



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
QUEZON CITY

FIFTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-13-CRM-0784 to 0785

For: Malversation of Public
Funds (Art. 217 of the RPC)

-vs-

MA. MONINA S. MISAJON and
JINGKEY B. NOLASCO,

Accused.

Present:

LAGOS, J., Chairperson,
MENDOZA-ARCEGA, J.,
and CORPUS-MAÑALAC,
J.

Promulgated:

August 30, 2019 lcl

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DECISION

MENDOZA-ARCEGA, J.:

Accused Ma. Monina S. Misajon (Misajon) and Jingkey B. Nolasco (Nolasco) are charged with the crime of Malversation of Public Funds, defined and penalized under Article 217 of the Revised Penal Code, in the Informations¹ dated March 23, 2013, the accusatory portion of which read:

¹ Record, Vol. 1, pp. 1 to 3 (SB-CRM-0784) and Record, pp. 1 to 3 (SB-CRM-0785).

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SB-13-CRM-0784

“That on or about June 11, 2004, or sometime prior or subsequent thereto, in the Municipality of San Jose Province of Antique, Philippines, and within the jurisdiction of this Honorable Court, accused MA. MONINA S. MISAJON, a high-ranking public officer, being then the Presiding Judge of the Municipal Trial Court of San Jose, Antique, conspiring and confederating with co-accused JINGKEY B. NOLASCO, a low-ranking public officer, being then a Court Interpreter, designated as Special Deputy Clerk of Court Officer-in-Charge, and later appointed as Clerk of Court, also of the Municipal Trial Court of San Jose, Antique, who, as such, is accountable for public funds collected, received and/or entrusted to her by reason of her office and duties and responsibilities, both while in the performance of their respective functions, taking advantage of their official positions, and committing the offense in relation to their office, did then and there willfully, unlawfully and feloniously, with grave abuse of confidence, take, misappropriate and convert for their personal use and benefit, the amount of Twenty-Seven Thousand Eight Hundred Pesos (P27,800.00), representing proceeds of over-withdrawn amount from the Fiduciary Fund to the damage and prejudice of the Government in the aforementioned amount.”

“CONTRARY TO LAW.”

SB-13-CRM-0785

“That on or about July 2, 2004, or sometime prior or subsequent thereto, in the Municipality of San Jose Province of Antique, Philippines, and within the jurisdiction of this Honorable Court, accused MA. MONINA S. MISAJON, a high-ranking public officer, being then the Presiding Judge of the Municipal Trial Court of San Jose, Antique, conspiring and confederating with co-accused JINGKEY B. NOLASCO, a low-ranking public officer, being then a Court Interpreter, designated as Special Deputy Clerk of Court / Officer-in-Charge, and later appointed as Clerk of Court, also of the Municipal Trial Court of San Jose, Antique, who, as such, is accountable for public funds collected, received and/or entrusted to her by reason of her office and duties and responsibilities, both while in the performance of their respective functions, taking advantage of their official positions, and committing the offense in relation to their office, did then and there willfully, unlawfully and feloniously, with grave abuse of confidence, take, misappropriate and convert for their personal use and benefit, the amount of Sixty Thousand Pesos (P60,000.00), representing proceeds of over-withdrawn amount from the Fiduciary Fund to the damage and prejudice to the Government in the aforementioned amount.”

“CONTRARY TO LAW.”

Upon arraignment, with the assistance of Atty. Ramon Antonio Sabinorio, accused Misajon and Nolasco pleaded not guilty on October 25, 2013 and December 2, 2013, respectively.

During the pre-trial conference, the prosecution made the following proposal for stipulation:

- a. That the accused Misajon was Judge assigned in the Municipal Trial Court (MTC) of San Jose, Antique from the year 1988 to her retirement on June 12, 2007 (Exhibits O; O-6 to O-12);
- b. That accused Nolasco was designated as Special Deputy Clerk of Court in the MTC, San Jose, Antique on May 21, 2001 and thereafter appointed Clerk of Court on September 22, 2004;
- c. That accused Nolasco did not turn-over the original copies of financial records of the MTC, San Jose, Antique covering the period of May 2001 to February 30, 2013 to Officer-in-Charge Clerk of Court II Arlyn Miguez-Medina, Court Interpreter and Financial Custodian;
- d. That Supreme Court (SC) Circular No. 50-95 dated October 11, 1995 established guidelines and procedures for purposes of uniformity in the manner of collections and deposits of Court Judiciary Funds for adherence by Clerks of Court and Judges;
- e. That Revised 2002 Manual for Clerks of Court dictates that a Clerk of Court is the administrative officer of the Court under the direct supervision of the Presiding Judge. Admitted as to the existence of the Manual (Exhibits C and C-8);
- f. That a Clerk of Court is duty-bound to act as Cashier and Disbursement Officer as provided by the Non-Adjudicative Functions and Duties of Clerks of Court under the 2002 Revised Manual for Clerks of Court (Exhibits C to C-8);
- g. That Bonifacia L. Lee, Alicia H. Gumban, Eza S. Dosado and Karen N. Abraham are the State Auditors of the Commission on Audit (COA), Regional Office No. VI, Pavia Iloilo, who were assigned to conduct post-audit and cash examination on the cash and accounts of MTC, San Jose, Antique for the period covering May 21, 2001 to February 7, 2005. Said COA Audit Team made use of all available financial records and documents (Common Exhibit-Exhibit D-2 & 42-b);
- h. That the COA Audit Team issued a Letter of Demand and the same was received by Nolasco on April 15, 2010 (Exhibit D-6 & I-34);

- i. That Belinda A. Urbino, Dennis B. Cantano, Jaime Louie M. Cosas, Glecly U. Manalo, and Rochelle G. Raga of the Fiscal Monitoring Division, SC were assigned as Financial Audit Team to examine the books of accounts of MTC, San Jose, Antique;
- j. That Nolasco and Misajon were the authorized signatories for MTC, San Jose, Antique in Landbank Savings Account No. 0771-0107-33 during the time material to this case;
- k. That on August 12, 2005, the SC directed Misajon to explain the unauthorized withdrawals from Landbank Savings Account No. 0771-0107-33 (Exhibit H-38 to H-43);
- l. That it was recommended by Executive Judge Rudy P. Castrojas in his Initial Report to the Financial Audit conducted in the Office of the Clerk of Court, MTC, San Jose, Antique docketed as A.M. No. P-06-2148 that Nolasco and Misajon be ordered to jointly and severally pay the amount of PhP87,800.00 under SC Report and Recommendation issued on October 23, 2007;
- m. That in a Decision dated March 4, 2009 in A.M. No. P-06-2148 entitled Office of the Court Administrator versus Jingkey B. Nolasco, the SC found Nolasco guilty of gross dishonesty and grave misconduct, thus, she was dismissed from the service. Further the restitution of shortages of collection the amount of PhP625,175.29 was ordered. The Legal Office of SC was directed to initiate action against Nolasco and Misajon (Exhibit M-M-17)

Atty. Sabinorio, counsel for accused Nolasco manifested that he is only admitting stipulation letter b of the proposals for stipulation enumerated by the prosecution, and denied the rest. On the part of Atty. Pahilga, counsel for accused Misajon, admitted all the proposals for stipulation of the prosecution, except for stipulation letter c. No proposal for stipulation was offered on the part of the defense.

The sole issue raised by both parties is whether or not accused Misajon and Nolasco, both of MTC, San Jose, Antique are guilty of Malversation of Public Funds.

The pre-trial was terminated on June 23, 2014 and trial, thereafter, ensued.

EVIDENCE FOR THE PROSECUTION

The prosecution presented the following witnesses: 1. Rocel Patricio Garganita; 2. Bonifacia Labrador Lee; 3 Arlyn O. Minguez-Medina; 4. Dennis Basares Cataño; 5. Belinda Amistoso Orbino; 6. Elizabeth Banusing Escanillas; 7. Ida Nava Alecano; 8. Rosemari Genevieve Moscoso Duldoco; 9. Victor Grecia Vargas; 10. Dexter S. Ilagan; and 11. Retired Judge Rudy P. Castrojas.

ROCEL PATRICIO GARGARITA

She is the Department Manager of the Landbank of the Philippines, San Jose, Antique Branch.

Her direct testimony has been dispensed with after the prosecution and defense agreed to enter into the following stipulations: 1. the existence and authenticity of passbook savings account no. 0771-0107-33 in the name of MTC, San Jose, Antique; 2. entries on the subject passbook which pertain to the date, June 11, 2004, page 6 thereof with entry PhP60,000.00² appearing under the column of withdrawals, dated July 2, 2004³; 3. the balance reflected on the right most portion of the passbook which is PhP767,548.17; 4 the existence of the withdrawal slip dated June 11, 2004 BWDL⁴, with further manifestation that the signature above the printed name of accused Misajon, the signature was in a blue colored ball pen as well as the verifier's signature, the stamp was color violet and all the rest are in black.

BONIFACIA LABRADOR LEE

She is the State Auditor IV of Pavia Iloilo.

She testified that she was familiar with the Schedule of Excess Withdrawals⁵ dated July 2, 2004, that was submitted by the COA Regional Office VI, as she was the one who reviewed the same. She also identified the transaction for July 23, 2002 in the identified Landbank passbook, which is a deposit interest in the amount of Four Thousand Eight Hundred Twenty Pesos (PhP4,820.00). During the continuation of her direct examination, she said that based on her examination, out of the total withdrawal of Sixty Thousand Pesos (PhP60,000.00) on June 11, 2004, only Thirty-Two Thousand Two Hundred Pesos (PhP32,200.00) was authorized, which is for the withdrawal of forfeited bonds to be remitted to the SC. While the withdrawal of Sixty Thousand Pesos (PhP60,000.00) on July 2, 2004, was without supporting documents.

On cross examination, the witness said that the document marked as Exhibit I-16 was prepared by Karen Abraham who also she examined the source documents. She also affirmed that the withdrawal dated June 11, 2004 in the amount of Sixty Thousand Pesos (PhP60,000.00) was purportedly for the refund of the cash bond. In the course of her testimony she identified her Affidavit⁶ consisting of two (2) pages, executed on June 25, 2010 before Prosecutor Manuel A. Sustento of Iloilo City. She affirmed her statements in the subject Affidavit that while doing the audit, Misajon just stayed inside her chambers and she did not observe their work as she just waited for the conclusion of the same. She also said that during the examination of the books and account of the MTC, and thus, confronted Nolasco, who admitted the

² Exhibit "H-27."

³ Exhibit "I-18."

⁴ Exhibit "H-11."

⁵ Exhibit "I-16."

⁶ Exhibit "44."

discrepancies. Nolasco did not implicate Misajon of any participation therein at that time. It was only later that she learned that Nolasco implicated Misajon in three (3) instances out of several unauthorized withdrawals. She did not believe the allegations of Nolasco because based on her experience, Misajon did not commit any overt act that would lead to the conclusion that she was part of the anomalies. Moreover, Misajon's concern or follow ups on the release of the final results of the audit according to her is a sign of innocence or non-involvement in the irregularities.

On re-direct examination she clarified that she did not determine the signatories of the withdrawal slip. She also testified that on June 11, 2004, the authorized withdrawal or withdrawal with supporting documents was only Thirty-Two Thousand Two Hundred Pesos (PhP32,200.00) out of the Sixty Thousand Pesos (PhP60,000.00) withdrawn.

Her testimony has been terminated with after the prosecution and defense agreed to enter into the following stipulations: 1.the Post Audit and the Cash Examination Report dated January 10, 2005⁷, signed by the Regional Cluster Director for the audit team comprised of State Auditor Lee, State Auditor Gumban, State Auditor Dosado, and State Auditing Examiner II, Karen Abraham, for them to conduct post audit and cash examination; 2. existence and due execution of the original of a document captioned as Report of Cash Examination Form No. 74A⁸ with a portion signed at the back thereof and the contents thereof. The signature of Nolasco, the accountable officer; 3. that State Auditor IV, Bonifacia Lee, sent a letter⁹ to Misajon informing her of the ongoing conduct of cash examination; 4. the findings by the audit team regarding the liability of the accountable officer involved.¹⁰;5. the reply of Nolasco with respect to the demand letter sent to her¹¹ and her signature thereon and;¹²6. the Affidavit of Filing of Formal Charges¹³

After the termination of the testimony of the witness, Atty. Robite made a manifestation that accused Nolasco has a pending proposal to enter into a plea bargaining agreement, which was not objected to by the representative of COA.

ARLYN O. MINGUEZ-MEDINA

She is the Clerk of Court II of the MTC of San Jose, Antique.

Before her direct examination, the parties stipulated on the existence of the correspondence¹⁴ by Arlyn Minguez-Medina to then Acting Director Manuel T. Soriano, Jr.

⁷ Exhibit "D-2."
⁸ Exhibit "1-7" and "1-7-a."
⁹ Exhibit "G."
¹⁰ Exhibit "I."
¹¹ Exhibit "D-7."
¹² Exhibit "D-8-a."
¹³ Exhibit "D."
¹⁴ Exhibit "A."



On direct examination, she testified that her official appointment as Court Interpreter at MTC Antique was on January 13, 2005 and aside from her duties as Court Interpreter, she was designated as Financial Custodian and OIC Clerk of Court of the MTC San Jose, Antique. She also testified that there was no personal restitution made by Nolasco in relation to the directive by the Supreme Court in her administrative case, however, she received from the Supreme Court a check amounting to Twenty-Five Thousand (PhP25,000.00) to Thirty Thousand Pesos (PhP30,000.00) from the terminal benefits of Nolasco from the Supreme Court, which was ordered by the latter to be deposited in the fiduciary fund of the court. After receipt of the check with the aforementioned instruction, she made a query to the Supreme Court of whether or not she should withdraw the bonds pertaining to terminated cases as she had no means to verify if the bonds were deposited in the court and since the Financial Management Office directed her not to withdraw the bonds especially those that were covered by the time of Nolasco. She came to know of the present case through the letters sent by the Supreme Court and of the COA regarding the fiduciary fund.

In addition, she said that the signatories of the withdrawal slips should be the accountable officer, the Clerk of Court and the Presiding Judge or Acting Presiding Judge. She also explained the standard operating procedure for purposes of withdrawing from the fiduciary fund, as follows: 1. the Clerk of Court or the OIC will prepare the document and the necessary supporting documents; 2. the Clerk of Court will sign the document; and 3. the document will then be sent to the Presiding Judge for signature after checking the correctness of the same.

DENNIS BASARES CATAÑO

He was the Fiscal Clerk III at the time of the engagement audit. As such his duties and responsibilities were to conduct financial audit and to investigate any irregularities in the funds.

He testified that the financial audit regarding the present case was extended by virtue of a letter sent by Misajon in line with the initial investigation of COA, which was received by the Fiscal Monitoring Division (FMD). The Office of the Court Administrator then directed the FMD to formally conduct a financial audit on the MTC San Jose, Antique. The financial audit team was headed by Belinda Urbino, and her team members were composed of: Blessie Manalo, Rochel Taga, and Jane Louie Cosas. After the examination, which consisted of cash count, examination of books of account, and preparation of working paper, they found out that there was an over withdrawal of cash bond of transactions and there was a withdrawal without supporting documents. Specifically, on June 11, 2004, there was an over-withdrawal of Twenty-Seven Thousand Eight Hundred Pesos (PhP27, 800.00), because out of the actual withdrawal of Sixty Thousand (PhP60,000.00), the authorized amount was only Thirty-Two Thousand Two Hundred Pesos (PhP32,200.00). In order to make a finding that there was an over withdrawal in the judiciary funds, they secured the five (5) specific orders directing the Clerk of Court to forfeit the judiciary funds. The five (5) court orders which were attached to the unauthorized withdrawals are for

Criminal Case No. 6230 (People v. Asucena Pareño)¹⁵; Criminal Case No. 5749 (People of the Philippines v. Emily Violago)¹⁶; Criminal Case No. 6642 (People v. Ricardo Britania)¹⁷; Criminal Case No. 7696 (People v. Teresa Cinco)¹⁸; Criminal Case No. 6983 (People v. Marietta de Guzman).¹⁹ He executed the list of withdrawals²⁰ to reflect the forfeited cash bonds involved in the withdrawal. The list of withdrawals contains the following Criminal Cases with corresponding court orders as follows²¹:

| | Criminal Case No. | Bondsmen | O.R. No. | Date | Amount |
|---|-------------------|--------------------|-----------|------------|----------------------|
| 1 | 5749 | Emily Pelago | 3856807 | 9/26/1994 | 4,200 ²² |
| 2 | 6230 | Asucena Pareño | 4987422 | 3/3/1997 | 6,000 ²³ |
| 3 | 6642 | Britaña | 9128867 | 12/14/1998 | 10,000 ²⁴ |
| 4 | 6690 | Elias Abad | 9128887 | 2/10/1999 | 6,000 ²⁵ |
| 5 | 6983 | Marietta de Guzman | 1180717 | 2/15/2000 | 2,000 ²⁶ |
| 6 | 7693 | Nina Hiponia | 146999298 | 2/18/2002 | 32,200 |

In addition to the court orders, the witness also secured the passbook of the MTC, San Jose, Antique with account number 0771-0107-33 and as indicated, the Sixty Thousand Peso (PhP60,000.00) over withdrawal was reflected therein on June 11, 2004. He said that upon examination of the withdrawal slips, there are two signatures present, those of Misajon and Nolasco. Also testified that there was a withdrawal of two (2) Sixty Thousand Pesos (PhP60,000.00). The first one on June 11, 2004 and the other one on July 2, 2004. On June 11, 2004, out of the Sixty Thousand Pesos (PhP60,000.00) withdrawn, the unauthorized withdrawal was Twenty-Eight Thousand Two Hundred Pesos (PhP28,200) while in the second one, the whole amount of Sixty Thousand Pesos (PhP60,000) was unauthorized for lack of supporting documents

On cross examination, he testified that the audit team conducted the examination by scrutinizing the passbook based on the Financial Report of the accountable officer. He said that the withdrawals were cash bonds ordered forfeited by the court. He explained that initially, the cash bonds were deposited in the Trust Fund or Fiduciary Fund, then, two (2) court orders were issued as basis for the withdrawal of the cash bonds which were credited to the JDF. In the instant case, the order to withdraw in the first instance is for Sixty Thousand Pesos (PhP60,000.00) which has supporting documents up to the total of Thirty-Two Thousand Two Hundred Pesos (PhP32,200.00) and after the total amount of Sixty Thousand Pesos

¹⁵ Exhibit "H-37-a."
¹⁶ Exhibit "H-37-b."
¹⁷ Exhibit "H-37-c."
¹⁸ Exhibit "H-37-d."
¹⁹ Exhibit "H-37-e."
²⁰ Exhibit "H-37."
²¹ Exhibit "L-11."
²² Exhibit "L-11-a."
²³ Exhibit "L-11-b."
²⁴ Exhibit "L-11-c."
²⁵ Exhibit "L-11-d."
²⁶ Exhibit "L-11-e."

(PhP60,000.00) was withdrawn on June 11, 2004, only the amount of Thirty-Two Thousand Two Hundred Pesos was credited to the JDF on June 18, 2004, thus, the remaining amount of Twenty-Seven Thousand Eight Hundred Pesos (PhP27,800.00) was unaccounted for. The second withdrawal from the Fiduciary Fund of Sixty Thousand Pesos (PhP60,000.00) was unsupported by any order emanating from the court and upon examination of the withdrawal transaction, there was no evidence or document showing that the withdrawn amount was transferred or credited to any person or to the JDF.

BELINDA AMISTOSO URBINO

Before the witness testified in Court, the parties stipulated on the following: 1. that the witness is the Financial Management Analyst of the Supreme Court, Office of the Court Administrator; 2. that she was the team leader that headed the Financial Audit Team; 3. that the Financial Audit Team investigated the various funds of the MTC, San Jose, Antique; 4. the team leader consolidated the reports of the team members as well as verified the mathematical accuracy of the Reconciliation Statement; 5. that the findings of the Financial Audit Team were made in writing in a Memorandum captioned as Financial Audit of the Office of the Clerk of Court, MTC, San Jose, Antique.

On direct examination, the witness testified that after the submission of the Report to the Office of the Court Administrator she drafted a Memorandum requiring Misajon and Nolasco to answer the findings of the Financial Audit Team as to the shortages and irregularities in the Fiduciary Funds.

On cross examination, she said that the investigation and examination of various judiciary funds was triggered by the letter request of Misajon. She also confirmed that the Report was made pursuant to the document presented by the court and that the team has no personal knowledge with respect to the execution of said documents. Furthermore, she said that she was not able to see copies of the actual withdrawal slips subject of the investigation.

DEXTER S. ILAGAN

The testimony of the witness has been dispensed with after the parties entered into the following stipulations: 1 Exhibit D-3 to D-4²⁷, as to existence only for Misajon; 2. Exhibit E²⁸, as to existence only for Misajon; 3. Exhibit F²⁹, as to existence only for Misajon; 4. Exhibit H-8³⁰, I-45 to I-50³¹, J to J-3³², K to K-9³³, K-10, K-11, K-12, K-13, K-14, K-15 to K-17, K-18 to K-19, K-20 to K-25, K-30 to K-

²⁷ Certified photocopy of the permanent appointment of Jingkey B. Nolasco as Clerk of Court II at the MTC, San Jose, Antique.

²⁸ Certified photocopy of Memorandum dated May 31, 2001 designating Jingkey B. Nolasco as Special Deputy Clerk of Court by Judge Ma. Monina S. Misajon.

²⁹ Certified photocopy of Panunumpa sa Katungkulan of Jingkey B. Nolasco as Clerk of Court II.

³⁰ Certified photocopy of Letter dated March 17, 2005 addresses to Chief Justice Hilario G. Davide, Jr.

³¹ Letter Reply of Judge Ma. Monina S. Misajon to the Memorandum to Explain issued by Hon. Court Administrator Presbitero J. Velasco, Jr., dated September 23, 2005.

³² Certified photocopy of a letter-reply of accused Jingkey Nolasco to the memorandum to Explain issued by the Hon. Court Administrator Presbitero J. Velasco, Jr., (Common Exhibit with accused Misajon, "21").

³³ Report and Recommendation dated October 23, 2007. (Common Exhibit with accused Misajon, "15").

31, K-38, K-40, K-42, K-55, K-56, K-60, K-61, K-69 to K-76, K-77 to K-80, K-81, K-83, K-85, K-86³⁴, L-5 to L-6, L-8 to L-15, L-6, L-8³⁵ to L-15³⁶, M to M-16³⁷ are all stipulated by both parties.

ELIZABETH B. ESCANILLAS

The witness is the Court Stenographer I of the MTC, San Jose, Antique since April 29, 1997 and she held the position for almost fifteen (15) years. As such, she was tasked to take down note of court proceedings, dictation of the Presiding Judge, transcribe court proceeding notes and accomplish other matters as may be assigned by the Presiding Judge or Clerk of Court She testified that in 2004, accused Misajon was the Presiding Judge and Nolasco was the Special Deputy Clerk of Court. She recalled that there was an incident regarding excessive withdrawals from the Fiduciary Funds involving Nolasco and Misajon after investigations were conducted thereon. She confirmed having executed a Joint Affidavit with William Iglesias, Process Server, dated August 14, 2007,³⁸ which was submitted to Executive Judge Rudy P. Castrojas and was received by his office on August 15, 2007. She also acquired familiarity of the signatures of accused Misajon and Nolasco and she identified the signature of Misajon and Nolasco on original withdrawal slip marked as Exhibit H-11.

She also testified that there were three (3) investigations conducted, first by the Regional Office, COA at Iloilo City. Second, the Financial Audit Team of the SC, and third, by Executive Judge Rudy P. Castrojas. As stated in her Affidavit, she affirmed her statement that every time Nolasco would pass by their desks to withdraw from the Fiduciary Funds, she would always tell them that there was an excess amount to be withdrawn per order of Misajon. She had access and knowledge of the documents³⁹ as she helped the COA Regional Office and the Financial Audit Team collate the financial records and receipts for the conduct of the investigations.

On cross examination, she admitted that it was accused Nolasco who requested her and assisted her in preparing her Affidavit. While the Joint Affidavit was drafted by Nolasco, she reviewed and supplied some of the words and she attested that the execution of the same was free and voluntary. She described the relationship between Nolasco and Misajon as cordial until the latter learned that she was implicated by Nolasco in the issue of excessive withdrawals. Finally, she admitted to the fact that Misajon filed a case against her for dishonesty on May 31, 2007.

³⁴ Certified photocopy of the Report and Recommendation issued by Executive Judge Rudy F. Castrojas dated October 23, 2007 with Annexes, (Common Exhibit with accused Misajon, "15")

³⁵ Annexes to the Computation of Balance of accountability, People's "L": List of Collection, Fiduciary Fund as of February 9, 2005 & the entries pertaining to forfeited cash bonds in five (5) criminal cases.

³⁶ Annexes to computation of Balance of Accountability, People's "L": list of Withdrawals Fiduciary Fund as of February 9, 2005 & the entries pertaining to the forfeited cash bonds in five (5) criminal cases.

³⁷ Certified photocopy of Supreme Court *En Banc* Resolution on A.M. No. P-06-2148 promulgated on March 4, 2009.

³⁸ Exhibit "K-19-a."

³⁹ Exhibits "I-18" and "H-11."

IDA NAVA ALECANDO

She was the Acting Head of Cash Division and concurrent Document Examiner/Verifier of Landbank, Antique Branch in 2004. Her duties include the verification of documents and approval of withdrawals exceeding Fifty Thousand Pesos (PhP50,000.00). Having been a Document Examiner from 1992, she has been very familiar with their depositors as her job requires a personal or face to face transactions with their clients. She testified that she knows Misajon and Nolasco because she received documents from them and they had everyday dealings with the branch. She came to know of the malversation cases against the accused when she was subpoenaed by the court to testify about the two (2) withdrawals dated June 11, 2004 and July 2, 2004 from the MTC account number 0771-010733 in Landbank, Antique Branch, made by Misajon and Nolasco. She testified that the first withdrawal slip was presented by Nolasco and personally verified by her. She identified the signature of Nolasco on the withdrawal slip. As part of the bank procedures, she verified the documents, checked if all the entries were filled up properly, then she verified the signature card and checked the savings account passbook if it tallies with the MTC account name, the account number and lastly, verified their signature against the specimen signature card⁴⁰. She testified that the withdrawal slip requires the signatures of the depositors of the account and in this case, the authorized depositors for the account of the MTC of San Jose, Antique in June 2001 were then Misajon and then Clerk of Court Nolasco. She said that the withdrawal slip dated June 11, 2004 bears the signatures of Misajon and Nolasco, which she verified as genuine signatures. She explained that her position and duties in the bank required her to undergo she trainings on Bank Frauds and Forgery Detection, thus, she is knowledgeable on signature verification, cashiering operations, bank fraud and forgery detection. After verification of the withdrawal slip she forwarded the same and the passbook to the bank teller for validation and overriding, which in this case was done by the Branch Head or the Department Manager, Esterlina Lobrisa. She explained that there is a need for the Branch Head or Branch Manager's validation because it is a bank policy that withdrawals exceeding Fifty Thousand Pesos (PhP50,000.00) should be overridden and approved by an officer or by the Branch Head. After overriding and approval, the Sixty Thousand Pesos (PhP60,000.00) was paid by the teller to Nolasco, based on their bank records or the Monthly Summary of Transactions. On July 2, 2004, the second withdrawal, she was the one who overrode and approved the withdrawal slip for payment, as the transaction involved a withdrawal exceeding Fifty Thousand Pesos (PhP50,000). The payment was then given by the teller to Nolasco, as reflected in the Monthly Summary of Transactions.

On cross examination, she said that she did not personally witness the signing of the withdrawal slips as it was presented to her already filled up. The witness also affirmed that Misajon was not in the bank during the subject transactions.

⁴⁰ Exhibit "P"

GENEVIEVE MOSCOSO DULDOCO

To expedite the proceedings, before the testimony of the witness, the parties entered into stipulations: 1. the existence of the withdrawal slips; and 2. the witness was the one who personally released the amount stated in the subject withdrawal slips.

During direct examination, she testified that in 2004, she was the acting bank teller of Landbank, Antique Branch and her duties include the payment of amounts requested on the withdrawal slips by depositors or authorized representatives. Having been a teller for 13 years, she became very familiar with depositors. She also came to know that Misajon and Nolasco have pending malversation cases before this Court involving two withdrawals, dated June 11, 2004 and July 2, 2004. The said withdrawals were made from savings account number 07710107-33. She testified that on June 11, 2004 and July 2, 2004, she was the teller who personally processed and paid the amount requested by Nolasco in the withdrawal slips both in the amount of Sixty Thousand Pesos (PhP60,000.00).

VICTOR GRECIA VARGAS

The testimony of the witness has been dispensed with after the parties stipulated that the witness was the one who verified the signatures of the authorized depositors of the MTC, San Jose, Antique on July 2, 2002 transaction and that his signature as verifier is reflected in Exhibit I-18 which was marked as Exhibit I-18-f.

RUDY P. CASTROJAS

It was stipulated by the parties that the witness was the Executive Judge of San Jose, Antique in 2007 and that he was directed to investigate and submit a report recommendation on the missing Fiduciary Funds of the MTC San Jose, Antique involving Misajon and Nolasco.

On cross examination, the witness testified that the directive as contained in the resolution of the SC and was reiterated in the letter of then Court Administrator Zenaida Elepaño was for him to conduct an investigation on the missing judiciary fund of the MTC, San Jose, Antique. It was only then that the parties submitted their affidavits that he found out that there were allegedly three (3) amounts withdrawn by accused Nolasco as allegedly ordered by accused Misajon. After the investigation, he recommended that Misajon and Nolasco be ordered to jointly and severally pay the amount of Eighty-Seven Thousand Eight Hundred Pesos (PhP87,800.00) representing over withdrawals from the Fiduciary Funds. In addition, he recommended that Nolasco be dismissed from service considering the seriousness of the offense she had committed. He also recommended the dismissal from service of Misajon, however, it can no longer be implemented by reason of her retirement. His recommendation for payment and dismissal was based on his findings that the withdrawal slips were signed by both Nolasco and Misajon. In his

report, he expressly stated that he did not give credence to the allegations of Misajon as there appears no sign of alteration or intercalation on any writing or signature in the withdrawal slips.

On re-cross examination he explained that upon examination, the allegation of intercalation by Misajon was not believable since the word "six" was immediately followed by "ty" or that word "sixty" was evenly spaced and appears to be properly written contrary to Misajon's defense. He also found the alibi of Misajon incredible that she had no hand in the withdrawal of the amounts as she admitted during the hearings conducted that the two (2) signatures appearing in the withdrawal were hers.

After presenting all its witnesses, the prosecution made a formal offer of its documentary evidence as follows:

Exhibits:

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| A | Original Letter dated March 7, 2013 of OIC-Clerk of Court Arlyn O. Minguéz-Medina |
| B to B-1 | Certified Photocopy of SC Circular No. 50-95 dated October 11, 1995: Established Guidelines & Procedures for purposes of Uniformity in the Manner of Collections & Deposits of Court Judiciary Funds for Adherence by Clerks of Court & Judges |
| C to C-8 | The 2002 Revised Manual for Clerks of Court |
| D to D-1 | Original Affidavit of the COA Audit Team, Regional Office No. VI, Pavia Iloilo dated June 21, 2010 |
| D-2 | Certified photocopy from the original of Memorandum to conduct post-audit & cash examination of the cash and accounts issued to COA Audit Team dated January 10, 2005 |
| D-3 to D-4 | Certified photocopy of the permanent appointment of Jingkey B. Nolasco as Clerk of Court II at MTC, San Jose, Antique |
| D-6 | Certified photocopy from the original of COA Letter of Demand received by Jingkey B. Nolasco on 15 April 2005 |
| I-34 | Common Exhibit with Misajon "17" |
| D-7, D-8, D-8-a | Certified Photocopy from the Original of a Letter stamped received on January 17, 2006 addressed to COA Auditor Bonifacia Lee from accused Nolasco |
| E | Certified photocopy of Memorandum dated May 31, 2001 designating Jingkey B. Nolasco as Special Deputy Clerk of Court by Judge Ma. Monina S. Misajon |
| F | Certified photocopy of Panunumpa sa Katungkulan by Jingkey Nolasco as Clerk of Court II |
| G | Certified photocopy of the letter of Bonifacia Lee to accused Misajon dated February 14, 2005 informing said accused about the ongoing examination of the cash and accounts of accused |

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| | Jingkee Nolasco and the request for said accused to be relieved of her duties until restitution of accountabilities |
| H to H-7 | Certified photocopy of Memorandum dated August 11, 2005 addressed to Court Administrator Presbitero J. Velasco, Jr. by the Supreme Court Financial Audit Team headed by Belinda A. Urbino |
| H-8 | Certified Photocopy of letter dated March 17, 2005 addressed to Chief Justice Hilario G. Davide, Jr. |
| H-11 to H-11-f | Certified photocopy of withdrawal slip dated June 11, 1004 for an amount of Sixty Thousand Pesos (PhP60,000.00) |
| H-27 | Passbook of the MTC of San Jose, Antique |
| H-27-a | The entries reflected on page 6 of the passbook pertaining to the date June 11, 2004, when withdrawal of Sixty Thousand Pesos (PhP60,000.00) was made, as well as the outstanding balance of Eight Hundred Thirty-Three Thousand Two Hundred Seventeen Pesos and Thirty-Two Centavos (PhP833,217.32) |
| H-29 | Passbook of the MTC San Jose, Antique Account No. 0771-0107-33 |
| H-29-a | The entries reflected on page 1 of the passbook pertaining to the date July 2, 2004 when withdrawal of Sixty Thousand (PhP60,000.00) was made, as well as the outstanding balance of Seven Hundred Sixty-Seven Thousand Five Hundred Forty-Six Pesos and Seventeen Centavos (PhP767,546.17) |
| H-33 | Schedule of Unauthorized Withdrawals, particularly the Over Withdrawal of Cash Bonds and Withdraw Without Supporting Documents |
| H-36 | Certified Photocopy of the Supreme Court Memorandum to Explain addressed to Judge Monina S. Misajon dated August 12, 2005 with its Annex |
| H-37 | Annex to the Certified Photocopy of SC Memorandum to Explain addressed to accused Misajon dated August 12, 2005 "H-36" |
| H-37-a-1 H-37-b-2 H-37-c-3 H-37-d-4 H-37-e-5 H-37-e-6 | Schedule of Unauthorized Withdrawals & the entries pertaining to over withdrawal of cash bonds and withdrawals without supporting documents |
| H-37-a H-37-b H-37-c H-37-d H-37-e | Court Orders forfeiting the bonds posted in favor of the government to be credited to the Judicial Development Fund-Supporting documents to the schedule of unauthorized withdrawals |
| H-38 to H-43 | Certified photocopy of Supreme Court Memorandum to Explain addressed to Jingkey B. Nolasco dated August 23, 2005 with Annexes |

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| I to I-6 | Original Letter dated January 10, 2006 addressed to COA Regional Cluster Director by the Audit Team from Regional Office No. VI, Pavia, Iloilo |
| I-7, I-7-a, I-7-b | Report of Cash Examination Form No. 74 A, page 2 thereof, and signature of accused Nolasco |
| I-16, I-16-a | Attachment to the original letter dated January 10, 2006 addressed to COA Regional Cluster Director by the Audit Team from Regional Office VI, Pavia Iloilo [People's "I"]: Schedule of Excess Withdrawals (reflecting typographical errors) |
| I-18 | Withdrawal Slip dated July 2, 2004 |
| I-20 | Lower portion of the exhibit pertaining to the Interbranch Deposit Accommodation dated June 18, 2004 |
| I-34 | Certified Photocopy of the Letter Demand received on April 15, 2005 by Jingkey Nolasco |
| I-43 to I-44 | Photocopy of the Supreme Court Memorandum to Explain addressed to Judge Ma. Monina S. Misajon dated August 12, 2005 |
| I-45 to I-50 | Letter-Reply of Judge Monina Misajon to the Memorandum to explain issued by Hon. Court Administrator Presbitero J. Velasco, Jr., dated September 23, 2005 |
| J to J-3 | Certified Photocopy of a letter-reply of accused Jingkey Nolasco to the Memorandum to Explain issued by Hon. Court Administrator Presbitero J. Velasco, Jr. |
| K-64 | Cash Deposit Slip pertaining to the Interbranch Deposit Accommodation dated June 18, 2004 |
| K-65 | June 11, 2004 Withdrawal Slip of the amount of Sixty Thousand Pesos |
| K-66 to K-67 | Interbranch Deposit Accommodation dated June 18, 2004 |
| K-68 | July 2, 2004 Withdrawal Slip of the amount of Sixty Thousand Pesos |
| L-5, L-5-a, L-5-b, L-5-c, L-6, L-6-a, L-8 and L-8-a | Annex to the Computation of Balance of Accountability, People's "L": List of Collection, Fiduciary Fund as of February 9 2005 & the entries pertaining to forfeited cash bonds in five (5) criminal cases |
| L-15, l-15-a, L-15-b, L-15-c, L-15-d, L-15-e | Annex to computation of Balance of Accountability, People's "L": List of withdrawals Fiduciary Fund as of February 9, 2005 & the entries pertaining to the forfeited cash bonds in five (5) criminal cases |
| M to M-16 | Certified photocopy of Supreme Court En banc Resolution on A.M. No. P-06-2148 promulgated on March 4, 2009 |
| O, O-1 to O-5, O-6 to O-12 | Endorsement Letter & 201 Files of Monina S. Misajon & Jingkey B. Nolasco |

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| P, P-1, P-2 | Landbank Documents: Monthly Summary of Transactions Computer generated Print-out taken from the Entire Monthly Summary Report of Landbank Philippines, San Jose, Antique |
| P-3, P-3-a, P-3-b | Passbook of the Municipal Trial court of San Jose, Antique Account No. 0771-0107, Year 2002 |
| P-4 | Specimen Signature Cards. |

On November 24, 2016, the Court resolved to admit Exhibits B to B-1, C to C-8, D to D-4, D-6 to D-8, E, F, G, H to H-8, H-11 to H-11-f, H-27, H-29, H-33, H-36, H-37 to H-37-a-6, H-37-a to H-37-e, H-38 to H-43, I to I-6, I-18, I-20, I-34, I-43 to I-50, K to K-86, M to M-16 and O to O-12 and all of its submarkings offered by the prosecution, the same having been admitted by the accused as part of the testimonies of prosecution witnesses.

The Court also admitted Exhibits A and P to P-4, and all of its submarkings offered by the prosecution, over the objection of accused Nolasco for being self-serving and inadmissible, which objections will be duly considered during the preparation of the decision in these cases;

Finally, the Court admitted Exhibits I-7, I-16, J to J-3, L-5 to L-8, L-15 to L-15-e and all of its submarkings offered by the prosecution, over the objections of accused Nolasco, for being hearsay, as part of the testimonies of prosecution witnesses State Auditor Bonifacia Lee and Dexter Ilagan.

With the admission of the documentary exhibits and the testimonies of the witnesses, the prosecution is deemed to have rested its case.

EVIDENCE FOR THE DEFENSE

Accused Misajon presented the following witnesses: 1. Donna Marie Eulah Javier-Tating; 2. Merlyn Pangusan Villavert and; 3 Ma. Monina S. Misajon.

DONNA MARIE EULAH JAVIER-TATING

The witness is the Branch head of Metrobank, San Jose, Antique branch, she testified that she knows accused Misajon as one of the depositors of the bank. She said that she was familiar with the passbook of Misajon with a UNISA Account. She also testified that on June 11, 2004, based on the pass book presented that the UNISA account was closed by Misajon by withdrawing the total amount of PhP102,198.36.

The parties entered into a stipulation that the witness can testify that accused Misajon withdrew PhP102,198.36 on June 11, 2004 and closed her account on the same date.

On cross examination, she said that there were three (3) withdrawal transactions, 1. January 30, 2004-PhP15,000.00; 2. May 19, 2004-PhP16,000.00; and 3. June 11, 2004, closing amount of PhP102,198.36.

MERLYN PANGUSAN VILLAVERT

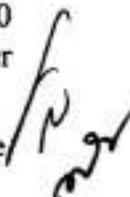
She identified and attested to the veracity of the Judicial Affidavit she executed on June 23, 2010, wherein she testified Misajon was their former judge, while Nolasco was their former Clerk of Court, who was already dismissed from service. She said that on June 11, 2004, she reported for work before 8:00 am. A few minutes after arriving at the office, she received a telegram addressed to Misajon and that she placed it on top of the latter's table inside the chambers. After Misajon learned about the death of her sister, through the telegram, she was instructed to inform the court personnel, lawyers and litigants of the resetting of their hearing since Misajon had to attend to urgent orders before she left for Davao City. She added that after attending to some urgent matters, Misajon left the office to buy plane tickets in the ticketing office in San Jose, Antique.

On cross examination, she testified that on June 11, 2004, she was at the MTC, San Jose Antique and in that morning, she placed a telegram at the table of Judge Misajon, informing her of the death of her sister. After that, she was instructed to inform the lawyers and the parties of the resetting of the cases scheduled that morning. She also said that Misajon was alone in her chambers when the withdrawal slip was accomplished.

MA. MONINA S. MISAJON

The witness identified and attested to the veracity of the statements contained in her Judicial Affidavit executed on August 10, 2007, wherein she testified that she served from October 1988 until her compulsory retirement in June 12, 2007. She said that before her appointment in the MTC of San Jose, Antique, she was the Judge of the 1st Municipal Circuit Trial Court of Hamtic, Tobias Fournier and Anini-y, Antique and before that, she was the Clerk of Court of the Court of Agrarian Relations in Iloilo City (now RTC, Br. 30, Iloilo City) where she served since September 16, 1964, starting as clerk and as she rose from ranks as shown in her Service Record.

She testified further that on June 11, 2004, a few minutes before 8:00 am she arrived in the office (MTC, San Jose, Antique), Ms. Villavert received a telegram for her which was placed on her table, inside the chamber. The said telegram came from Davao Medical Center informing her of the death of her sister. After learning of the same, she called Ms. Villavert and instructed her to make arrangements for her sister's burial. She also instructed Ms. Villavert to inform the litigants of the resetting of the case as she had to leave for Davao City. After that, she stayed in her chamber for two (2) hours, more or less, and left the court between 10:30 and 11:00 am. From the office, she went to Metrobank San Jose, Antique Branch to close her



account, withdrawing from her Unique Savings Account (UNISA), the whole amount of One Hundred Two Thousand One Hundred Ninety-Eight Pesos and Thirty-Six Centavos (PhP102,198.36). Upon arrival at Davao City airport, she proceeded to Davao Medical to claim the cadaver of her sister. She and her brother decided that the body of her sister be cremated and be brought and buried in their hometown in Consolacion, Cebu. She said that aside from the cremation fee of Ten Thousand Three Hundred Pesos (PhP10,300.00), she spent Fifty Thousand Pesos (PhP50,000.00) for the wake and burial of her sister, which means that she had no reason to borrow money on June 11, 2004, as she had money left from her withdrawal in Metrobank, aside from the donations and her salary.

In her Affidavit, she vehemently denied the allegations against her and said that she did not conspire with her co-accused Nolasco regarding the over-withdrawal from the Fiduciary Fund on June 11, 2004. She denied the allegation that she borrowed the excess amount for her trip to Davao City in connection with the cremation, wake and burial of her sister. In addition, she said that she served the government, the judiciary in particular, faithfully and with all honesty and integrity and had not enriched herself in office as could be seen from her simple lifestyle. In 2004, she had only three years left before her compulsory retirement, thus, she would not jeopardize her position and more importantly had no intention to take advantage of her position and conspire with a subordinate to commit unlawful acts. She added that she is morally upright both in public and private life.

She stated that she never conspired with Nolasco before nor on July 2, 2004 nor at any time to make unauthorized withdrawals from the Fiduciary Fund. She is aware of her grave responsibility as judge, both in her judicial, administrative and fiduciary functions. She always follows administrative orders and circulars by the Supreme Court. She was strict to her subordinates to set an example to them and that she did not violate the Canons of Judicial Ethics. With all humility, she said that she lived up with the high standards expected of her as a judge. She said that she had sufficient income as a judge and lived a frugal life up to the present. She said that she had savings and will never jeopardize her position for PhP60,000.00. In 2004, when the over withdrawals were made, her three (3) children were no longer dependent on her as shown in her Statement of Assets Liabilities and Net Worth (SALN).

On the other hand, she said that Nolasco had a lavish lifestyle and that her house then was under construction, while her husband was jobless.

When asked of her opinion on the testimony of witness former Executive Judge Rudy Castrojas, she said that the latter gave more credence to the testimony of Nolasco over her documentary evidence. She also denied the accusations of Ms. Escanillas as the latter did not have personal knowledge of the subject transactions.

Finally, she testified that she had the deposit slip dated June 18, 2002 examined by a handwriting expert to prove that she did not borrow the amount of Twenty-One Thousand Pesos (PhP21,000.00).

On cross examination, she said that as MTC Judge, she was required under Circular No. 50-95 to sign withdrawal slips together with the Clerk of Court. She said that she did not sign any withdrawal slip for Sixty Thousand Pesos (PhP60,000.00). She also alleged that Nolasco may have inserted zero and "ty: after "Six" in the withdrawal slip she signed on the subject withdrawal slips. She however admitted that the signature in the withdrawal slips are hers. She explained that the practice in her office was that she requires the Clerk of Court to prepare four (4) copies of the withdrawal slips. One copy for the Land Bank, one copy for the Clerk of Court's file, one copy for the Supreme Court and one for her file. She suspected because only very few copies were presented to her. She said that she was very confident that she did not sign the withdrawal slips for Sixty Thousand Pesos (PhP60,000.00) without court orders. She only recognized the over withdrawal after the audit. Finally, she admitted that Nolasco cannot withdraw from the Judiciary Fund without her signature and that the latter is under her direct control and supervision.

On re-cross examination conducted by Atty. Virgilio L. Gianan, (counsel for accused Nolasco) she said that she received a telegram on June 11, 2004 from the Davao Medical Center in Davao City informing her of the death of her sister. She also said that she supported the burial of her sister. She also testified that she closed her account after a withdrawal of PhP102,190.036, so that she had no idea how much she was going spend for the burial of her sister.

After the presentation of her witnesses, the accused (Misajon) submitted the following documentary evidence:

Exhibits:

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| 1 | Counter Affidavit of Ma. Monina S. Misajon dated June 25, 2010 |
| 2 | Letter dated June 11, 2010 of undersigned counsel requesting for comparative examination by handwriting expert |
| 2-a | page 2 |
| 3 | Questioned Document Examination Report No. 007-2010 |
| 4 | Original Passbook of accused Ma. Monina S. Misajon in her UNISA account with Metrobank |
| 4-a | page 1 of passbook |
| 4-a-1 | signature of Teller ID |
| 5 | Affidavit of Bonifacia L. Lee executed on June 25, 2010 submitted to the Ombudsman in support of the Counter-Affidavit of accused Misajon (provisionally marked during preliminary conference) |
| 6 | Affidavit of Merlyn P. Villavert dated June 23, 2010 |
| 7 | Affidavit of Ma. Monina S. Misajon dated August 10, 2007 |
| 8 | Letter dated September 23, 2005 of Ma. Monina S. Misajon addresses to Hon. Presbitero J. Velasco, Jr. |
| 11 | Landbank of the Philippines Savings Account Withdrawal Slip dated June 11, 2004 under the name of MTC, San Jose, Antique |

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| 12 | Original Passbook of accused Ma. Monina S. Misajon in her UNISA Account No. 3-16112652-8 with Metrobank |
| 12-a | signature on the left upper portion near the column Teller ID |
| 12-b | the initial inside the rubber stamped portion under the words "Account Closed" |
| 12-c | the date June 11, 2004 inside the rubber stamped portion |
| 12-d | the figure 061104 |
| 12-e | the figure 102,198.36 |
| 13 | Land Bank of the Philippines Savings Account Withdrawal Slip dated July 2, 2004 under the name of MTC, San Jose, Antique |
| 15 | Certified Photocopy of Report and Recommendation of Judge/Investigator Rudy P. Castrojas (also Exh. K for the prosecution) |
| 17 | Letter of demand addresses to Jingkey B. Nolasco from Bonifacia L. Lee (also Exh. D-6 for the prosecution) |
| 27 | SALN of accused Misajon as of December 31, 2002 |
| 27-a | SALN of accused Misajon as of December 31, 2003 |
| 27-b | SALN of accused Misajon as of December 31, 2004 |
| 28 | Photocopy of the Certificate of Death of Nenita A. Sanchez who died in Davao City on June 7, 2004 |
| 28-a | Cremation Certificate |
| 28-b | Authorization for Cremation Service dated June 15, 2004 |
| 28-b-1 | encircled amount of PhP10,000.00 as cremation fee |
| 29 | Transfer Permit dated June 15, 2004 for the transfer of remains of the late Nenita A. Sanchez from Davao City to Consolacion, Cebu |
| 30 | SC <i>En Banc</i> Resolution in AM No. P-06-2148 promulgated on March 4, 2009 (also Exh. M to Exh. M-17 for the prosecution) |
| 31 | Photograph of the house of accused Jingkey Nolasco |
| 40 | Letter dated February 14, 2005 addressed to Judge Ma. Monina S. Misajon from COA State Auditor Bonifacia L. Lee (also Exh. G of the prosecution) |
| 41 | SC <i>En Banc</i> Resolution for Suspension and Hold Departure Order against accused Jingkey B. Nolasco |
| 41-a | Hold Departure Order dated March 28, 2006 against Jingkey B. Nolasco |
| 42 | Affidavit of Bonifacia L. Lee, Alicia H. Gumban, Eza S. Dosado and Karen N. Abraham (also Exh. D to D-8 for the prosecution) |
| 43 | Certified photocopy of Information in Crim. Case No. 2013-10-8404 entitled "People of the Philippines vs. Jingkey B. Nolasco" for Malversation of Public Funds |
| 44(1) | Affidavit of Bonifacia L. Lee executed on June 25, 2010 submitted to the Ombudsman (the photocopy was provisionally marked as Exhibit 5 during the preliminary conference, however during the hearing on September 30, 2014 the affidavit was inadvertently marked as Exh. 44) |
| 44-a | marginal signature of Bonifacia L. Lee |
| 44-b | signature of Mrs. Lee on page 2 |
| 44-c | bracketed paragraph 5 to paragraph 9 of the Affidavit |

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| 44 (2) | Joint Affidavit of Elizabeth Escanillas and William Yglesis executed on August 14, 2007 submitted to the Investigating Executive Judge (also Exh. K-18 for the prosecution). It was inadvertently marked on Exh. 44 with its submarkings on April 8, 2015 when witness Elizabeth Escanillas was cross examined by undersigned counsel (tsn.,16-31, April 8, 2015) |
| 44-a | same as Exh. K-19 |
| 45 | Affidavit of Merlyn P. Villavert executed on August 13, 2007 (also Exhs. K-13 and K-14 for the prosecution) |
| 45-a | page 2 of the Affidavit |
| 45-a-1 | signature of Merlyn P. Villavert on page 2 |
| 45-a-2 | 1 st paragraph on page 2 of the Affidavit |

On December 4, 2017, the Court issued a minute resolution, admitting all exhibits offered by accused Misajon for lack of objection on the part of the prosecution.

On March 6, 2016, Nolasco filed a Manifestation with Motion asking the Court to allow the accused to enter into a plea bargaining agreement with the prosecution taking into consideration the passing into law of Republic Act 10951, adjusting the amount or the value of the property and damage to which a penalty is based.

The Court on April 18, 2018 issued a resolution granting the proposal or a plea of guilty for the offense charged for Criminal Case No. 0784, while the proposal for Criminal Case No. 0785 was conditionally granted, with a proviso that the accused will enter a plea based on the malversed amount of Forty Thousand Pesos (PhP40,000.00).

During the hearing on April 18, 2019, Nolasco was ordered to submit proof of payment to the Supreme Court and her express consent to the conditions in the Resolution of April 18, 2018 to Prosecutor Zales, immediately after payment.

In view of the express consent of accused Nolasco to the conditions in the Court's resolution, the case was first submitted as to accused Misajon only.

On June 20, 2019, Nolasco, through her counsel manifested that she has not yet secured the approval of the Supreme Court as regards her request to enter into a plea bargaining agreement with the prosecution. However, upon conference with Nolasco, she agreed to drop the intention to plea bargain and instead plead guilty to the Informations in Criminal Cases Nos. SB-13-CRM-0784 and 0785 as charged.

The Court, having been assured that the accused understood the consequences of her intention to plead guilty, allowed her to withdraw her earlier plea of not guilty, and when re-arraigned, she pleaded guilty as charged.

On July 8, 2019, Nolasco filed a Manifestation with Motion to Withdraw the Plea of Guilty, to allow Nolasco to withdraw her previous plea, as charged in the

present Informations, which was denied by this Court in its Minute Resolution dated July 12, 2019.

Accordingly, the cases against Nolasco are submitted for decision.

STATEMENT OF THE CASE

Ma. Monina S. Misajon, retired Presiding Judge of MTC San Jose, Antique and Jingkey B. Nolasco, designated Special Deputy Clerk of Court/Officer-in Charge and later appointed Clerk of Court II of the same court, were charged with the crime of Malversation of Public Funds under Article 217 of the Revised Penal Code.

On March 21, 2005, accused Misajon wrote a letter to the Fiscal Monitoring Division of the Supreme Court regarding the initial result of the COA examination of the cash and accounts kept by Nolasco. In response, the Supreme Court directed a team headed by Management Audit Analyst IV, Belinda A. Urbano, to conduct an audit of the reported irregularities. The result of the audit covering the period of May 2001 to February 13, 2005, revealed shortage in the Fiduciary Fund, which included over-withdrawals of cash bail bonds and withdrawals without supporting documents. Court Administrator Presbitero J. Velasco, Jr, directed Nolasco to explain the findings and why she should not be administratively charged; to pay the shortages and to submit proof of remittance, while accused Misajon was also directed to explain the subject withdrawals.

In response, Nolasco in her letter said that she already made restitutions and admitted that she was not able to deposit the collections amounting to more than Four Hundred Thousand Pesos (PhP400,000.00) and expressed her willingness to retribute the same.

Due to the conflicting explanations of Misajon and Nolasco, the Supreme Court *En Banc* directed Executive Judge Rudy P. Castrojas to investigate the matter.

During the investigation, EJ Castrojas found the over-withdrawal of Twenty-Seven Thousand Eight Hundred Pesos (PhP27,800.00) out of the total withdrawal of Sixty Thousand Pesos (PhP60,000.00) on June 11, 2004 and the Sixty Thousand Pesos (PhP60,000.00) withdrawal without supporting documents on July 2, 2004.

As to the first withdrawal of Sixty Thousand Pesos (PhP60,000.00) on June 11, 2004, only the amount of Thirty-Two Thousand Two Hundred Pesos (PhP32,200.00) was authorized, representing forfeited cash bonds while the second withdrawal of Sixty Thousand Pesos (PhP60,000.00) was without supporting documents.

After the investigation, EJ Castrojas recommended that the accused be ordered to pay jointly and severally the amount of Eighty-Seven Thousand Seven



Hundred Pesos (PhP87,700.00), representing the over-withdrawal of Twenty-Seven Thousand Eight Hundred Pesos (PhP27,800.00) on June 11, 2004 and the withdrawal of Sixty Thousand Pesos (PhP60,000.00) without supporting documents on July 2, 2004. In addition, EJ Castrojas recommended the dismissal of Nolasco, while the same disciplinary action could not be recommended against Misajon due to her retirement.

On February 5, 2008, the audit team reported that Nolasco made restitutions.

On March 4, 2009, the Supreme Court *En Banc*, in its Decision in A.M No. P-06-2148, dismissed Nolasco for gross dishonesty and grave misconduct and directed the Office of the Court Administrator to initiate criminal proceeding against Nolasco and Misajon.

Accused Misajon filed her Counter-Affidavit with the Office of the Ombudsman reiterating her arguments during the investigation conducted by EJ Castrojas, while Nolasco did not file a counter-affidavit.

On May 23, 2013, the Office of the Ombudsman issued a Resolution finding probable cause against Nolasco and Misajon. Thus, two (2) separate Informations for Malversation of Public Funds under Article 217 of the Revised Penal Code were filed on July 17, 2013 in this Court.

ISSUE

The sole issue to be resolved by the Court is whether or not accused Misajon and Nolasco are guilty of two (2) counts of Malversation of Public Funds penalized under Article 217 of the Revised Penal Code.

RULING

The elements of the crime of malversation of public funds under Article 217 of the Revised Penal Code are:

1. that the offender is a public officer;
2. that he had custody and control of funds or property by reason of the duties of his office;
3. that those funds or property were public funds or property for which he was accountable; and
4. that he appropriated, took, misappropriated or consented or, through abandonment or negligence, permitted another person to take them.⁴²

The first element was stipulated upon by the parties. Accused Misajon was a public officer at the time of the commission of the alleged crime. Accused Ma.

⁴² Hernan v. Sandiganbayan, G.R. No. 217874, December 5, 2017.

Monia S. Misajon was the Presiding Judge of MTC, San Jose Antique in 2004, while accused Nolasco was a Court Interpreter, designated as Special Deputy Clerk of Court, also of the Municipal Trial Court of San Jose, Antique, when the subject excessive withdrawals were allegedly made.

The second element was also stipulated upon by the parties during the pre-trial that both accused had custody and control of funds or property by reason of their office. Specifically, it was stipulated that Supreme Court Circular No. 50-95 dated October 11, 1995 established the guidelines and procedures of uniformity in the manner and collection and deposits of Court Judiciary Funds for adherence by Clerks of Court and Judges. Misajon's custody and control of the funds was reinforced by the parties' stipulation during pre-trial that the Revised 2002 Manual for Clerks of Court dictates that a Clerk of Court is the administrative officer of the Court under the direct supervision of the Presiding Judge.

The third element is also present. The funds allegedly misappropriated are public in character, as they are Fiduciary Funds, consisting of deposited cash bail bonds, among others, belonging to the Supreme Court of the Philippines. Moreover, the accused is an accountable officer under the Government Auditing Code of the Philippines which states that "an accountable officer is a public officer who, by reason of his office, is accountable for public funds or property." Although Nolasco was the custodian of the courts funds and revenues, it is undeniable that accused Misajon also had control and custody of the judiciary funds since it was undisputed that she is one of the signatories of the June 11, 2004 and July 2, 2004 withdrawal transactions with Landbank, Antique branch. In fact, there is no question that she was an accountable officer at that time since she was the final approving authority for the subject withdrawal of funds, thus, without her signature or conformity and approval, no public funds can be withdrawn from the bank. This is in addition to the fact that under the Revised 2002 Manual for Clerks of Court, the Clerk of Court is under the direct control and supervision of the Presiding Judge. As stipulated by the parties, accused Misajon and Nolasco were the authorized signatories for MTC, San Jose, Antique in Landbank Savings Account No. 0771-0107-33 during the time material to this case. Succinctly, as required by the procedures of the SC and the Landbank, the signature of Misajon was vital for the release of Fiduciary Funds. No withdrawal from the aforementioned bank can be effected without her signature on the withdrawal slips. In other words, any withdrawal or release of Fiduciary Funds required her approval. Misajon, in her capacity as Presiding Judge, had control and responsibility over the subject funds, thus an accountable officer under the law.

The fourth element of the crime was also present. That the accused appropriated, took, misappropriated or consented or, through abandonment or negligence, permitted another person to take public funds.

The present Informations allege that the taking, misappropriation and conversion of the over withdrawn amount from the Fiduciary Fund was intentional and not merely culpable. The Informations are clear in its allegation that the accused in the performance of their duties and responsibilities, both in the performance of

their respective functions, taking advantage of their official positions, and committing the offense in relation to their office, did then and there willfully, unlawfully and feloniously, with grave abuse of confidence, take misappropriate and convert for their personal use and benefit the amounts of Twenty-Seven Thousand Eight Hundred Pesos (PhP27,800.00) on June 11, 2004 and Sixty Thousand Pesos (PhP60,000.00) on July 2, 2004, representing proceeds of over withdrawn amount from the Fiduciary Fund to the damage and prejudice of the Government in the aforementioned account.

A reading of the cross-examination of accused Misajon shows that she explicitly admitted having signed the subject withdrawal slips, which allowed accused Nolasco to withdraw amounts in excess of that authorized by court orders. During said testimony, she also admitted that the withdrawal could not have been made absent her signature and that as Presiding Judge, Nolasco was under her direct control and supervision. The relevant portions of the accused's statements are quoted hereunder:

Cross-examination

TSN dated June 15, 2017, pp. 30 to 37

Witness: Ma. Monina S. Misajon

Q: Madame witness, you were the Municipal Trial Court Judge of San Jose, Antique?

A: Yes, Ma'am.

Q: As Municipal Trial Court Judge, you were required under Circular No. 50-95 to sign withdrawal slips together with your Clerk of Court, Ma'am?

A: Yes, Ma'am.

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Q: But in that affidavit you explained that the withdrawal slips dated June 11, 2004 and July 2, 2004 for P60,000.00 that for this deposit slips it may have happened that your co-accused Jingkey inserted zero and "ty" after "Six" to make it Sixty. Do you confirm that?

A: Yes, Ma'am.

Q: When you explained that it could have been that your co-accused Jingkey Nolasco just changed the figures, do you confirm that the signature in the withdrawal slip is yours?

A: That is my signature, but I signed that withdrawal slip not in the amount of P60,000.00, Ma'am.

Q: Yes, but that is your signature.

Pros. Zales

The signature Your Honors, is marked as Exhibit H-11-D for the prosecution.

Q: In the other withdrawal slip dated July 2, 2004 marked as Exhibit I-18, do you also confirm that the signature over the name Monina S. Misajon marked as Exhibit I-18-B, is your signature?

A: That is my signature, Ma'am. But I did not sign this in the amount of P60,000.00. In fact, it was the COA auditor who explained to me, look at this Judge, there is a space here, this must be added like and the zero here is not as big as the other succeeding zeros.

Q: And do you also confirm that these were the same withdrawal slips that were examined during the investigation by Judge Castrojas?

A: Yes, Ma'am. But Judge Castrojas believes-

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Q: Also during the investigation you have explained that it could have been that you signed the withdrawal slips in blank, is it not?

A: What I mean to say is that, first, the practice in my court is that, we, I require the Clerk of Court to prepare four (4) copies of the withdrawal slips. One copy for the Landbank, one copy for the Clerk of court's file and one copy for the Supreme Court and one for my file. Now, in my file, not everything was presented to me very few copies. So, I suspected, I was not able to go over the succeeding copies and look at just the first copy of the four withdrawal slip, Ma'am.

Q: So, that is only your suspicion?

A: Yes, Ma'am.

Q: And yet you said that you do not signed withdrawal slips without court orders?

A: That is precisely, Ma'am, I am very confident that I haven't signed P60,000.00 withdrawal slip because I haven't sign an order directing the withdrawal of P60,000.00 Ma'am.

Q: But you were not too careful to sign a withdrawal slip in blank, is it not?

A: I did not say necessarily in blank because I saw the first copy of the four copies of the withdrawal slip, Ma'am.

Handwritten signature and initials in the bottom right corner of the page.

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Q: You said that you never sign without court orders and never for P60,000.00, so, would you say that the withdrawal on June 11, 2004 under withdrawal slip marked as Exhibit H-11 is an over withdrawal.

A: I recognized it only it's an over withdrawal after the result of the audit, Ma'am.

Q: And that the same is true with the July 2, 2004 withdrawal, do you also confirm that this is not supported by court orders?

A: Resulting from the Audit, Ma'am.

Q: And last question, Ma'am. You are aware that your co-accused Jingkey Nolasco cannot withdraw from the Judiciary Fund without your signature at the withdrawal slip?

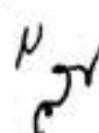
A: Yes, because I signed withdrawal slips and the correct amount where I issued or signed an order, Ma'am.

Q: And that she is under your direct control and supervision, is it not?

A: Yes, Ma'am.

Accused Misajon, by trying to exculpate herself from all charges presented four (4) possible scenarios. First, she said that Nolasco might have made alterations and intercalations in the amount appearing in the withdrawals slip after she signed the same. Second, that Nolasco could have made her sign blank withdrawal slip forms. Third, that the amount appearing on the withdrawal slip was not yet written when she signed the withdrawal slip. Fourth, that Nolasco made her sign four copies of the withdrawal slip and after examining the first two (2) copies, she signed all the four (4) copies without further examining the third and fourth copies, which she suspects to be blank copies. She however admitted having signed the June 11, 2004 withdrawal slip but explained that the amount appearing thereon was Six Thousand Pesos (PhP6,000.00) and not Sixty Thousand Pesos (PhP60,000.00). When asked about the withdrawal of Sixty Thousand Pesos (PhP60,000.00) as evidenced by the withdrawal slip dated July 2, 2004, Misajon surmised that Nolasco could have made intercalations similar to the withdrawal on June 11, 2004. She admitted though that the withdrawal appearing on the withdrawal slips may have happened by reason of her negligence or her trust and confidence in Nolasco.

Assuming that any of the following theories is true, Misajon cannot escape from liability. The monies she was dealing with belong to private individuals (held in trust) which may eventually become funds of the judiciary in the event that they are forfeited. As such, she should have been extra-cautious in handling them. Any form of negligence or complacency is intolerable under the said situation.



The pertinent portions of her testimony during the hearing conducted on August 30, 3007 of A.M. No. P-06-2148 OCA v. Nolasco, pp. 53 to 62 are as follows:

Q: Considering that the document being presented to you is a withdrawal slip and it involves money, why did you not become extra careful in affixing your signature?

A: Your honor, I trusted Mrs. Nolasco and the trust never faltered not until the audit team came to the court.

Q: So, shall we say judge that you were somewhat negligent in affixing your signature because you signed the documents notwithstanding the fact that you were not sure whether the other forms were duly-filled up?

A: Just like the first time on June 14, 2002, when I questioned her about the incomplete entry, she told me she would fill it up so with all the trust and confidence your honor on Mrs. Nolasco, **I will admit that I am negligent because of the trust and confidence.**

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Q: Your speculation is that it was possible that the other copies of the withdrawals slips which you have signed were still in blank?

A: Yes, your Honor.

Q: And that you said, as you admitted, you signed those... you possibly signed blank forms of deposit slips due to your negligence by reason of your trust and confidence on Mrs. Nolasco?

A: Yes, your honor.

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Q: when you were... is it not a fact judge that our practice as judged is that, when we sign withdrawal slips, we also go over the supporting documents like the Order forfeiting no not forfeiting... returning to the accused or bondsmen the amount of the cash bond?

A: That's right, your honor, always attach to the Order for example I said this one, this withdrawal slip... attach to the withdrawal slip also is the copy of the Order, that's why on June 14, 2004, there was that incomplete entry of that cash withdrawal slip but there was attached the Order already of Gabo and Rafil and I know that amount is P6,000.00 and P3,000.00. That is why I said to her, this is not filled up and she answered, "I will fill it up when I return to my table." With all my trust and confidence, I know the amount is only PhP9,000.00. I was expecting she would write P9,000.00 and also write the case

involved but there was none if you go over this withdrawal slip, there is no case number.

Q: But you have admitted notwithstanding the incompleteness of the entries you signed the corresponding withdrawal slip?

A: That's my weakness because of too much trust and confidence.

Q: Gleaned from your testimony, this amount appearing on your Exhibits "A", "C" and "5" were actually withdrawn due to your negligence or by reason of the... because of the trust you repose on Mrs. Nolasco?

A: Yes, your Honor.

Accused Misajon's defense that she signed the subject withdrawal slips in blank or with incomplete entries because of her trust and confidence with her Clerk of Court Nolasco appears to be misplaced considering that during the investigation before Executive Judge Castrojas, Misajon submitted an Affidavit with annexes containing allegations which tend to smear the reputation, virtues and morals of Nolasco, in the same manner, establishing motive in the commission of the crime by saying she has personal knowledge of Nolasco's unpaid debts with different creditors and that she was at that time in the process of construction of her house and that her lifestyle was lavish, which she believed to be out of proportion with her earnings. In addition, her argument of time constraints in signing the withdrawal slips does not merit the consideration of this Court considering that as a Judge, accused Misajon is well aware that the monies involved in this case are public funds, thus, she should have exercised extra-ordinary diligence to protect and safe keep the same. To examine and to double check all the entries written in the four (4) copies of the withdrawal slips are not too much of a burden especially since it is her duty to ensure that public funds be withdrawn with utmost caution and circumspection, thus making her defense incredible.

A closer look of the subject withdrawal slips shows that the spaces between the words "Sixty" and "Thousand" and the zeroes after the figure "6" appears to be evenly spaced and properly written. No alteration or intercalation appears from the face of both withdrawal slips. There was no indication that her co-accused Nolasco added the letters "ty" after the word "Six" as alleged by accused Misajon. Moreover, the above testimonies of the accused witness contain palpable inconsistencies of what purported to be the facts, casting doubt on her credibility, aside from the fact that some of her arguments are merely based on suspicion and conjectures.

In addition, it shows and it was admitted that accused Misajon was negligent in handling the subject withdrawal slips which authorized co-accused Nolasco to withdraw money from the Fiduciary Funds. Her statement of being careful in procedures being observed in withdrawing Fiduciary Fund is incredible considering

the lack of the necessary exercise of simple precaution in signing the subject withdrawal slips and obligation to supervise her co-accused with transactions and dealings regarding the Fiduciary Funds. Undoubtedly, accused Misajon displayed gross negligence in the discharge of her duties, which is a flagrant violation of her oath as a holder of public office.

In totality, accused Misajon's defense essentially contain alibi and denial, which all fail to inspire belief from the Court.

The probative weight of the accused's bare denial of participation in the crime allegedly committed and her suspicion that co-accused Nolasco altered or intercalated the withdrawal slips dated June 11, 2004 and July 2, 2004 cannot overcome the presumption of the law on malversation. The Court cannot put credence and consideration on her alibi and denial considering that accused Misajon herself was not sure of her allegations as the same are mere conjectures and suspicion. From the totality of the evidence presented both documentary and testimony, only one conclusion could be deduced, that the accused Misajon was incognizant and grossly negligent in the discharge of her duties in assuring public confidence in the judiciary by letting her co-accused take, misappropriate and convert public funds for personal use.

Although the informations allege that the accused committed the crime of malversation intentionally, the Supreme Court in a replete number of cases elucidated that malversation is committed either intentionally or by negligence. The *dolo* or the *culpa* present in the offense is only a modality in the perpetration of the felony. Even if the mode charged differs from the mode proved, the same offense of malversation is involved and conviction thereof is proper. All that is necessary for conviction is sufficient proof that the accountable officer had received public funds, that he did not have them in his possession when demand therefore was made, and that he could not satisfactorily explain his failure to do so. Direct evidence of personal misappropriation by the accused is hardly necessary as long as the accused cannot explain satisfactorily the shortage in his accounts.⁴³

Under Article 217, a presumption was installed that upon demand by any duly authorized officer, the failure of a public officer to have duly forthcoming any public funds or property with which said officer is accountable should be *prima facie* evidence that he had put such missing funds or properties to personal use. When these circumstances are present, a presumption of law arises that there was malversation of public funds or properties as decreed by Article 217.⁴⁴ To be sure, this presumption is disputable and rebuttable by evidence showing that the public officer had fully accounted for the alleged cash shortage, however, the accused, in this matter, miserably failed.

Public office is a public trust. Those charged with the dispensation of justice, from the justices and judges to the lowliest clerks, should be circumscribed with the heavy burden of responsibility. Not only must their conduct at all times be

⁴³ Cantos v. People, G.R. No. 184908, July 3, 2013, 700 SCRA 535, 545-546.

⁴⁴ *Wagon v. People*, G.R. No. 164575, December 6, 2006, 510 SCRA 429, 437.

characterized by propriety and decorum but, above all else, it must be beyond suspicion.⁴⁵ The Court cannot countenance neglect of duty for even simple neglect of duty lessens the people's confidence in the judiciary and ultimately in the administration of justice.⁴⁶

The accused are guilty of malversation even in the absence of direct proof of misappropriation because when the shortage was found in the conduct of the audit, Nolasco, an accountable officer was unable to explain such, the latter even admitted her guilt and made restitutions with the Supreme Court which could only be construed as admission, as no person in his/her right mind would retribute any amount if he/she is not guilty of unlawfully taking or misappropriating the same, in violation of her sacred duty and responsibility to safeguard and truthfully account for public properties and public funds. Accused Misajon, can never deny participation in the commission of the crime alleged, as her signature is indispensable in the commission of the crime, the prosecution may have not presented sufficient evidence that said accused committed the crime intentionally, however, it is certain that her acts of negligence characterized as gross which allowed Nolasco to take, misappropriate and convert to personal use the Fiduciary Funds of the MTC of San Jose, Antique, but just the same, as explained under the law, she is still liable for the crime charged.

Accused Nolasco, through counsel filed a Manifestation with Motion, on March 6, 2018, stating her willingness to explore the possibility of entering into a plea bargaining agreement with the prosecution, taking into consideration the passing into law of Republic Act 10951 adjusting the amount or the value of the property and damage on which a penalty is based.

On April 18, 2018, this Court partly granted the motion of Nolasco, subject to the approval by the Supreme Court and the Ombudsman. In addition, the proposal for Criminal Case No. 0785 was conditionally granted, with a proviso that the accused (Nolasco) will enter a plea based on the malversed amount of Forty Thousand Pesos (PhP40,000.00).

During the hearing dated June 20, 2019, for failure of Nolasco to secure the approval of the Supreme Court concerning her request to enter into a plea bargaining agreement, she manifested her intention to vacate her previous plea and to plead guilty to the Informations in Criminal Cases Nos. SB-13-CRM-0784 and 0785 as charged.

On July 8, 2019, Nolasco, through counsel, filed a Manifestation with Motion to Withdraw the Plea of Guilty, wherein the accused asks the indulgence and kind consideration of this Court to allow her to withdraw her plea of guilty in Criminal Case No. 785 and plea guilty in the approved plea bargain agreement in the amount of Forty Thousand Pesos (PhP40,000.00).

⁴⁵ *Re: Final Report on the Financial Audit Conducted at the Municipal Trial Court of Midsayap, North Cotabato*, A.M. No. 05-8-233-MTC, 31 January 2006, 481 SCRA 12, 16.

⁴⁶ *Reyes v. Pablico*, A.M. No. P-06-2109, 27 November 2006

On July 15, 2019, in resolving the Manifestation and Motion, filed by Nolasco and the objection of the prosecution, the Court denied the same since the records of the cases show that Nolasco freely, voluntarily, and spontaneously entered such plea of guilty as charged with full and complete realization of the meaning and consequence of the same.

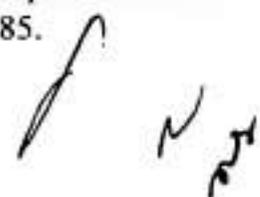
In view of the foregoing, the Court finds that the prosecution has proven beyond reasonable doubt all the elements of the crime of Malversation, defined and punished under Article 217 of the Revised Penal Code. The conviction of both accused is, thus, warranted.

WHEREFORE, in the light of the foregoing, accused **MA. MONINA S. MISAJON** is found **GUILTY** beyond reasonable doubt of violation of Article 217 of the Revised Penal Code as amended and is sentenced to suffer the indeterminate penalty after taking into consideration the age of the accused:⁴⁷

1. imprisonment of two (2) months, one (1) day of *arresto mayor*, as minimum, to six (6) months of *arresto mayor*, as maximum and a fine of Twenty-Seven Thousand Eight Hundred Pesos (PhP27,800.00) with perpetual special disqualification to hold public office for Criminal Case No. SB-13-CRM-0784 and;
2. imprisonment of two (2) years, four (4) months of *prision correccional* as minimum, to six (6) years of *prision correccional* as maximum and a fine of Sixty Thousand Pesos (PhP60,000.00) with perpetual special disqualification to hold public office for Criminal Case No. SB-13-CRM-0785.

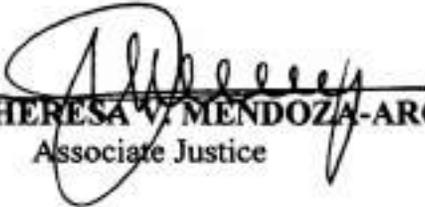
Accused **JINGKEY B. NOLASCO**, in view of her admission of guilt, is sentenced to suffer the indeterminate penalty of:

1. imprisonment of six (6) months, one (1) day to two (2) years and four (4) months of *prision correccional*, as minimum, to six (6) years of *prision correccional*, as maximum and a fine of Twenty-Seven Thousand Eight Hundred Pesos (PhP27,800.00) with perpetual special disqualification to hold public office for Criminal Case No. SB-13-CRM-0784 and;
2. imprisonment of four (4) years, two (2) months and one (1) day to six (6) years of *prision correccional*, as minimum, to eight (8) years, one (1) day to ten (10) years of *prision mayor*, as maximum and a fine of Sixty Thousand Pesos (PhP60,000.00) with perpetual special disqualification to hold public office for Criminal Case No. SB-13-CRM-0785.



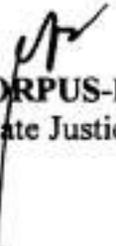
⁴⁷ Personal Information Sheet of accused Ma. Monina S. Misajon, Record, Vol. 1, p. 138.

SO ORDERED.


MARIA THERESA V. MENDOZA-ARCEGA
Associate Justice

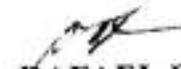
WE CONCUR:


RAFAEL R. LAGOS
Chairperson


MARYANN E. CORPUS-MAÑALAC
Associate Justice

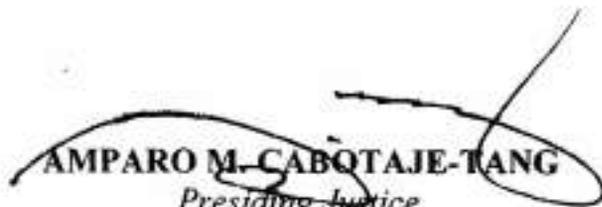
ATTESTATION

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.


RAFAEL R. LAGOS
Chairperson, Fifth Division

CERTIFICATION

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


AMPARO M. CABOTAJE-TANG
Presiding Justice