



SANDIGANBAYAN
Quezon City

Second Division

PEOPLE OF THE
PHILIPPINES,
Plaintiff,

CRIM. CASE NO. SB-14-CRM-0289

For: Malicious Mischief (Art. 327
In Relation to Art. 329 of the RPC)

-versus-

SENANDRO JALGALADO,
WILFREDO CALDIT, JR.,
FRANCISCO T. JUEVES, JR.,
FERNANDO O. GONZALES,
aka "DODIE" GONZALES,
ADONES Z. ARECIA aka
NICK ARECIA,
Accused.

Present:
Herrera, Jr., J. Chairperson
Musngi, J. &
Pahimna, J.

Promulgated:

May 17, 2019

X-----X

DECISION

PAHIMNA, J.:

Accused are charged before this Court with *violation of Art 327 in relation to Art. 329 of the Revised Penal Code* under an *Information*¹ dated April 14, 2014, filed by Assistant Special Prosecutor III Karen E. Funelas of the Office of the Special Prosecutor, which bears the approval of then Ombudsman Conchita Carpio Morales. The accusatory portion of which reads:

"That on or about October 8, 2011, or sometime prior or subsequent thereto, in the Municipality of

¹ Records, Vol 1, pp. 1-2

Capalonga, Camarines Norte, Philippines, and within the jurisdiction of this Honorable Court, accused **SENANDRO JALGALADO**, a high ranking public officer, then the Mayor of Capalonga, Camarines Norte, **WILFREDO CALDIT, JR.**, Municipal Engineer/Building Official, **FRANCISCO T. JUEVES, JR.**, Administrative Aide I, **FERNANDO GONZALES, ADONIS ARECIA, and William Doe**, head and members respectively of "Team/Task Force" Demolition, committing the offense in relation to office, and while in the performance of their official function, though in abuse thereof, taking advantage of the public office, conspiring and confederating with one another, did then and there, willfully, unlawfully, feloniously and deliberately cause the destruction/damage of the improvements/items in the market stall occupied/rented by Rolando Saa (Saa), in the Municipal Public Market of Capalonga, upon the official order/directive of accused **JALGALADO**, who ordered accused **CALDIT JR.**, then building official and part of the "Team/Task Force Demolition", to carry out the destruction/damage of Saa's market stall and or the improvements/ items thereon, without any valid reason and legal ground, thereby causing upon said Saa, damage in the amount of about Twenty Four Thousand Pesos (P24,000.00).

CONTRARY TO LAW."

ANTECEDENT FACTS

On July 31, 2014, accused **JALGALADO, CALDIT, JR. AND FRANCISCO T. JUEVES, JR.**, posted their respective cash bonds in the amount of P10,000.00 each before the Regional Trial Court, Branch 39 of

Daet, Camarines Norte per Order² of Judge Winston S. Racoma. Meanwhile, accused **FERNANDO O. GONZALES** and **ADONES Z. ARECIA** posted their respective cash bonds in the same amount each before Branch 41 of the Regional Trial Court, Daet, Camarines Norte per Order³ of the Executive Judge Arniel A. Dating.

Upon arraignment⁴, accused **JALGALADO, CALDIT, JR., FRANCISCO T. JUEVES, JR. ADONES Z. ARECIA** and **FERNANDO O. GONZALES** pleaded not guilty to the offense charged.

With the termination of the pre-trial on October 29, 2014⁵ and October 13, 2015⁶, trial on the merits ensued.

EVIDENCE FOR THE PROSECUTION

To establish its case, plaintiff presented the testimonies of the following witnesses:

1. **ROLANDO BANTA SAA**

He is the private complainant in the instant case, who was the lessee and actual occupant with physical possession of the destroyed and damaged market store since 1993 up to the day the same was demolished on October 8, 2011. He was also the owner of the damaged improvements introduced therein and the personal properties inside the store which have all been damaged due to the demolition made.

In sum, he testified that in the morning of October 8, 2011, all accused deliberately destroyed and damaged his market store/stall inside the public market of the Municipality of Capalonga; that at the time of deliberate destruction and demolition, he was then the actual occupant and lessee of the said market store; that as proof of his standing and status as lessee of

² Records, Vol. 1, p. 67

³ Ibid. p. 464

⁴ Per Certificate of Arraignment, pp. 84, 199, 200, 492 and 493

⁵ Records, Vol. 1 pp. 204-215 (for accused Jalgalado, Caldit, Jr. and Jueves, Jr.)

⁶ Records, Vol. II, p. 595-602 (for accused Gonzales and Arecia)



such store, he presented Official Receipts issued to him by the Treasurer's office for his paid rentals; that he introduced useful improvements and placed personal properties in the aforesaid market store; that the deliberate destruction of the market store by all the accused were caused without prior notice to him; that accused Jalgalado, in conspiracy with accused Caldit and Jueves, Jr. used their official positions in demolishing his market store and all things and improvements therein without prior notice; that they made it appear that the demolition of his market store was a result of the performance of their official acts as public officials; that accused Jalgalado was motivated by hatred and revenge because, prior to said demolition, he filed a case against said accused before the Office of the Ombudsman for destroying his coconut plantation situated in Sitio Unaque including his home located at Purok 3, Poblacion, Capalonga, Camarines Norte; that as a result of such destruction, he suffered actual damages for the destroyed personal properties and moral damages for anxiety, hurt feelings and sufferings and sleepless nights. He thereafter identified documentary evidences marked as Exhibits "A to E" inclusive of submarkings.

On cross-examination by Atty. Martin S. Antero, he testified that he is renting a stall with the Municipal Government of Capalonga but he does not have a Contract of Lease. He also narrated that on the day of the supposed demolition of the public market, he accidentally met his former tenant and told him that his store was being demolished so he went immediately to his store and was able to talk to Mayor Jalgalado who was then near the stall of the butchers and asked him why his store was being demolished and he was told that there was a violation but did not elaborate. He also stated that several items were destroyed that included the following items:

- a. 1x12x12 Red lawaan worth P1,296.00
- b. Three (3) stalls or wooden cabinets worth P3,000.00 each
- c. One (1) stall cabinet bought from ex-Mayor Vivien Jalgalado worth P20,000.00
- d. Padlock and accordion iron grills worth P36,000.00

Wpr

W

However, per his Police Blotter and Complaint before the Ombudsman Regional Office on October 19, 2011, no mention was made on the lost of the one (1) big stall and the iron grill that he is claiming to have been destroyed.

He admitted that that portion he was leasing from the Municipal Government of Capalonga was no longer operational from 2010 to 2011 and that he was also aware that the Public Market where his store was located was no longer operational.

In his Supplemental Judicial Affidavit, he narrated that he came across a certain Roberto Ricasio on his way to the site of the demolition but admitted that he did not mention him in his initial Complaint before the Office of the Ombudsman and in his original Judicial Affidavit filed before this Court and only mentioned him in his Judicial Affidavit on December 1, 2014 or more than three (3) years after the incident. He stated that Roberto Ricasio is the husband of Luz Ricasio who ran for mayor of Capalonga, Camarines Norte in 2007 and 2010 and who both lost the said elections.

On cross-examination by Atty. Nestor D. Buque, Jr. he narrated that the document marked as Exhibit "B" which is the letter of the Mayor which in effect directed Engr. Caldit to conduct an ocular inspection of the public market. However, witness does not know if said Engr. Caldit actually made an ocular inspection and admitted that he appended Exhibit "C" which is the official letter of Engr. Caldit addressed to the Mayor regarding the result of the ocular inspection.

On redirect examination, he clarified that although there was no contract of lease, he was entitled to occupy the store as a member of the cooperative since 1993. He became such member when Ex-Mayor Vivien Lu-Jalgalado, sister-in-law of accused Jalgalado, organized the said cooperative and being a government employee, he joined later on and was given the authority to occupy the said store.

He also stated that the store was not operational from 2010 to 2011 because accused Jalgalado has increased the rent from ~~2000~~.

wpr

W

P200.00 to P500.00 monthly so he stopped temporarily his operation but he did not vacate the market store. He said that he was complaining even when his store was no longer operational because the things inside his store were all destroyed and it was not about the money. He initiated the complaint because of the anxieties that he suffered due to lack of sleep and fear for his life since accused Jalgalado has already side swept him three times and even cocked his armalite against him. He also recounted that he did not receive any written notice about the demolition or the construction of a new public market.

On recross-examination, he mentioned that he was entitled to lease the stall on account of his membership to the Multi-Purpose Cooperative founded by Ex-Mayor Vivien C. Lu-Jalgalado. Finally, he testified that his store has not been restored and still vacant up to the present time and remains roofless.

When cross-examined by Atty. Alfredo B. Pandico, Jr., he clarified that when he was walking along the street in Capalonga, Camarines Norte, he met a certain Jun Jun Asas who informed him that his store was being ransacked/destroyed and upon learning the same, he immediately went to his store. Upon reaching the place, he saw accused Mayor Jalgalado, Engr. Caldit and Jueves. He further stated that he immediately approached the mayor and confronted him about the destruction of his store and he saw Fernando Gonzales having the hammer and clover while Nick Arecia was having the pull cart.

2. VINA OLAGUER

In her judicial affidavit, she stated that she has been a Revenue Collection Clerk Officer I of the Municipality of Capalonga since December 2005 with the duty to collect and accept payments for taxes and market stall rentals in the public market of Capalonga, Camarines Norte. She further alleged that she personally received payments from the private complainant and his wife Melinda Saa and issued the corresponding Official Receipts to

wpr

U

spouses Saa for the said payments and officially recorded the same in the Official Logbook of the Treasurer's Office which she has in her custody.

As accused had already admitted and stipulated as to the existence and due execution and genuineness of the documents identified by said witness in her Judicial Affidavit, her testimony had been dispensed with.

3. **ABNER REYES RAWAT**

He testified that he has been the Human Resource Management Officer 1 in the Municipality of Capalonga, Camarines Norte since August 2010 up to the present and as such, he has the custody of the record in the 201 files of the permanent employees in the Municipality of Capalonga as well as files of Job Order or Contractual Employees of the Municipality. He also stated that based on the Job Orders, there had been no such order submitted by accused Caldit, Jr. as Municipal Engineer and approved by accused Jalgalado for the demolition or destruction of the stalls inside the public market of Capalonga.

On cross-examination, he stated that accused Adonis (sic) Arecia was employed by the Municipality of Capalonga only on January and February 2011 and based on the documents appended to his Judicial Affidavit, Fernando Gonzales was assigned on October 1 to 31, 2011 at the Bus terminal of Capalonga where he was assigned for the repair and improvement of the said terminal and was never assigned to the public market.

On redirect examination, he stated that there was never an approved Job Order for the destruction and demolition of the Public Market for the month of October 2011.

4. ERLE ERNESTO BOGSAO AGAID

He testified that he is a Police Officer engaged in the Philippine National Police since July 2009 and was assigned at the Municipality of Capalonga as Desk Officer and Radio Operator from September 2011 to March 2012. He also stated that he put on record using the official PNP Police Blotter Logbook the statement of private complainant Rolando Saa regarding the ransacking of his store on October 8, 2011 inside the Public Market of the Municipality of Capalonga, Camarines Norte.

On cross-examination by Atty. Nestor D. Buque, Jr., he clarified that he received the report only on October 10, 2011 on the alleged incident being referred in the Complaint that transpired allegedly on October 8, 2011 so he was not able to personally see the physical condition of the market stall of private complainant on the day of the alleged incident.

5. JOSEPH FLORANTE LABOR

He testified that he was the driver of the dump truck in the Municipality of Capalonga in October 2011 where he was escorted by accused Jalgalado and Jueves, Jr. to load in his dump trunk the wooden plywood from the demolished market stall of private complainant Rolando Saa and to deliver and load the same to the house of Saa.

On cross-examination by Atty. Nestor D. Buque, Jr., he stated that he was aware that the materials from the old market were the result of the demolition of the stalls of the Public Market to pave the way for the construction of a new Public Market.

Thereafter, Prosecutor Maribel F. Mariano-Beltran formally offered the following exhibits, all of which were admitted in evidence⁷, to wit:

⁷ Records, Vol. 2, page 648-A



DOCUMENTARY EVIDENCE

Exhibit "A"	Complaint filed by Rolando Banta Saa consisting of two (2) pages with envelope addressed to the Office of the President with attached documents consisting of six (6) pages.
Exhibit "A-1"	Signature of Rolando Saa
Exhibit "A-2"	Former Mayor Vivien Lu Jalgalado's acknowledgment Receipt issued to Rolando Saa for latter's Payment of P20,000.00
Exhibit "A-3"	Certification issued on 10 October 2011 by PO1 Erle Ernesto Agaid
Exhibit "A-3-A"	Signature of PO1 Erle Ernesto Agaid
Exhibit "A-3-B"	Signature of Chief of Police Joven Sta. Maria
Exhibit "A-4"	Certification issued on 13 October 2011 by PO1 Erle Ernesto Agaid
Exhibit "A-4-A"	Signature of PO1 Erle Ernesto Agaid of PNP Capalonga, Camarines Norte
Exhibit "A-4-B"	Signature of Chief of Police Joven Sta. Maria Fernandez
Exhibit "B"	Certified True Copy of the Official Letter of accused Jalgalado, dated September 6, 2011, addressed to Caldit Jr. as Municipal Engineer.
Exhibit "C"	Certified True Copy of the Official Letter of Engineer Wilfredo Caldit Jr. dated September 9, 2011 addressed to accused Jalgalado as Municipal Mayor.
Exhibit "D" and "D-1 to D-22"	Official Receipts issued to Melinda Saa, wife of private complainant by Municipal treasurer of Capalonga for payment of rentals of subject market stalls
Exhibit "D-23 to D-26"	Logbook entries pertaining to payment of rentals of subject market stalls by private complainant
Exhibit "E"	Picture of destroyed/demolished store of complainant Rolando Saa
Exhibit "F"	Certified true copy of the covering title "Capalonga MPS Police Blotter 10 December 2010 up to 31 October 2011 and its entries pertaining to page 440 to 443"

[Handwritten signature]

[Handwritten mark]

Exhibit "F-1 and F-1-A"	First report of Rolando Saa found in the Police Blotter Book of PNP Capalonga, Camarines Norte Entry No. 1357 page 40 up to page 441"
Exhibit "F-2 and F-2-A"	Second or additional report of Rolando Saa found in the Police Blotter Book of PNP Capalonga, Camarines Norte, Entry No. 1368, page 443; Signature of Rolando Saa
Exhibit "G" and "G-1 to G-12" and submarkings	Job Orders for the Municipality of Capalonga, Camarines Norte for the period of January 2011 to December 2011, recommended by accused Wilfredo Caldit, Jr. as building official and approved by Mayor Jalgalado consisting of 13 pages

Accused **Senandro M. Jalgalado, Wilfredo I. Caldit, Jr.** and **Francisco T. Jueves, Jr.** filed their respective **Motions for Leave to File Demurrer to Evidence**⁸ which was granted in the **Resolution**⁹ promulgated on October 24, 2016.

On July 31, 2017, the Court ruled¹⁰ to deny the **Demurrer to Evidence** filed by accused **Caldit, Jr., Jueves, Jr. and Jalgalado**, through their respective counsels stating that after a careful study, the Court finds that the testimonial and documentary evidence adduced by the prosecution appear to be *prima facie* sufficient to sustain a conviction for the offense charged.

Undaunted, accused **Jalgalado** filed a **Motion for Reconsideration**¹¹ on August 23, 2017 but the same was denied per Minute Resolution¹² issued on September 22, 2017 on the ground that the Court found no cogent reason to reconsider the **Resolution** dated July 31, 2017 and that the findings and conclusions contained therein stand.

For failure of accused **Caldit, Jr. and Jueves, Jr.** to submit their judicial affidavits and that of their witnesses as well as appear despite due

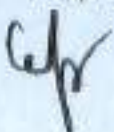
⁸ Id. p. 649 and 657

⁹ Id. p. 728

¹⁰ Resolution, Vol. 2, p. 906

¹¹ Records, Vol 2., p. 921

¹² Id., p. 959





notice and without justifiable cause, they were barred from presenting evidence in this case, which is covered by the Judicial Affidavit Rule.¹³ However, in a **Resolution**¹⁴ promulgated on February 9, 2018, the Court revoked the said Order and set the presentation of evidence for accused Caldit, Jr. and Jueves.

EVIDENCE FOR THE DEFENSE

Accused ***Caldit, Jr. and Jueves, Jr.*** for their part, presented themselves as witnesses:


1. **WILFREDO I. CALDIT, JR.**

He testified that he works as the Municipal Engineer at the LGU Capalonga, Camarines Norte and regularly performs his duties as such; that sometime in October 2011, the old public market of Capalonga was demolished to pave the way for the construction of the new public market which was duly approved through appropriate municipal ordinances of the Municipality of Capalonga particularly under the annual investment plan in relation to the Market Code of Capalonga and under the approval of accused Mayor Jalgalado; that the date alleged in the Information coincided with the first phase of the project which includes the removal of the existing structure and concrete works; that the demolition done affected not only the store of private complainant but practically all stalls in the old public market.

On cross-examination, he narrated that in the dry section of the old public market, there were five stalls demolished which included the stall of the private complainant. He also admitted that he was not aware of any notice to all stalls prior to the demolition.

¹³ Id. p. 995

¹⁴ Records, Vol. 3, p. 1124



2. FRANCISCO TALENTO JUEVES JR.

He testified that he is an employee of the LGU of Capalonga, Camarines Norte and that on October 8, 2011 and sometime prior or subsequent thereto, he was part of the task force formed by the LGU for the removal of the structures or demolition of the old public market to pave way for the construction of new one.

On cross-examination, he narrated that he is a utility worker previously assigned to the task force and on the day of the demolition he was assigned as driver of the dump truck.

Thereafter, counsel for accused **Caldit, Jr. and Jueves, Jr.** orally offered the following documentary evidences as their Exhibits, which the Court admitted¹⁵, to wit:

DOCUMENTARY EVIDENCE

Exhibit "1"	Joint Counter-Affidavit of accused Caldit, Jr. and Jueves, Jr.
Exhibit "3"	Copy of the Market Code of Capalonga, Camarines Norte
Exhibit "4"	Memorandum dated September 6, 2011 from Mayor Jalgalado address to Engr. Caldit
Exhibit "5"	Memorandum from accused Caldit to Mayor Jalgalado dated Sept. 6, 2011
Exhibit "8" to "9-D"	Resolution No. 2011-02 and copy of the Investment Plan
Exhibit "12 to 14"	Individual program of works prepared by Engr. Caldit

Accused Jalgalado for his part, presented the following witnesses for his defense, to wit:

1. ERNESTO ALIM

He testified that he is the president of the Capalonga Market Vendors Association since June 2010 and he personally knows

¹⁵ Order dated April 30, 2018



the accused mayor Jalgalado; that sometime on August 2011, a meeting was called by accused Jalgalado relative to the renovation of the Capalonga Market; that on October 8, 2011, he witnessed the peaceful and organized demolition of the market stalls.

On cross-examination, he testified that he has been a market vendor in Capalonga since 2010 and that he personally manages his store and that on 27th of November 2017, he was at the market.

2. EMELINA M. PALLAYA

She testified that she is one of the vendors in Capalonga Public Market and a member of the Market Vendors Association since June 2010 up to the present; that she knows accused Jalgalado as the incumbent Mayor of Capalonga, Camarines Norte; that sometime in August 2011, all the vendors were informed of a resolution coming from the Sanggunian regarding the renovation of Capalonga Public Market and that during the time of renovation, she and all of the market vendors were given temporary assistance and proper relocation.

On cross-examination, she admitted that she is a market vendor selling variety of goods including vegetable and chicken; that there is only one association of market vendors that she knows with approximately 20 members; that she personally knows a certain Rolando Saa who has also a stall in the market and admitted that he is not a member of the association that she was a member of. She also stated that there was a written invitation for a meeting which was presided by accused Jalgalado himself at the public market held sometime in August 2011 and that private complainant was present at the said meeting. She said that while selling her produce, she saw that the materials that were taken out of the public market were loaded in a dump truck to be brought to the houses of the owners of each stall. She likewise admitted that they have a lease agreement with the Municipality of Capalonga which was not revoked or cancelled when the public market was renovated.

wp

CM

3. ADONES ARECIA

He testified that he was not in any way an employee of the Municipality of Capalonga, Camarines Norte and he is nowhere near the demolition site of the old public market as he was in the city at that time.

On cross-examination, he testified that on October 8, 2011, he was in his residence located at Purok 2, Poblacion, Capalonga, Camarines Norte which is approximately half kilometer away from the public market.

4. FERNANDO O. GONZALES

He testified that he is working as a Job Order Laborer at the Capalonga Municipal Government assigned at the Engineering Department; that on October 8, 2011, he was nowhere near the Capalonga Public Market and did not participate in its demolition as he was then assigned at the Municipal Bus Terminal at that time.

On cross-examination, he admitted that he knows accused Wilfredo Caldit, Jr. as the Municipal Engineer but he never worked with him before.

Thereafter, counsel for accused Jalgalado, Arcia and Gonzales orally adopted and offered Exhibits "3", "4", "5", "8", "9", "12", "13" and "14" of Caldit as their Exhibits which the Court admitted¹⁶.

FINDINGS AND CONCLUSION

Accused stand charged with the crime of Malicious Mischief penalized under Art. 327 in relation to Art. 329 of the Revised Penal Code.

Art. 327. Who are liable for malicious mischief. — Any person who shall deliberately cause the property of another any

¹⁶ Order dated August 29, 2018

Wfr

AM

damage not falling within the terms of the next preceding chapter shall be guilty of malicious mischief.

Art. 329. Other mischiefs. — The mischiefs not included in the next preceding article shall be punished:

- 1. By arresto mayor in its medium and maximum periods, if the value of the damage caused exceeds 1,000 pesos;*
- 2. By arresto mayor in its minimum and medium periods, if such value is over 200 pesos but does not exceed 1,000 pesos; and*
- 3. By arresto menor or fine of not less than the value of the damage caused and not more than 200 pesos, if the amount involved does not exceed 200 pesos or cannot be estimated.*

In order to be found guilty of the aforesaid offense, the following elements must be proven:

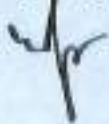
- 1. That the offender deliberately caused damage to the property of another.*
- 2. That such act does not constitute arson or other crimes involving destruction.*
- 3. That the act of damaging another's property be committed merely for the sake of damaging it.*
(The third element presupposes that the offender acted due to hate, revenge or other evil motive) ¹⁷

The crime of damaged to property (*malicious mischief*) is not determined solely by the mere inflicting of injury upon the property of a third person, but it must be shown that the act had for its object, the injury of the property merely for the sake of damaging it.¹⁸

The requirement of proof beyond a reasonable doubt has this vital role in our criminal procedure for cogent reasons. The accused during a criminal prosecution has at stake interest of immense importance, both because of the possibility that he may lose his liberty upon conviction and because of the certainty that he would be stigmatized by the conviction. Accordingly, a

¹⁷ Taguinod vs. People, G.R. No. 185833, October 12, 2011

¹⁸ U.S. vs. Gerale, 4 Phil 218



society that values the good name and freedom of every individual should not condemn a man for commission of a crime where there is reasonable doubt about his guilt.¹⁹

In the instant case, the prosecution failed to prove that the third element is existent. There was no clear showing that accused acted due to hate, revenge or otherwise stirred by any other evil motive. The allegation of the private complainant that accused was motivated by hatred and revenge because he filed a case against said accused before the Office of the Ombudsman for destroying his coconut plantation situated in Sitio Unaque including his home located at Purok 3, Poblacion, Capalonga, Camarines Norte has no probative value and is self-serving, considering that he did not present any evidence both documentary and testimonial to corroborate such allegations.

On the other hand, it was undisputed that the reason for the demolition of the public market that included the stall of herein complainant was to give way for the construction of a new public market in view of the old market's present dilapidated conditions. Accused were able to justify that the demolition was made in accordance with the proposed building of a new and better public market, a matter which was planned and approved by the Sanggunian of Capalonga, Camarines Norte through Resolution No. 2011-02²⁰ relative to the Investment Plan²¹ submitted that included the rehabilitation of the old public market and the same was merely implemented by the accused mayor.

As for the involvement of accused **Caldit, Jr. and Jueves, Jr.**, the same third element is missing for them to be found guilty of the crime charged in the absence of proof beyond reasonable doubt that their act of demolition of the stalls including the property of private complainant was merely for the sake of damaging it or that they were acting with hate, revenge or any other ill motive. It should be stressed that they do not even know the private complainant prior to the said demolition to ever harbor such ill motives against him. These accused were merely acting the direct order of the Mayor to give way for the building of a new public market. Moreover, it

¹⁹ People vs. Midarasa, G.R. No. 172873, March 19, 2010, citing *In the Matter of Samuel Winship*, 397 U.S. 358, S. Ct. 1068 (1970)

²⁰ Exhibit 8

²¹ Exhibit 9

was not also established that the demolition of the stall of the private complainant was singled out by the demolition team.

Thus, in the absence of any proof beyond reasonable doubt that the act of the accused in damaging the property of herein complainant was motivated by hate or revenge or for the sake of damaging it, the instant case against them must necessarily fail.

Further, the prosecution also failed to prove that the accused are liable for the damages of the personal items that were allegedly destroyed by the accused in the course of the demolition as the prosecution merely presented pictures of the alleged destroyed personal properties that belonged to the private complainant. As admitted by the private complainant himself, his stall has not been operating for a long period already and in fact the said stall has no roof, exposing the same to other elements or hazards before the same property was demolished.

WHEREFORE, this Court finds all the accused **NOT GUILTY** of the crime of Malicious Mischief penalized under the Revised Penal Code, for insufficiency of evidence.

No pronouncement as to cost.

SO ORDERED.


LORIFEL L. PAHIMNA
Associate Justice

We concur:


OSCAR V. HERRERA, JR.
Chairperson
Associate Justice


MICHAEL FREDERICK L. MUSNGI
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.


OSCAR C. HERRERA, JR.
Chairperson
Second 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. CAROTAJE-TANG
Presiding Justice

