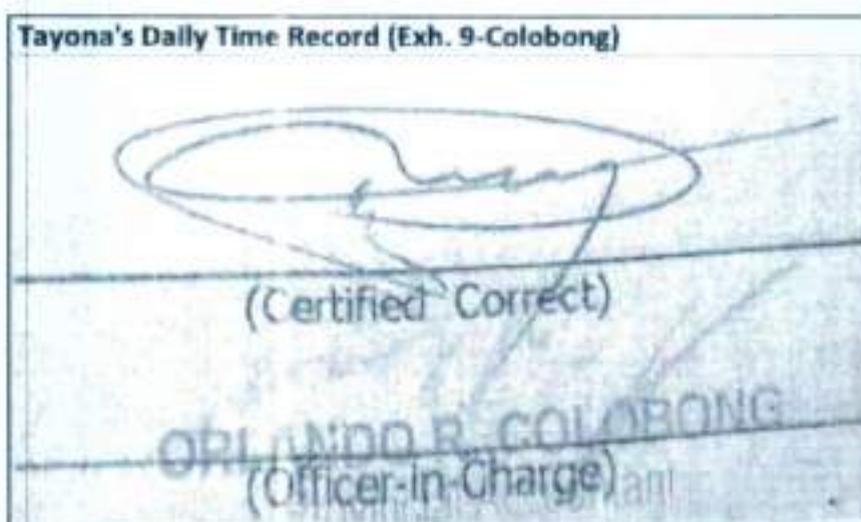
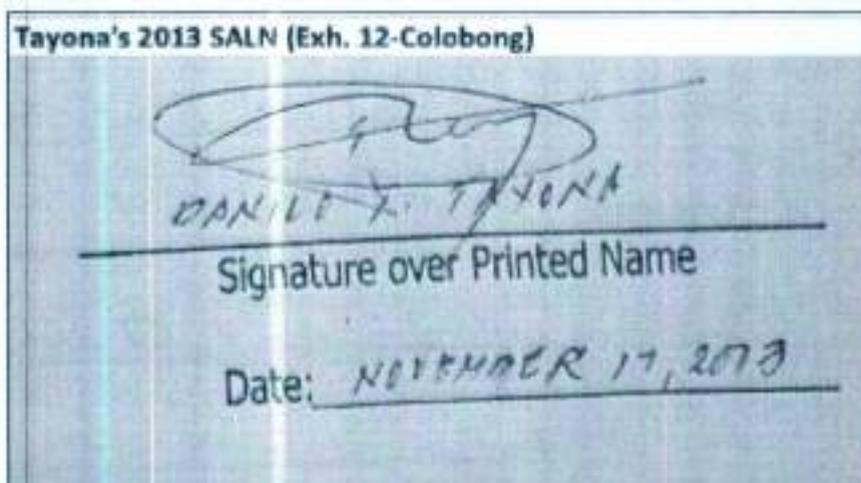
Similarly, the Court finds that the signatures appearing above the name of accused Provincial Accountant Orlando R. Colobong in the two vouchers are not his. These signatures appear as follows:



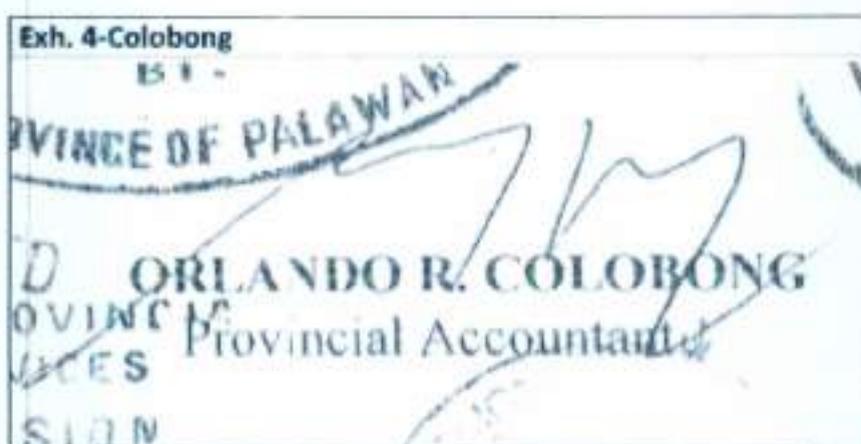
Unlike Grande, however, Colobong was able to identify whose signature it was. According to him, those are the signatures of Danilo T. Tayona, an Accountant IV from the Office of the Provincial Accountant. The same signatures were also identified by two more witnesses, Luis Marcaida II and Alma Minda Dimla, who are both familiar with Tayona's signature.

As further proof, Colobong submitted several documents on which Tayona's signature appears. Among these are Tayona's 2003 SALN and his Daily Time Record for March 2005. They are shown below:

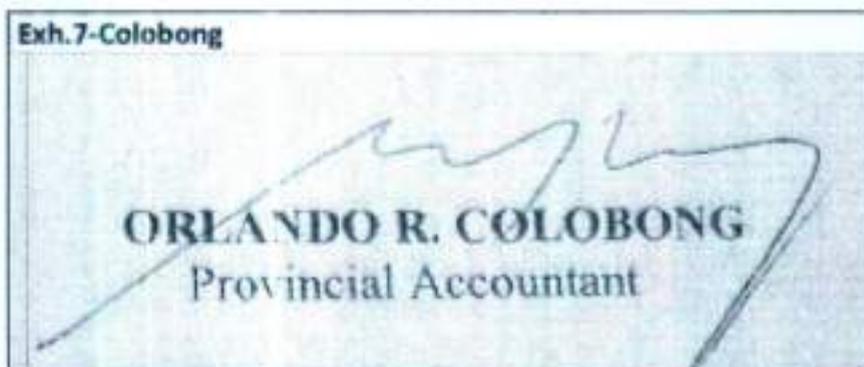
*Handwritten initials/signature*



On the other hand, Colobong's own specimen signatures, as shown in various official correspondence and Memorandum he issued are, as follows:

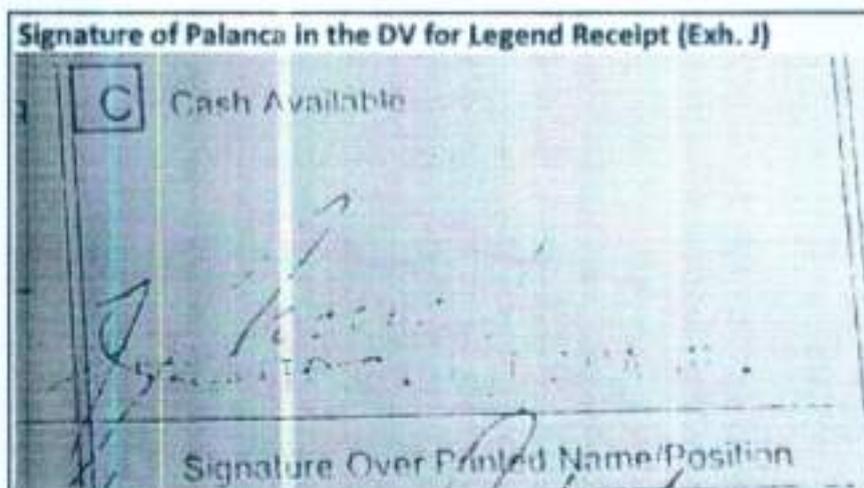
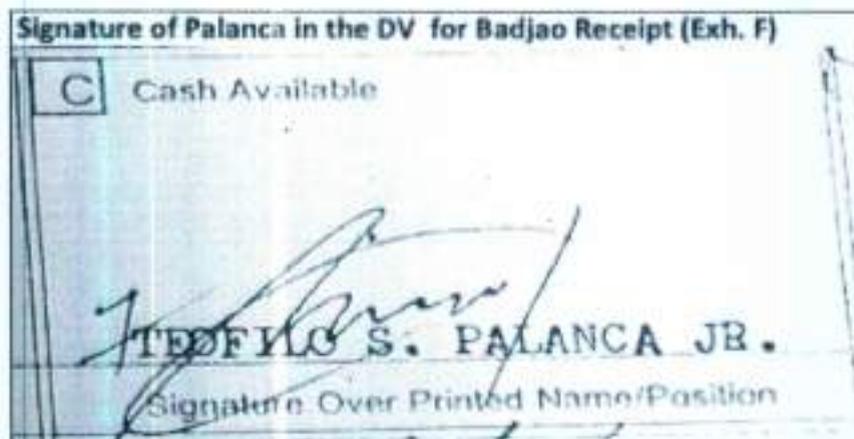


Handwritten initials or signature in the bottom right corner.



A visual scrutiny of these three groups of signatures -- those appearing in the vouchers, those identified to be Tayona's signatures, and the specimen signatures of Colobong -- lead to the conclusion that 1) the vouchers were not signed by Colobong, and that 2) the signatures appearing in the vouchers are very much similar to Tayona's signature.

The same findings were reached with respect to the signatures above the name of Provincial Treasurer Teofilo S. Palaca, Jr. in the two vouchers. These are:



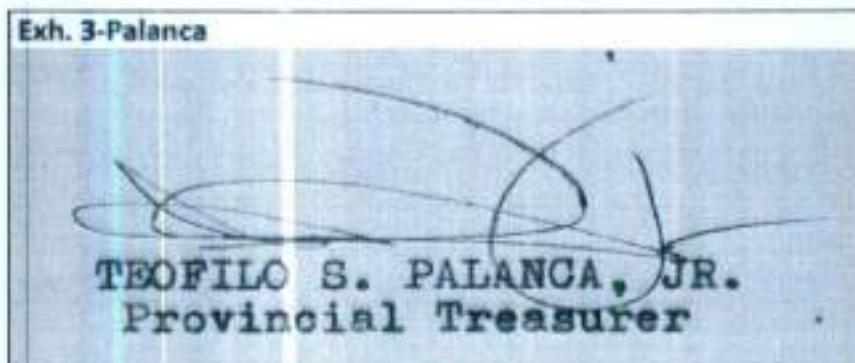
As with Colobong, Palanca denies the signatures to be

*Handwritten signature/initials*

his and claims that those are the signatures of Conrado Y. Aguila, the Assistant Provincial Treasurer. Witnesses Rhodora Blanco and Cheryl Pascual also identified the signatures to be that of Aguila. Palanca further presented an official correspondence written by Aguila, addressed to him, showing the signature of Aguila, as follows:



At the same time, Palanca showed that his own signatures are as follows:



This Court draws the same conclusion from the above signatures presented by Palanca and finds that he did not sign the two vouchers. In the absence of any proof that Colobong and Palanca authorized Tayona and Aguila, respectively, to sign on their behalf on the said vouchers, the Court could not hold them criminally liable.

Handwritten initials and a signature in the bottom right corner.

The involvement of accused Luis M. Marcaida II, on the other hand, stems not from the disbursement vouchers, but from his signature appearing on the Allotment and Obligation Slip (ALOBS), which is one of the two supporting documents to Disbursement Voucher No. 200301107. In his defense, Marcaida asserts that he is merely performing his duty as Budget Officer of the province. As such, his obligation is to certify that there is an appropriation for that year, for the said expense.

Marcaida's defense is meritorious. A look at the ALOBS show that "Extraordinary/Misc. Expenses" was indicated in the "Particulars" section of the document, and opposite it is the Account Code "892" and the amount P205,000.00. For that fiscal year, the Office of the Vice Governor has an annual appropriation of Eight Million Fifty-Nine Thousand Three Hundred Seventy- Seven Pesos and 24/100 (P8,059,377.24), of which Seven Hundred Thousand Pesos (P700,000.00) was allocated for "Extra-Ordinary Expenses" and Six Hundred Eighty Thousand Pesos (P680,000.00) for "Other Expenses." This data is shown in Resolution No. 4899-01 and Provincial Ordinance No. 604, Series of 2001.<sup>188</sup> It appears then that there is good basis for Marcaida to affix his signature in the ALOBS, there being an existing appropriation for the allotment being requested, for an amount which does not exceed the budget allocated for the expense.

In *Macadangdang v. Sandiganbayan*,<sup>189</sup> the Supreme Court absolved from liability a Budget Officer who merely followed the standard operating procedure in the signing of documents. It stated:

Under these circumstances, we find that the petitioner, a mere budget officer, signed the vouchers and prepared the necessary "Request for Obligation and Allotment" as part of standard operating procedures. It does not follow that he was part of the conspiracy to defraud. The petitioner claims that as a budget officer he had no authority or duty to go beyond what appears on the face of the documents supporting the vouchers, as this duty properly belongs to the other officers who individually prepared the documents. He

<sup>188</sup> Exhibit 9-Marcaida. These are titled "Resolution Approving and Adopting the Executive Budget of the Provincial Government of Palawan for Fiscal Year 2002," and "An Ordinance Appropriating the Amount of P747,659,798.00 for the General Fund Annual Budget for Fiscal Year 2002 for Personal and Operating Expenditures, Capital Outlay, Contractual and Statutory Obligations including the 5% Calamity Fund," respectively, both promulgated on December 18, 2001.

<sup>189</sup> G.R. Nos. 75440-43 February 14, 1989.

should have been more careful. His lack of care, however, may be ground for administrative action but it does not give rise to criminal culpability absent more evidence against him.

While the above-quoted jurisprudence also cautions an officer from merely relying on what appears on the face of the document, the same findings cannot extend to Marcaida in this case, as the falsified Legend Hotel receipt was not yet attached to the voucher and the ALOBS when he signed the same. He could not have sufficiently informed himself of any irregularity in the transaction without the said falsified receipt. As such, Marcaida could not be held criminally liable under Criminal Case No. SB-11-CRM-0320.

### *Penalty Imposed*

The crime committed in these two cases is Estafa through Falsification of Public Document. Being a complex crime, Article 48 of the Revised Penal Code<sup>190</sup> requires that the penalty for the most serious crime be imposed in its maximum period.

Previously, for the crime of falsification of public documents under Article 171 of the Revised Penal Code, the penalty prescribed is *prision mayor* and a fine not exceeding Five Thousand Pesos (P5,000.00). However, under the newly passed law of R.A. No. 10951,<sup>191</sup> the penalty for violation of Article 171 has been amended as follows:

Art. 171. *Falsification by public officer, employee or notary or ecclesiastic minister.* - **The penalty of *prision mayor* and a fine not to exceed One Million Pesos (P1,000,000.00)** shall be imposed upon any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts:

xxx. (Emphasis ours)

For the crime of estafa, the amount of damages is the basis of the penalty. In this case, the Court found the amount

<sup>190</sup> Art. 48 of the Revised Penal Code provides:

Art. 48. *Penalty for complex crimes.* - When a single act constitutes two or more grave or less grave felonies, or when an offense is a necessary means for committing the other, the penalty for the most serious crime shall be imposed, the same to be applied in its maximum period. (As amended by Act No. 4000).

<sup>191</sup> An Act Adjusting the Amount or the Value of Property and Damage on which a Penalty is Based, and the Fine Imposed under the Revised Penal Code. Amending for the Purpose Act No. 3815. Otherwise Known as "The Revised Penal Code," As Amended.

should have been more careful. His lack of care, however, may be ground for administrative action but it does not give rise to criminal culpability absent more evidence against him.

While the above-quoted jurisprudence also cautions an officer from merely relying on what appears on the face of the document, the same findings cannot extend to Marcaida in this case, as the falsified Legend Hotel receipt was not yet attached to the voucher and the ALOBS when he signed the same. He could not have sufficiently informed himself of any irregularity in the transaction without the said falsified receipt. As such, Marcaida could not be held criminally liable under Criminal Case No. SB-11-CRM-0320.

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Previously, for the crime of falsification of public documents under Article 171 of the Revised Penal Code, the penalty prescribed is *prision mayor* and a fine not exceeding Five Thousand Pesos (P5,000.00). However, under the newly passed law of R.A. No. 10951,<sup>191</sup> the penalty for violation of Article 171 has been amended as follows:

Art. 171. *Falsification by public officer, employee or notary or ecclesiastic minister.* - **The penalty of *prision mayor* and a fine not to exceed One Million Pesos (P1,000,000.00)** shall be imposed upon any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts:

xxx. (Emphasis ours)

For the crime of estafa, the amount of damages is the basis of the penalty. In Criminal Case No. SB-11-CRM-0319,

<sup>190</sup> Art. 48 of the Revised Penal Code provides:

Art. 48. *Penalty for complex crimes.* - When a single act constitutes two or more grave or less grave felonies, or when an offense is a necessary means for committing the other, the penalty for the most serious crime shall be imposed, the same to be applied in its maximum period. (As amended by Act No. 4000).

<sup>191</sup> An Act Adjusting the Amount or the Value of Property and Damage on which a Penalty is Based, and the Fine Imposed under the Revised Penal Code, Amending for the Purpose Act No. 3815, Otherwise Known as "The Revised Penal Code," As Amended.

the amount of damage is Ten Thousand Pesos (P10,000.00), which is the amount disallowed by the COA from the Badjao Sea Front receipt transaction. Under R.A. No. 10951, this amount falls under the fourth paragraph of Article 315, which now reads:

Art. 315. *Swindling (estafa)*. — Any person who shall defraud another by any of the means mentioned herein below shall be punished by:

xxx

4th. By *arresto mayor* in its medium and maximum periods, if such amount does not exceed Forty Thousand Pesos (P40,000.00): *Provided*, That in the four cases mentioned, the fraud be committed by any of the following means:

xxx.

On the other hand, in Criminal Case No. SB-11-CRM-0320, that amount of damage is Two Hundred Four Thousand Six Hundred Fifty Six Pesos and 89/100 (P204,656.89), this being the disallowed amount in the Legend Hotel receipt transaction.

Under R.A. No. 10951, this amount falls under the third paragraph of Article 315, which now reads:

Art. 315. *Swindling (estafa)*. — Any person who shall defraud another by any of the means mentioned herein below shall be punished by:

xxx

3<sup>rd</sup>. The penalty of *arresto mayor* in its maximum period to *prision correccional* in its minimum period, if such amount is over Forty Thousand Pesos (P40,000.00) but does not exceed One Million Two Hundred Thousand Pesos (P1,200,000.00).

xxx.

It appears now that for both SB-11-CRM-0319 and SB-11-CRM-0320, the more serious crime is that of falsification, and not estafa, hence, the penalty prescribed by law for falsification under the revised Article 171 should be followed, which is *prision mayor* and a fine not exceeding One Million

Pesos (P1,000,000.00)

As the crime committed is a complex crime, the penalty prescribed shall be imposed in its maximum period. Hence, the imposable penalty is *prision mayor* in its maximum period, which has a range of ten (10) years and one (1) day to twelve (12) years. Applying the Indeterminate Sentence Law, the penalty next lower in degree to *prision mayor* is *prision correccional*, with a duration of 6 months and 1 day to 6 years.

The proper indeterminate penalty imposed, therefore, is four (4) years, two (2) months and one (1) day of *prision correccional*, as minimum, to ten (10) years and one (1) day of *prision mayor*, as maximum.

**WHEREFORE**, in view of the foregoing, this Court renders judgment as follows:

1. For Criminal Case No. SB-11-CRM-0319, accused David A. Ponce de Leon, Adonis T. Grande, and Anita G. Salas, are found **GUILTY** beyond reasonable doubt of the crime of Estafa through Falsification of Public Document under Article 315 in relation to Article 171, paragraph 6 of the Revised Penal Code. Each is sentenced to suffer the indeterminate penalty of **FOUR (4) years, TWO (2) months and ONE (1) day of *prision correccional*, as minimum, to TEN (10) years and ONE (1) day of *prision mayor*, as maximum, and for each to pay a fine of Ten Thousand Pesos (P10,000.00).**

For failure of the prosecution to prove the guilt beyond reasonable doubt of accused Orlando R. Colobong and Teofilo S. Palanca, Jr., they are **ACQUITTED** of the crime charged.

2. For Criminal Case No. SB-11-CRM-0320, accused David A. Ponce de Leon and Anita G. Salas are found **GUILTY** beyond reasonable doubt of the crime of Estafa through Falsification of Public Document under Article 315 in relation to Article 171, paragraph 6 of the Revised Penal Code. Each is sentenced to suffer the indeterminate penalty of **FOUR (4) years, TWO (2) months and ONE (1) day**

**of prision correccional, as minimum, to TEN (10) years and ONE (1) day of prision mayor, as maximum, and for each to pay a fine of Fifty Thousand Pesos (P50,000.00).**

For failure of the prosecution to prove the guilt beyond reasonable doubt of accused Adonis T. Grande, Orlando R. Colobong, Teofilo S. Palanca, Jr., and Luis M. Marcaida II, they are **ACQUITTED** of the crime charged.

For accused David A. Ponce de Leon, Anita G. Salas, and Orlando R. Colobong (for SB-11-CRM-0319), there is no more civil liability to be assessed as the disallowed amount of Two Hundred Fourteen Thousand Six Hundred Fifty Six Pesos and 89/100 (P214,656.89) has already been returned to the government by David Ponce de Leon on June 13, 2007, as evidenced by Official Receipt No. PP0642594 issued by the Provincial Government of Palawan.

For accused Adonis T. Grande (only for SB-11-CRM-0320), Orlando R. Colobong, Teofilo S. Palanca, Jr., and Luis M. Marcaida II, no civil liability may be assessed against them as the act or omission from which the civil liability might arise did not exist.

The respective bail bonds posted by Adonis T. Grande (only for SB-11-CRM-0320), Orlando R. Colobong, Teofilo S. Palanca, Jr., and Luis M. Marcaida II are ordered **RELEASED** subject to the usual accounting procedures.

The Hold Departure Order issued by the Court on August 1, 2011 for Orlando R. Colobong, Teofilo S. Palanca, Jr., and Luis M. Marcaida II, is **LIFTED** and **SET ASIDE**, and the Order issued by the Bureau of Immigration incorporating the names of the said three accused in the Hold Departure List is likewise **SET ASIDE** and declared *functus officio*.

**SO ORDERED.**

Quezon City, Metro Manila, Philippines.

*Geraldine Faith A. Econg*  
**GERALDINE FAITH A. ECONG**  
Associate Justice

**WE CONCUR:**

*Efren N. De La Cruz*  
**EFREN N. DE LA CRUZ**  
Associate Justice  
Chairperson

*Edgardo M. Caldona*  
**EDGARDO M. CALDONA**  
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.

*Efren N. De La Cruz*  
**EFREN N. DE LA CRUZ**  
Associate Justice  
Chairperson

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.

*Amparo M. Cabotaje-Tang*  
**AMPARO M. CABOTAJE-TANG**  
Presiding Justice