



Republic of the Philippines

**Sandiganbayan**

Quezon City

**SIXTH DIVISION**

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

**SB-15-CRM-0284 and 0285**

For: Violation of Sections 3(e) and  
3(g) of Republic Act No. 3019,  
as amended

**- versus -**

**CELESTINO ASAS MARTINEZ III,  
CRESENCIO PILAPIL VERDIDA,  
RHETT E. MINGUEZ,  
MARY LOU B. URSAL, and  
JULIO S. URSONAL, JR.**

*Accused.*

*Present*

**FERNANDEZ, SJ, J.**

*Chairperson*

**MIRANDA, J. and**

**VIVERO, J.**

*Promulgated:*

**FEB 28 2022**

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## **DECISION**

**VIVERO, J.:**

***Corruption is paid by the poor.***

Pope Francis

Corruption denotes abuse of entrusted power for private gain.<sup>1</sup>  
A more robust definition runs thus:

"Corruption is any act which deviates from the rules of conduct, including normative values, governing the actions of an individual in a position of authority or trust,

<sup>1</sup> <https://www.transparency.org/en/what-is-corruption>

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whether in the private or public domain, because of private-regarding motives, (that is non-public or general) such as wealth, power, status etc.”<sup>2</sup>

Corruption, by itself, does not produce poverty. Rather, corruption has direct consequences on economic and governance factors, intermediaries that in turn produce poverty.<sup>3</sup> Poverty invites corruption, while corruption deepens poverty. Corruption then becomes the norm, and as such the exploitation results in abject poverty and a spiraling economy. Also, corruption removes the incentive for “excellence and innovation” and promotes “connections and cash”.<sup>4</sup> It is a form of self-serving influence akin to a heavily regressive tax, benefiting the haves at the expense of the have-nots.

The Philippines has been ranked as among the world’s most corrupt by, among others, the Berlin-based non-governmental organization, Transparency International.<sup>5</sup> Corruption has siphoned off whatever meager resources that could have been immensely helpful to alleviate the lives of poor Filipinos.

As exemplified in the instant case, corruption reduces the effectiveness of financial assistance programs, as money is “lost somewhere along the way” and does not reach those who need it or for whom it is intended.<sup>6</sup> The sad plight of marginalized sectors is depicted thusly:

“Despite efforts of the government to increase funding for the farm sector, poverty incidence among agriculture households remain high. Why? Because corruption eats up the government

<sup>2</sup> Aina, O., “How Corruption Contributes to Poverty,” a paper presented at the International Conference on Development of Social Enterprise and Social Business for Eradication of Extreme Poverty and Street Begging at Chittagong, Bangladesh, December 19 - 20, 2014, posted on June 28, 2018 in <https://akinfadeyifoundation.org/the-symbiotic-relationship-between-corruption-and-poverty-in-nigeria>

<sup>3</sup> Corruption and Poverty: A Review of Recent Literature, Final Report, Eric Chetwynd, Frances Chetwynd, and Bertram Specto, January 2003, posted in [https://pdf.usaid.gov/pdf\\_docs/PNACW645.pdf](https://pdf.usaid.gov/pdf_docs/PNACW645.pdf)

<sup>4</sup> Corruption: Together Promoting Disharmony, posted in <https://owendaneblog.wordpress.com/rants-and-raves/poverty-and-corruption>

<sup>5</sup> Transparency International, Philippines Corruption Rank: 1995 – 2020 Data; 2021 – 2023 Forecast, posted in <https://tradingeconomics.com/philippines/corruption-rank>

<sup>6</sup> The Philippines Corruption Report, posted on May 2020 in <https://www.ganintegrity.com/portal/country-profiles/the-philippine>

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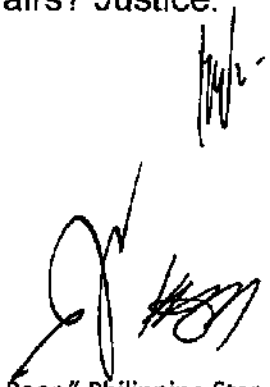
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money for industrializing agriculture. This is why most farmers and fisherfolk are poor.”<sup>7</sup>

The pork barrel<sup>8</sup> system has been regarded as the bane of patronage politics, and that has basis in fact.<sup>9</sup> It is because of massive poverty that pork barrel funds have been justified – even tolerated despite its flawed implementation. Because the poor kept asking for so much, politicians justify giving them what the system could produce from the budget. The abuse of the pork barrel is directly proportional to the acceptance of corruption as a way of life in Philippine politics. Corruption is not just a dysfunctional government practice; it is a character flaw of those in government who cannot resist their greed. Correlatively, it is a character flaw of a citizenry that has moaned and grumbled about corruption but had learned to tolerate it for decades. Alas, everyone is paying dearly today.

Corruption has no greater partner in crime than poverty. Countering the culture of impunity and making inroads against Machiavellian manoeuvres often requires determined efforts to overcome vested interests. Transparency and open governance are typically part of the story, but rarely the whole story.<sup>10</sup> Thus, no one has all the answers regarding corruption. Ultimately, lasting reform is a matter of enabling citizens to combat kleptocracy,<sup>11</sup> depending upon the rule of law and holding accountable those who govern. Another name for that state of affairs? Justice.



<sup>7</sup> Jaime Jimenez, “Corruption Steals from the Poor,” Philippine Star, February 8, 2020, posted in <https://www.philstar.com/.../08/1991453/commentary-corruption-steals-poor>

<sup>8</sup> Pork barrel funds are lump-sum, discretionary funds allocated to legislators for local pet projects. The fund’s earliest form in the Philippines can be traced back to the Public Works Act of 1922, before it took on new names over the decades, including the “Countrywide Development Fund” (CDF) during President Corazon Aquino’s administration, and finally the Priority Development Assistance Fund (PDAF) which began during President Joseph Ejercito Estrada’s administration. Posted in - <https://cnnphilippines.com/news/2021/2/14/PDAF-scram-what-you-need-to-know>

<sup>9</sup> <https://opinion.inquirer.net/60983/corruption-thrives-in-poverty#ixzz6xqcJ7BDY>

<sup>10</sup> <https://www.worldbank.org/en/topic/governance/brief/anti-corruption>

<sup>11</sup> **Kleptocracy** refers to a government by those who seek chiefly status and personal gain at the expense of the governed, posted in – <https://www.merriam-webster.com/dictionary/kleptocracy>

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## THE FORMAL CHARGES

Accused were charged before this Court with violation of Sections 3(e) and 3(g) of Republic Act No. 3019,<sup>12</sup> as amended. The delictual allegations of the initial Information<sup>13</sup> are quoted *ipssisimi verbis*:

### **SB-15-CRM-0284**

(For Violation of Section 3(e) of R. A. No. 3019, as amended)

"On 26 April 2007, or thereabout, in the Municipality of Bago, Province of Cebu, Philippines, and within this Honorable Court's jurisdiction, the above-named accused **CELESTINO ASAS<sup>14</sup> MARTINEZ III, CRESENCIO PILAPIL<sup>15</sup> VERDIDA, RHETT E. MINGUEZ, MARY LOU B. URSAL, and JULIO S. URSONAL, JR.,** all *public officers*, being then the mayor, accountant, treasurer, budget officer, and assistant treasurer, respectively, of the Municipality (now City) of Bogo, Province of Cebu, conspiring and confederating with one another *while in the performance of their official duties*, and *through manifest partiality, evident bad faith, or at the very least, gross inexcusable negligence*, did then and there willfully, unlawfully, and criminally give the Bogo Municipal Employees Multi-Purpose Cooperative (BMEMPC), a private organization, unwarranted benefit, advantage or preference by constituting the BMEMPC as a conduit for public funds in the amount of TWENTY MILLION PESOS (P20,000,000.00) and making the fund available exclusively to BMEMPC members, mostly through salary loans, although said funds were intended to be provided as agricultural and livelihood loans and financial assistance to farmers, fisher folks and members of the marginalized sectors under the *Ginintuang Agrikulturang Makamasa* program of the Department of Agriculture (DA); causing the transfer of said funds to [the] BMEMPC; and then availing themselves of huge loans from the fund, which accused were able to accomplish through: a) the signing by CELESTINO ASAS MARTINEZ III on behalf of [the] Municipal Government of Bogo, Cebu, of a Memorandum of Agreement (MOA) with the BMEMPC; b) the approval by CELESTINO ASAS MARTINEZ III of the Disbursement Voucher

<sup>12</sup> Otherwise known as the Anti-Graft and Corrupt Practices Act, which was amended on April 3, 1978 by P.D. No. 1288.

<sup>13</sup> Information dated May 6, 2015, pp. 1 – 3 (Records, Vol. 1, pp. 1 - 3).

<sup>14</sup> On February 22, 2018, the Court granted the Prosecution's motion (before the arraignment) for the formal amendment of the Informations against the accused to reflect the middle names of accused Martinez which is "Asas" and Verdida, which is "Pilapil" (Records, Vol. 2, pp. 413 – 414).

<sup>15</sup> *Ibid.*

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covering the release of the P20,000,000.00 fund to BMEMPC; c) the certification by CRESCENCIO PILAPIL VERDIDA of the Obligation Request and the Disbursement Voucher for the release of the funds to BMEMPC; d) the certification of RHETT E. MINGUEZ on the said Obligation Request in support of the fund transfer to BMEMPC; e) the certification of MARY LOU B. URSAL on the same Obligation Request; and f) the approval by JULIO S. URSONAL, JR. of the loan applications of herein accused and other BMEMPC members, thereby frustrating the objectives of the *Ginintuang Agrikulturang Makamasa* program and ***causing undue injury to the government and the program's intended beneficiaries*** who were deprived of the opportunity to avail of financial support in the amount of P20,000,000.00.

**CONTRARY TO LAW.**

"Quezon City, Philippines, 6 May 2015."<sup>16</sup>  
(Italics and Underscoring Supplied.)

The cognate Information<sup>17</sup> is couched in the following language, *scilicet*:

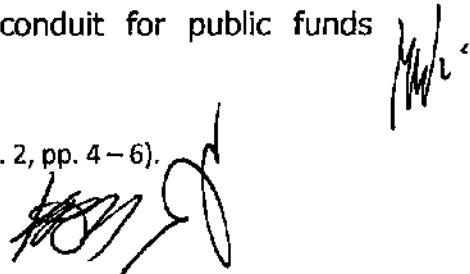
**SB-15-CRM-0285**

(For Violation of Section 3(g) of R.A. No. 3019, as amended)

"On 26 April 2007, or thereabout, in the Municipality of Bago, Province of Cebu, Philippines, and within this Honorable Court's jurisdiction, the above-named accused **CELESTINO ASAS MARTINEZ III**, then Mayor of the Municipality (now City) of Bogo, Province of Cebu, ***committing the offense in relation to his office*** and ***taking advantage*** of the same, ***conspiring*** with accused **JULIO S. URSONAL, JR.**, then Assistant Treasurer of Bogo, Cebu, and President of the Bogo Municipal Employees Multi-Purpose Cooperative (BMEMPC), a private association, did then and there, willfully, unlawfully, and criminally ***enter, on behalf of the Government, into a manifestly and grossly disadvantageous contract*** in the form of a Memorandum of Agreement (MOA) dated 12 February 2007, with the BMEMPC for the implementation in Region VII of the *Ginintuang Agrikulturang Makamasa* program of the Department of Agriculture (DA), which seeks the promotion, among other things, of poverty alleviation and income enhancement of farmers and fisher folks. The MOA which constituted the BMEMPC as a conduit for public funds

<sup>16</sup> Supra, Note 13, pp. 1 - 2.

<sup>17</sup> Information dated May 6, 2015, pp. 1 - 3 (Records, Vol. 2, pp. 4 - 6).



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amounting to TWENTY MILLION PESOS (P20,000,000.00) intended to be extended as agricultural and livelihood loans and financial assistance to farmers, fisher folks and members of the marginalized sectors under DA's GAM program, a) did not require showing by BMEMPC of its capability and qualifications to implement the GAM program; b) did not included (sic) project statements, identification of beneficiaries, systems and procedures for project implementation, project cost estimates, and time schedules, among other things; c) made the said public funds available exclusively to BMEMPC members; and d) provided the basis for the disbursement of the funds mostly as salary loans to BMEMPC members, including herein accused, which ***MOA***, therefore, is ***manifestly and grossly disadvantageous to the DA and the government*** as it prevented them to implement the GAM program in Region VII despite disbursement of funds for the purpose.

**CONTRARY TO LAW.**

"Quezon City, Philippines, 6 May 2015."<sup>18</sup>  
(Italics and Underscoring Supplied.)

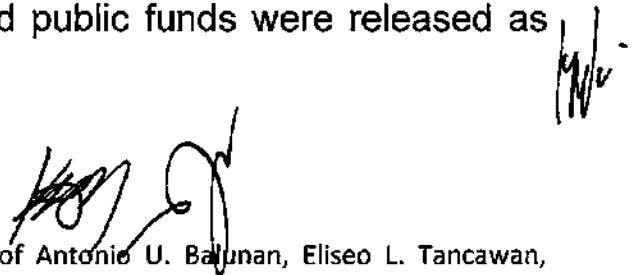
**THE CASES**

These cases stemmed from a letter-complaint<sup>19</sup> filed by four (4) residents and registered voters of Bogu City, Cebu, namely: Antonio U. Balunan, Eliseo L. Tancawan, Jennifer T. Requiza and Anastacio L. Celera. The Public Assistance and Corruption Prevention Office (PACPO), Office of the Deputy Ombudsman - Visayas forwarded the whistleblowers' complaint to the Commission on Audit (COA), Region VII, Cebu City for a special audit investigation.<sup>20</sup> Its audit findings were pinpointedly focused on the twenty million pesos (P20,000,000.00) that was earmarked as financial assistance to the Bogu Municipal Employees Multi-Purpose Cooperative (BMEMPC) for the purpose of extending livelihood projects to members. Instead, said public funds were released as

<sup>18</sup> Id. at pp. 1-2 (Records, Vol. 2, pp. 4-5).

<sup>19</sup> Letter-Complaint dated September 24, 2007, of Antonio U. Balunan, Eliseo L. Tancawan, Jennifer T. Requiza and Anastacio L. Celera, pp. 1-2 (Records, Vol. 1, pp. 36-37).

<sup>20</sup> Letter dated October 18, 2007, of Pelagio S. Apostol, Deputy Ombudsman (Visayas), to Atty. Nilo Pala, OIC, Legal and Adjudication Office, COA, Region VII, Cebu City, p. 1 (Records, Vol. 1, p. 39).



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salary loans to regular and casual employees of the Municipal Government.<sup>21</sup>

The audit findings raised red flags, prompting the Office of the Deputy Ombudsman - Visayas to pursue sedulously the fact-finding investigation. On September 7, 2009,<sup>22</sup> said Office recommended the filing of charges against fourteen (14) officials of the Municipal Government of Bogo, Cebu, namely:

NAME	POSITION
Celestino Asas Martinez III	Mayor
Vicente Rodriguez	Vice-Mayor
Crescencio Pilapil Verdida	Municipal Accountant
Rhett E. Minguez	Municipal Treasurer
Mary Lou B. Ursal	Municipal Budget Officer
Julio S. Ursonal, Jr.	Assistant Municipal Treasurer <sup>23</sup>
Santiago M. Oliamot; Santiago A. Sevilla; Lyndon Hee C. Acusar; Wilfredo L. Manubag; Victor Elliot S. Lepiten III; Teodoro Y. Pedroza; Ernesto Y. Faciol; Leo L. Villacruzis	Members of the <i>Sangguniang Bayan</i> , Municipality of Bogo, Province of Cebu

On December 22, 2009, the Office of the Ombudsman directed the fourteen (14) respondents to file their respective counter-affidavits. Save for respondent Ursal,<sup>24</sup> they seasonably



<sup>21</sup> Letter dated October 2, 2008, of Atty. Nilo C. Pala, Regional Legal & Adjudication Director, COA, Region VII, Cebu City, to Pelagio S. Apostol, Deputy Ombudsman (Visayas), pp. 1 – 2 (Records, Vol. 1, pp. 40 -41).

<sup>22</sup> Final Evaluation Report signed by Graft Investigation Officer II Alejandro Borden and Assistant Ombudsman Palanca-Santiago (Records, Vol. 1, p. 9).

<sup>23</sup>J. S. Ursonal, Jr. alleged that at the time material to this case, he was Bogo's Market Administrator (Records, Vol. 7, pp. 149 - 150. Also, he was then-President and Chairman of the Board of BMEMPC (TSN, March 3, 2020, p. 40.

<sup>24</sup> Records, Vol. 2, p. 58.

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filed theirs.<sup>25</sup> With respect to respondent Martinez III, his impugnement of the allegations is outlined below, viz:

"x x x

6. . . . [T]he fund was distributed to beneficiaries in accordance with the purpose and intent of the MOA; incidentally, the members of BMEMPC were not excluded as potential beneficiaries under the terms of the MOA;

x x x

9. The fact that affiant himself made (sic) a loan from the fund is not a violation of the MOA; nowhere in the MOA prohibits the affiant from availing of the grant nor is he excluded as beneficiary as long as the privilege was devoted to agricultural concerns for 'food security, poverty alleviation, social equity, income enhancement and profitability of farmers, global competitiveness and sustainability';

x x x

11. The fund was not misappropriated; it was distributed to and utilized by qualified beneficiaries; except for non-full payment, the terms of the MOA have not been violated . . .;

x x x." <sup>26</sup>

Respondents Minguez and Verdida assailed the allegations against them thusly:

"x x x

4. . . . [A]ffiants acted favorably on the release of the P20 million fund after due scrutiny and examination of documents supporting the same such as but not limited to the board resolutions and memoranda of agreements duly executed;

x x x

6. As dependant (sic) heads, it is beyond their power to contest, reverse or render legislative acts ineffective nor do they have

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<sup>25</sup> Counter-Affidavit dated March 26, 2010, of C. A. Martinez III, pp. 1 - 2 (Records, Vol. 1, pp. 48 - 49); Undated Counter-Affidavit of R. E. Minguez and C. P. Verdida, pp. 1 - 2 (Records, Vol. 1, pp. 50 - 51); Counter-Affidavit dated March 26, 2010, of J. S. Ursonal, Jr., pp. 1 - 2 (Records, Vol. 1, pp. 52 - 53).

<sup>26</sup> Records, Vol. 1, pp. 48 - 49.



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the power to prostrate (sic) executive implementations which are not patently in violation of any law;

7. . . . [T]here was neither an express nor implied prohibition in the MOA between the Department of Agriculture in the City government to channel the P20 million fund through the cooperative (BMEMPC) nor was there any provision in the MOA [which] exclude or disqualify the members of the cooperative from becoming beneficiaries . . . ;

x x x

9. Nor is their (sic) any legal or factual basis that the distribution of the fund through loans was a misappropriation or act of dishonesty;

10. The cooperative (BMEMPC) was qualified to distribute the fund; the mere fact that affiants herein are members of the cooperative is purely incidental; the cooperative was not created on account of the fund but the fund was appropriately distributed as loans by the cooperative in accordance with the purpose and intent spelled out by the Department of Agriculture;

11. . . . [N]o compliant (sic) whatsoever was ever received by herein affiants from the Department of Agriculture for wrongdoing . . . ;

x x x

13. Even if [the] COA report disagrees with the position of affiants, yet, in the absence of any prohibition or mandate to the contrary, affiants are bound to perform their duties as they see fit without restraint." <sup>27</sup>

For his part, respondent Ursonal alleged the following:

"x x x

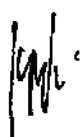
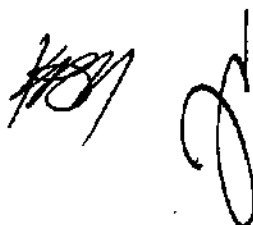
5. BMEMPC, being a 'close' Cooperative has been in existence for already (sic) more than ten (10) years and has proved itself very successful in its operations . . . ;

x x x

7. x x x [W]hile the cooperative law and the constitution and by-laws of the cooperative encourage and promote grants and

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<sup>27</sup> Records, Vol. 1, pp. 50 – 51.



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event donations, there is nothing in the MOA between the Department of Agriculture and the City of Bogo to (sic) exclude or prohibit the BMEMPC from accepting the offer;

8. Therefore, BMEMPC loaned out the P20,000,000.00 grant and at the same time monitored and intensified collections; the members of BMEMPC were qualified beneficiaries under the criteria of the Department of Agriculture;

x x x

10. Affiant has not misappropriated any amount for personal gain from the fund nor caused damage to any third party or [the] government;

x x x

12. BMEMPC through the board of directors acted in good faith;

13. Although affiant as President of the Cooperative merely acted for and in behalf of the collective and collegial resolution of the Board of Directors of BMEMPC in signing the questioned MOA, he is only too grateful that his colleagues were not put in the same jeopardy as in the instant case."<sup>28</sup>

On October 18, 2012, the COA Audit Team issued a Notice of Disallowance (ND).<sup>29</sup> The salient features thereof are as follows:

"The amount of P19,904,000.00 was disallowed in audit . . .

"The following persons have been determined to be liable for the transaction:

	NAME	POSITION/ DESIGNATION	NATURE OF PARTICIPATION IN THE TRANSACTION
1	Celestino A. Martinez III	Municipal Mayor	1. For being the Approving Officer of the disbursement voucher. 2. As party to the MOA, particularly to implement the program strictly in accordance to (sic) its purpose and objectives
2	Crescencio	Municipal	For having: 1. Certified that the supporting documents are complete.

<sup>28</sup> Records, Vol. 1, pp. 52 – 53.

<sup>29</sup> Records, Vol. 3, pp. 164 – 165.

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	<b>P. Verdida</b>	<b>Accountant</b>	<b>2. Approved the transfer of the P20 million to BMEMPC per JEV # 300-07-04-042 dated 04/26/07</b>
<b>3</b>	<b>Rhett E. Minguez</b>	<b>Municipal Treasurer</b>	<b>For having certified as to availability of funds</b>
<b>4</b>	<b>BMEMPC</b>	<b>Payee</b>	<b>For having received P20 million</b>

Also, the COA Audit Team issued a Notice of Suspension (NS) with respect to the amount of P96,000.00. The reason was that the official receipts showing that such amount had been returned by BMEMPC to the Municipality of Bogo remained unaccounted for.<sup>30</sup>

After an in-depth analysis of the factual and legal bases of the alleged malfeasance, the Ombudsman<sup>31</sup> issued a Resolution,<sup>32</sup> to wit:

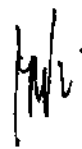
**"WHEREFORE,** let the following Information be filed with the proper court, as follows:

1. Violation of Section 3(e) of R.A. 3019, as amended, against Celestino A. Martinez III, Rhett E. Minguez, Crescencio P. Verdida, Mary Lou B. Ursal and Julio S. Ursonal, Jr.; and
2. Violation of Section 3(g) of R.A. 3019, as amended, against Celestino A. Martinez III and [Julio S.] Ursonal, Jr..

"The charges against respondents Vicente P. Rodriguez, Santiago M. Oliamot, Santiago A. Sevilla, Lyndon Hee C. Acusar, Wilfredo L. Manubag, Victor Elliot S. Lepiten III, Teodoro Y. Pedroza, Ernesto Y. Faciol and Leo L. Villacrusis with regard to the P20 million fund are hereby **DISMISSED**.

"Meanwhile, the matter concerning the P500,000.00 financial assistance to the BMEMPC, which was appropriated from the 20% Development Fund of the LGU, is hereby recommended for further fact-finding against respondents Celestino A. Martinez III, Vicente P. Rodriguez, Crescencio Verdida, Rhett E. Minguez, Mary Lou B. Ursal and (sic) Julio S. Ursonal, Jr., Santiago M. Oliamot, Santiago A. Sevilla, Lyndon Hee C. Acusar, Wilfredo L. Manubag, Victor Elliot S. Lepiten III, Teodoro Y. Pedroza, Ernesto Y. Faciol and Leo L. Villacrusis.

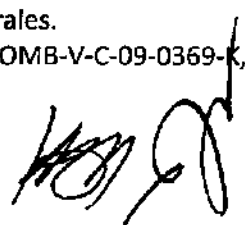
**"SO RESOLVED.**



<sup>30</sup> Records, Vol. 3, pp. 166 – 167.

<sup>31</sup> Justice Conchita Carpio Morales.

<sup>32</sup> Dated October 27, 2014, in OMB-V-C-09-0369-K, pp. 1 – 18 (Records, Vol. 1, pp. 8 – 25).



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"27 October 2014, Quezon City, Philippines." <sup>33</sup>

Aggrieved, respondents Celestino Asas Martinez III (Martinez III, *for brevity*), Rhett E. Minguez, Julio S. Ursonal, Jr. (Ursonal, *for brevity*), and Crescencio P. Verdida filed *Motions for Reconsideration with Prayer to Suspend Proceedings*, but to no avail.<sup>34</sup> The Ombudsman maintained that probable cause to indict the alleged fraudsters was extant because they "*appropriated to themselves exclusive and priority access to the fund, though arguably unqualified under the terms and conditions of the program, thereby depriving the intended beneficiaries of livelihood and agricultural loans out of the ₱20 million financial assistance from DAR (sic) – Region 7.*" <sup>35</sup>

On May 6, 2015, respondents Martinez III, Verdida, Minguez, Ursal and Ursonal were indicted for violation of Section 3(e) of Republic Act No. 3019, as amended.<sup>36</sup> In addition, respondents Martinez III and Ursonal were proceeded against for violation of Section 3(g) of said statute.<sup>37</sup>

On November 9, 2015, the Court ordered the arrest of the five (5) accused.<sup>38</sup> Coetaneously, a Hold Departure Order was issued against them.<sup>39</sup>

Accused Ursonal,<sup>40</sup> Martinez III,<sup>41</sup> Minguez,<sup>42</sup> and Verdida<sup>43</sup> voluntarily surrendered and posted their respective bail bonds for their provisional liberty.<sup>44</sup>

On November 24, 2015, accused Ursonal, with the assistance of counsel *de parte*, was arraigned. He pleaded "**NOT GUILTY**" to the two (2) Informations.<sup>45</sup>

<sup>33</sup> Id. at pp. 17 – 18 (Records, Vol. 1, pp. 23 – 24).

<sup>34</sup> Order dated January 30, 2015, of the Office of the Ombudsman in OMB-V-C-09-0369-K , pp. 1 – 8 (Records, Vol. 1, pp. 26 – 33).

<sup>35</sup> Id. at p. 6 (Records, Vol. 1, p. 31).

<sup>36</sup> *Supra*, Note 13.

<sup>37</sup> *Supra*, Note 17.

<sup>38</sup> Records, Vol. 1, pp. 90 – 91.

<sup>39</sup> Hold Departure Order dated November 9, 2015, pp. 1 - 2 (Records, Vol. 1, pp. 56 - 57).

<sup>40</sup> Order dated November 13, 2015, p. 1 (Records, Vol. 1, p. 64).

<sup>41</sup> Order dated November 24, 2015, p. 1 (Records, Vol. 1, p. 80).

<sup>42</sup> Order dated November 24, 2015, p. 1 (Records, Vol. 1, p. 73).

<sup>43</sup> Records, Vol. 1, pp. 98 – 105.

<sup>44</sup> Records, Vol. 1, pp. 59 – 63, 68 – 72, 75 – 78.

<sup>45</sup> Order dated November 24, 2015, pp. 1 – 2 (Records, Vol. 1, pp. 88 – 89).

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Meanwhile, accused Martinez III and Minguez filed an *Omnibus Motion For Judicial Re-Determination of Probable Cause and/or Motion to Quash Information*.<sup>46</sup> Their co-accused followed suit. Accused Ursonal filed a *Motion to Defer Proceedings*,<sup>47</sup> while accused Verdida moved to quash the Information.<sup>48</sup> Lamentably, these went for naught. On March 21, 2016, the Court resolved<sup>49</sup> thusly:

**"WHEREFORE,** premises considered, the Court resolves to **DENY** Martinez III and Minguez's (sic) Omnibus Motion for Judicial Re-determination of Probable Cause and/or Motion to Quash Information, accused Verdida's Motion to Quash Information, and accused Ursonal Jr.'s Motion to Defer Proceedings for lack of merit.

"The arraignment and preliminary conference on these cases shall continue on April 12, 2016, as previously scheduled.

**"SO ORDERED."**<sup>50</sup>

Flustered, accused Ursonal filed a *Motion for Reconsideration*,<sup>51</sup> but the Court denied it for lack of merit.<sup>52</sup> Flabbergasted, accused Ursonal elevated the matter to the Supreme Court *via* a petition for *certiorari*.<sup>53</sup> Be that as it may, this Court issued the following Resolution,<sup>54</sup> to wit:

"Upon inventory of these cases, it appears that the Resolution of the Fifth Division of the Court dated March 21, 2016, that denied: (1) the Motion for Judicial Determination of Probable Cause and/or Motion to Quash of accused **CELESTINO MARTINEZ III** and **RHETT MINGUEZ**; and (2) accused **CRESCENCIO VERDIDA**'s Motion to Quash, has already become **FINAL** as no motion for reconsideration was filed with respect

<sup>46</sup> Dated January 7, 2016, pp. 1 - 5 (Records, Vol. 1, pp. 109 - 113).

<sup>47</sup> Dated January 27, 2016, pp. 1 - 5 (Records, Vol. 1, pp. 175 - 179).

<sup>48</sup> Entry of Appearance with Motion to Quash Information dated January 19, 2016, pp. 1 - 4 (Records, Vol. 1, pp. 222 - 225).

<sup>49</sup> Resolution dated March 21, 2016, pp. 1 - 14 (Records, Vol. 1, pp. 268 - 281).

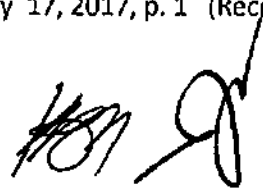
<sup>50</sup> *Id.* at p. 13 (Records, Vol. 1, p. 280).

<sup>51</sup> Dated May 18, 2016, pp. 1 - 9 (Records, Vol. 1, pp. 317 - 326).

<sup>52</sup> Resolution dated October 11, 2016, pp. 1 - 5 (Records, Vol. 1, pp. 340 - 344).

<sup>53</sup> Petition for Certiorari dated December 5, 2016, of Julio S. Ursonal, Jr., pp. 1 - 19 (Records, Vol. 1, pp. 347 - 365).

<sup>54</sup> Resolution dated January 17, 2017, p. 1 (Records, Vol. 1, p. 454).



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thereto. Hence, **LET THE ARRAIGNMENT OF SAID ACCUSED BE SET** on March 13, 2017 x x x.

"However, as to accused **JULIO URSONAL**, who has already been arraigned, and whose Motion for Reconsideration of the Resolution of March 21, 2016 was denied in the Court's Resolution dated October 11, 2016, the Court shall set the preliminary conference after his co-accused have been arraigned. The Court notes that the said accused has raised the denial of his motion for reconsideration to the Supreme Court by a Petition for Certiorari. However, **UNLESS RESTRAINED BY THE SUPREME COURT, THE PROCEEDINGS HEREIN WILL CONTINUE.**

"As to accused **MARY LOU URSAL**, who has not been brought to the jurisdiction of the Court, **LET [AN] ALIAS WARRANT OF ARREST<sup>55</sup> ISSUE AGAINST THE SAID THE SAID ACCUSED.**

**"SO ORDERED."**<sup>56</sup> (Emphasis and Capitalization Supplied.)

Anent the whereabouts of accused Ursal, the warrant server returned the *alias* warrant of arrest after learning from the *Punong Barangay* of Barangay Cogon, Bogo, Cebu, that she absconded and migrated to Canada.<sup>57</sup>

On February 7, 2017, accused Ursal filed a *Motion for Injunction*<sup>58</sup> before the Supreme Court. He sought the deferment of the trial pending his petition for *certiorari*.

On March 6, 2017, accused Martinez III and Minguéz filed a *Motion to Dismiss*<sup>59</sup> before this Court. They alleged that "*inordinate delay violated the constitutional right of the accused to speedy trial.*"<sup>60</sup> For his part, accused Verdida filed a *Motion for Resetting the Case.*<sup>61</sup>

<sup>55</sup> Alias Warrant of Arrest dated January 17, 2017, p. 1 (Records, Vol. 1, p. 462).

<sup>56</sup> *Supra*, Note 44.

<sup>57</sup> Records, Vol. 1, pp. 477-A – 477-H; Records, Vol. 2, pp. 12 – 16.

<sup>58</sup> Dated February 6, 2017, pp. 1 – 7 (Records, Vol. 1, pp. 469 – 475).

<sup>59</sup> Motion to Dismiss dated March 3, 2017, of C. A. Martinez III and R. E. Minguéz, pp. 1 – 7 (Records, Vol. 1, pp. 478 – 484).

<sup>60</sup> *Id.* at p. 2 (Records, Vo. 1, p. 479).

<sup>61</sup> Dated March 21, 2017, pp. 1 – 2 (Records, Vol. 1, pp. 498 – 499).

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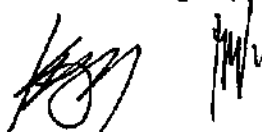
The Court granted accused Verdida's motion.<sup>62</sup> On the other hand, the Court, by a majority vote,<sup>63</sup> denied the motion of Martinez III and Minguez for lack of merit.<sup>64</sup> The majority opinion reads, *inter alia*:

"... [T]he total period of *five (5) months, and twenty-four (24) days* is attributed to Martinez III, Minguez, Rodriguez, Verdida, Ursonal, Jr., Ursal, Sevilla, Oliamot, Acusar, Manubag, Lepiten III, Pedroza, Faciol, and Villacrusis which should be excluded from the time spent by the Office of the Deputy Ombudsman for the Visayas and Office of the Ombudsman to terminate the fact-finding investigation and preliminary investigation, respectively, and for the OSP to file the corresponding informations in this Court. Again, this is because of the exercise of their rights to file their respective counter-affidavits and procedural due process.

"The total period of *eleven (11) months, and thirteen (13) days* should be excluded from the computation of the period attributed to the Office of the Ombudsman. During this period, the COA conducted its special audit investigation on the alleged irregular disbursement of public funds by Martinez III and Minguez after the case was referred to it by the Office of the Deputy Ombudsman for the Visayas.

"Subtracting the periods attributable to Martinez III, Minguez, Rodriguez, Verdida, Ursonal, Jr., Ursal, Sevilla, Oliamot, Acusar, Manubag, Lepiten III, Pedroza, Faciol, and Villacrusis and those beyond the control of the Office of the Ombudsman, the total period it took the Office of the Ombudsman to finish its fact-finding investigation and preliminary investigation, and for the OSP to file the corresponding informations is ***six (6) years, eight (8) months, and three (3) days.*** Under the circumstances and as previously discussed, **said period is justified, acceptable, and not capricious, oppressive and vexatious.** Again, this includes an undetermined period caused by the failure of Ursal to file her counter-affidavit. Since this period to be excluded cannot be determined, this Court attributed it to the Office of the Ombudsman with the qualification that the same was justified.

"x x x." <sup>65</sup> (Emphasis and Underscoring Supplied.)



<sup>62</sup> Order dated March 13, 2017, p. 1 (Records, Vol. 1, p. 511).

<sup>63</sup> Justices K. B. Miranda, R. A. Ponferrada, O. C. Herrera, Jr. and B. H. Jacinto resolved to deny the motion. Contrarily, Justice M. F. L. Musngi dissented therefrom (Records, Vol. 2, pp. 71 - 77).

<sup>64</sup> Resolution dated August 24, 2017, pp. 1 - 16 (Records, Vol. 2, pp. 55 - 70).

<sup>65</sup> Id. at p. 12 (Records, Vol. 2, p. 66).



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Still, they filed a *Motion for Reconsideration*.<sup>66</sup> The Court resolved<sup>67</sup> to deny it, citing as good reasons therefor the following:

“ . . . [T]he right of Martinez III to the speedy disposition of his cases was not violated because of the failure of one of the accused to file her counter-affidavit, disparity of the charges, number of persons involved, levels of review that the case has to undergo, lack of prejudice, and waiver of the right.

“x x x.”<sup>68</sup>

On March 15, 2017, the Supreme Court resolved the petition of accused Ursonal. Said Resolution,<sup>69</sup> in part, reads:

**“G.R. Nos. 229068 and 229081 (*Julio Ursonal[,Jr.] vs. Sandiganbayan*).** - Considering the allegations, issues and arguments adduced in the petition for certiorari assailing the Resolutions dated 21 March 2016 and 11 October 2016 of the Sandiganbayan in Crim. Case Nos. SB-15-CRM-0284 and 0285, the Court resolves to **DISMISS** the instant petition for **failure to sufficiently show that the questioned resolutions are tainted with grave abuse of discretion.**

“x x x.”<sup>70</sup> (Emphasis, Italics and Underscoring Supplied.)

Accused Ursonal took umbrage and filed a *Motion for Reconsideration*.<sup>71</sup> Alas, his last-ditch effort proved futile. The Court resolved to “**DENY** the motion with **FINALITY**, no substantial argument having been adduced to warrant the reconsideration sought.”<sup>72</sup>

On September 29, 2017, accused Minguéz was arraigned wherein he, while assisted by counsel, pleaded “**NOT GUILTY**” to the formal charges in the Information.<sup>73</sup>

<sup>66</sup> Motion for Reconsideration dated October 10, 2017, of C. A. Martínez III and R. E. Minguéz, pp. 1 – 4 (Records, Vol. 2, pp. 149 – 152).

<sup>67</sup> Resolution dated November 29, 2017, of the Sandiganbayan, Special Sixth Division, pp. 1 – 6 (Records, Vol. 2, pp. 205 – 210).

<sup>68</sup> Id. at p. 6 (Records, Vol. 2, p. 210).

<sup>69</sup> Resolution dated March 15, 2017, of the Supreme Court, Second Division, p. 1 (Records, Vol. 2, p. 21).

<sup>70</sup> *Ibid.*

<sup>71</sup> Motion for Reconsideration dated May 4, 2017, of Julio Ursonal, Jr., pp. 1 - 11 (Records, Vol. 2, pp. 30 – 40).

<sup>72</sup> Resolution dated July 24, 2017, of the Supreme Court, Second Division, p. 1 (Records, Vol. 2, p. 99).

<sup>73</sup> Order dated September 29, 2017, pp. 1 – 2 (Records, Vol. 2, pp. 136-A – 136-B).



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On January 29, 2018, the Court set the date for the arraignment of accused Martinez and Verdida, as well as the pre-trial of the four accused.<sup>74</sup> Also, the parties were directed to submit their pre-trial brief and to appear before the Division Clerk of Court to enter into joint stipulations of fact and to premark their respective documentary exhibits.<sup>75</sup>

On February 12, 2018, the Prosecution seasonably filed its *Pre-Trial Brief*.<sup>76</sup> Meanwhile, accused Martinez filed a *Petition for Certiorari (with Prayer for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction)*<sup>77</sup> before the Supreme Court. Accused Martinez III (petitioner) alleged that “[p]ublic respondent<sup>78</sup> committed grave abuse of discretion amounting to lack or excess of jurisdiction in denying the motion to dismiss filed by the petitioner, considering [that] his constitutional right to speedy disposition of cases was violated due to the inordinate delay in the prosecution of his case.”<sup>79</sup> The pendency of said petition prompted accused Martinez III to move for the resetting of the date for pre-marking, arraignment and pre-trial, and for the deferment of the submission of his pre-trial brief.<sup>80</sup>

On February 22, 2018, the Court denied the *Motion to Reset Arraignment* filed by accused Martinez III. Inasmuch as he, together with counsel *de parte*, and co-accused Verdida were present during said hearing, the Court proceeded with their arraignment. Accused Martinez and Verdida, with the assistance of counsel *de officio*,<sup>81</sup> pleaded “**NOT GUILTY**” to the charges against them.<sup>82</sup>

On March 5, 2018, accused Ursonal, Jr. filed his *Pre-Trial Brief*,<sup>83</sup> including his judicial affidavit.<sup>84</sup> Later, accused Minguez filed his.<sup>85</sup>

<sup>74</sup> Order dated January 29, 2018, p. 1 (Records, Vol. 2, p. 226).

<sup>75</sup> *Ibid.*

<sup>76</sup> Pre-Trial Brief dated February 12, 2018, of the Prosecution (Office of the Special Prosecutor), pp. 1 - 13 (Records, Vol. 2, pp. 244 - 256).

<sup>77</sup> Dated February 2, 2018, pp. 1 - 19 (Records, Vol. 2, pp. 259 - 277).

<sup>78</sup> Sandiganbayan, Special Sixth Division.

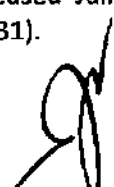
<sup>79</sup> *Supra*, Note 56, p. 7 (Records, Vol. 2, p. 265).

<sup>80</sup> Urgent Motion to Reset (Re: 22 February 2018 Pre-Marking, Arraignment and Pre-Trial) dated February 19, 2018, of Accused C. A. Martinez III, pp. 1 - 3 (Records, Vol. 2, pp. 384 - 386).

<sup>81</sup> Atty. Renato Abastillas of the Public Attorneys' Office.

<sup>82</sup> Order dated February 22, 2018, pp. 1 - 2 (Records, Vol. 2, pp. 413 - 414).

<sup>83</sup> Pre-Trial Brief (for the Accused Julio S. Ursonal, Jr.) dated February 12, 2018, pp. 1 - 7 (Records, Vol. 2, pp. 425 - 431).



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On April 4, 2018, the pre-trial was terminated in so far as accused Martinez III and Minguez were concerned.<sup>86</sup>

On July 10, 2018, the pre-trial with respect to accused Ursonal, was held and terminated.<sup>87</sup> Immediately thereafter, trial of the three (3) accused got underway.<sup>88</sup>

On August 14, 2018, accused Verdida filed his *Pre-Trial Brief*,<sup>89</sup> and his counsel formally entered her appearance.<sup>90</sup> On August 28, 2018, the pre-trial *vis a vis* said accused transpired.<sup>91</sup>

In due course, the Court issued a Pre-trial Order<sup>92</sup> outlining the facts stipulated upon by the parties and the issues to be threshed out during the trial.

Eventually, trial of the four (4) accused was heard jointly. The Prosecution pushed forward and built up its case against the accused. The long-drawn-out case moved on steadily despite several postponements.<sup>93</sup>

On October 8, 2018, the Prosecution concluded the presentation of its evidence.<sup>94</sup> Thence, the Court directed the Prosecution to file its formal offer of evidence, and for defense counsel to file their comment/opposition thereto.<sup>95</sup> The Prosecution complied therewith.<sup>96</sup> After due consideration of the comments filed

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<sup>84</sup> Judicial Affidavit dated February 12, 2018, of Julio S. Ursonal, Jr., pp. 1 - 14 (Records, Vol. 2, pp. 474 - 486).

<sup>85</sup> Pre-Trial Brief dated March 28, 2018, pp. 1 - 3 (Records, Vol. 3, pp. 12 - 14).

<sup>86</sup> Order dated April 4, 2018, pp. 1 - 3 (Records, Vol. 3, pp. 17 - 19).

<sup>87</sup> TSN, July 10, 2018, pp. 3 - 6.

<sup>88</sup> *Id.* at pp. 7 - 29.

<sup>89</sup> Dated August 13, 2018, pp. 1 - 5 (Records, Vol. 4, pp. 38 - 42).

<sup>90</sup> Formal Entry of Appearance dated August 13, 2018, of Atty. Jocelyn B. Buclig, pp. 1 - 2 (Records, Vol. 4, pp. 45 - 46).

<sup>91</sup> TSN, August 28, 2018, pp. 4 - 6.

<sup>92</sup> Dated July 10, 2018, pp. 1 - 16 (Records, Vol. 4, pp. 20 - 35).

<sup>93</sup> Urgent Motion for Postponement dated August 24, 2018, filed by J. S. Ursonal, Jr., pp. 1 - 2, (Records, Vol. 4, pp. 69 - 70) ; *Ex Parte* Motion to Cancel Hearing (Set on September 24 - 26, 2018) dated September 17, 2018, filed by the Office of the Special Prosecutor, which the Court granted (Order dated September 24, 2018 [Records, Vol. 4, p. 143-A]).

<sup>94</sup> Order dated October 8, 2018, p. 1 (Records, Vol. 4, p. 156 -A).

<sup>95</sup> *Ibid.*

<sup>96</sup> Prosecution's Formal Offer of Documentary Evidence dated March 1, 2012, pp. 1 - 35 (Records, Vol. 4, pp. 190 - 224).

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by accused Martínez III,<sup>97</sup> Verdida,<sup>98</sup> Minguez<sup>99</sup> and Ursonal,<sup>100</sup> the Court resolved as follows:

- To **ADMIT** the following the (sic) exhibits offered by the Prosecution, to wit: *Exhibits "D", "D-1", "D-2", "D-2-A", "D-3", "D-4-a", "D-5" to "D-8", "D-9" to "D-16", "D-9-a", "D-10-a", "D-11-a", "D-12-a", "D-13-a", "D-14-a", "D-15-a", "D-16-a" "AAA" to "AAA-1", "AAA-1-A", "AAA-1-B", "AAA-2" to "AAA-4", and "AAA-5",* over the objection of accused Martínez III, Minguez, Verdida, and Ursonal, Jr., to the purposes for which they are offered, considering that the objection of the said accused refer more to the probative value than their admissibility;
- To **ADMIT** the following exhibits offered by the Prosecution, to wit: *Exhibits "D-17", "D-17-A", "E", "E-1", "F", "F-1-A", "J", "K", "L", "N", "P", "P-1", "P-2", "P-3", "P-4", "Q", "R", "R-1", "S", "S-1", "S-2", "V" to "V-3", "W" to "W-3", "X" to "X-2", "Y" to "Y-4", "Z" to "Z-5", "Z-6", "AA" to "AA-2", "AA-1-a", "BB" to "BB-5", "BB-6", "CC" to "CC-2", "CC-1-a", "DD" to "DD-65", "DD-104", "DD-104-B", "DD-105" to "DD-124", "DD-125", "DD-126" to "DD-140", "DD-141", "EE", "EE-1", "EE-3", "EE-1-a", "FF", "FF-1", "FF-2", "GG" to "GG-2", "GG-2-a", "GG-2-b", "HH", "HH-A", "HH-B", "HH-1" to "HH-9", "HH-10", "II" to "II-2", "II-1-a", "JJ" to "JJ-1", "JJ-2", "KK" to "KK-2", "KK-1-a", "LL" to "LL-4", "LL-5", "MM" to "MM-2", "MM-1-a", "NN" to "NN-3", "VV", "VV-1", "VV-2", "VV-2-a", "VV-2-b", and "VV-3;* there being no comment or objection by accused Minguez, and over the objection of accused Martínez III, Verdida, and Ursonal, Jr., to the purposes for which they are offered, considering that the objection of the said accused refer more to the probative value than their admissibility;
- To **ADMIT** the following exhibits offered by the Prosecution, to wit: *Exhibits "H", "M", "O", "T-1" to "T-3", and "U-1",* there being no objection or comment

<sup>97</sup> Comment (Re: Prosecution's Formal Offer of Documentary Exhibits dated 25 October 2018), of C. A. Martínez III, pp. 1 - 7 (Records, Vol. 5, pp. 147 - 153).

<sup>98</sup> Comment / Objection to the Prosecution's Formal Offer of Documentary Evidence dated November 15, 2018, of C. P. Verdida, pp. 1 - 45 (Records, Vol. 5, pp. 160 - 204).

<sup>99</sup> Comment / Objections (to the Formal Offer of Prosecution's Evidence) dated November 14, 2018, of R. E. Minguez, pp. 1 - 2 (Records, Vol. 5, pp. 211 - 212).

<sup>100</sup> Comment (on the Prosecution's Formal Offer of Exhibits) dated November 15, 2018, of J. Ursonal, Jr., pp. 1 - 19 (Records, Vol. 5, pp. 214 - 232)

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thereto by accused Martínez III and Minguéz, and over the objection of accused Verdida, and Ursonal, Jr., to the purposes for which they are offered, considering that the objection of said accused refer more to the probative value than their admissibility;

- To **ADMIT** the following exhibit offered by the Prosecution, to wit: **Exhibit "U"**, there being no objection or comment thereto filed by accused Martínez III, and over the objection of accused Minguéz, Verdida, and Ursonal, Jr., to the purpose for which it is are (sic) offered, considering that the objection of the said accused refer more to the probative value than its admissibility; and
- To **ADMIT** the following exhibits offered by the Prosecution, to wit: **Exhibits "DD-67" to "DD-103"**, there being no objection or comment thereto filed by accused Minguéz and Verdida, and over the objection of accused Martínez III and Ursonal, Jr., to the purposes for which they are offered, considering that the objection of the said accused refer more to the probative value than their admissibility."<sup>101</sup>

With the admission of its documentary exhibits and testimonies of the witnesses who testified thereon, the Prosecution rested.

Pending incidents,<sup>102</sup> including requests to travel abroad<sup>103</sup> from the accused and motions for postponement,<sup>104</sup> stalled hearings for the presentation of evidence for the Defense.

In the interim, accused Martínez III, Minguéz, Verdida and Ursonal filed their respective *Motion for Leave to File Demurrer to Evidence*.<sup>105</sup> Contrariwise, the Prosecution, in its *Consolidated*

<sup>101</sup> Resolution dated December 14, 2018, pp. 1 – 2 (Records, Vol. 5, p. 285-A - 285-B).

<sup>102</sup> Order dated December 4, 2018, p. 1 (Records, Vol. 5, p. 252).

<sup>103</sup> Order dated November 9, 2018, pp. 1 – 2 (Records, Vol. 5, pp. 117-A – 117-B), granting the *Urgent Motion for Leave to Travel Abroad* (Records, Vol. 5, pp. 103 – 107 ) dated November 6, 2018, of C. Al. Martínez III; Resolution dated November 12, 2018, pp. 1 – 2 (Records, Vol. 5, pp. 118 – 119), granting the *Motion to Allow Travel Abroad* (Records, Vol. 4, pp. 158 – 161) dated October 8, 2018, of J. S. Ursonal, Jr..

<sup>104</sup> Urgent Motion for Postponement dated of J. S. Ursonal, Jr., pp. 1 – 4 (Records, Vol. 6, pp. 66 – 69).

<sup>105</sup> Motion for Leave to File Demurrer to Evidence dated February 14, 2019, of R. E. Minguéz, pp. 1 – 3 (Records, Vol. 5, pp. 346 – 348); Motion for Leave to File Demurrer to Evidence dated February 18, 2019, of C. A. Martínez III, pp. 1 – 8 (Records, Vol. 5, pp. 349 – 356); Motion for Leave of Court to File Demurrer to Evidence dated February 20, 2019, of C. P. Verdida, pp. 1 – 3 (Records, Vol. 5, pp. 371 – 373); Motion for Leave to File Demurrer to

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*Comment/ Opposition*,<sup>106</sup> argued that it was able to discharge its duty to prove the existence of all the elements for violation of Sections 3(e) and 3(g) of R. A. No. 3019, as amended. After evaluating their arguments, the Court denied the motions of the accused.<sup>107</sup> A *Motion for Reconsideration by Accused Julio Ursonal*<sup>108</sup> was filed seasonably but to no avail.<sup>109</sup>

On May 22, 2019, the Court issued the following Resolution, to wit:

“Pursuant to Rule VIII, Sec. 4 of the *2018 Revised Internal Rules of the Sandiganbayan*, the following accused are directed to ***SHOW CAUSE*** within a non-extendible period of ten (10) days from receipt hereof why they should not be suspended *pendente lite* in accordance with Section 13 of Republic Act No. 3019:

Accused	Position per Information[s] both dated May 6, 2015
1. Celestino A. Martinez III	Municipal Mayor
2. Crescencio P. Verdida	Municipal Accountant
3. Rhett E. Minguez	Municipal Treasurer
4. Julio S. Ursonal, Jr.	Municipal Assistant Treasurer

Conformably with the law and the applicable rules, the Court ordered the preventive suspension of accused Verdida for a period of ninety (90) days.<sup>110</sup> Similar orders to that effect befell accused Martinez III<sup>111</sup> and accused Ursonal.<sup>112</sup>

Evidence dated February 20, 2019, of J. S. Ursonal, Jr., pp. 1 - 3 (Records, Vol. 5, pp. 403 - 406).

<sup>106</sup> Consolidated *Comment/ Opposition* (To Accused Celestino A. Martinez’ *Motion for Leave of Court to File Demurrer to Evidence and To Accused Rhett E. Minguez’ Motion for Leave of Court to File Demurrer to Evidence*) dated February 26, 2019, pp. 1 - 10 (Records, Vol. 5, pp. 380 - 389); *Comment/ Opposition* (To Accused Crescencio P. Verdida’s *Motion for Leave of Court to File Demurrer to Evidence*) dated March 4, 2019, pp. 1 - 5 (Records, Vol. 5, pp. 395 - 399).

<sup>107</sup> Resolution dated March 29, 2019, pp. 1 - 3 (Records, Vol. 5, p. 469 - 471).

<sup>108</sup> Dated April 15, 2019, pp. 1 - 9 (Records, Vol. 6, pp. 26 - 34).

<sup>109</sup> Resolution dated July 3, 2019, pp. 1 - 3 (Records, Vol. 6, pp 74 - 76).

<sup>110</sup> Resolution dated July 23, 2019, pp. 1 - 4 (Records, Vol. 6, pp. 123 - 126). Accused Verdida filed a *Motion for Reconsideration* dated August 15, 2019 (Records, Vol. 6, pp. 220 - 224), but the Court thru a Resolution dated October 1, 2019, denied it (Records, Vol. 6, pp. 463 - 465).

<sup>111</sup> Resolution dated August 13, 2019, pp. 1 - 6 (Records, Vol. 6, pp. 207 - 212).

<sup>112</sup> Resolution dated September 3, 2019, pp. 1 - 6 (Records, Vol. 6, pp. 228 - 233).

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On August 7, 2019, the Defense began to present their witnesses and adduce evidence.<sup>113</sup>

After accused Ursonal completed his testimony on March 3, 2020, the Defense rested.<sup>114</sup> Accordingly, the Court ordered the accused to formally offer their respective documentary evidence. Also, the Prosecution was directed to file its consolidated comment/opposition thereto.<sup>115</sup> In compliance with the Court's Order, accused Ursonal,<sup>116</sup> Minguez,<sup>117</sup> Verdida,<sup>118</sup> and Martinez III<sup>119</sup> filed their *Comment*.<sup>120</sup>

On November 27, 2020, the Court issued a Resolution<sup>121</sup> wherein the Court appraised the evidence in the following manner:

"x x x

- To **ADMIT** the following exhibits offered by accused **VERDIDA**, to wit:
  - **Exhibits "1", "1-A", "4", and "5"**, the existence of which are admitted by the Prosecution and over its objection to the purposes for which they are offered, considering that the objections refer more to the probative value than their admissibility;
  - **Exhibit "2"**, the existence, authenticity and due execution of which are admitted by the Prosecution and over its objection to the purposes for which it is

<sup>113</sup> Order dated August 7, 2019, p. 1 (Records, Vol. 6, p. 172-A).

<sup>114</sup> Order dated March 3, 2020, p. 1 (Records, Vol. 7, pp. 210-A).

<sup>115</sup> *Ibid.*

<sup>116</sup> Formal Offer of Exhibits For Accused Julio S. Ursonal, Jr. dated March 10, 2020, pp. 1 - 11 (Records, Vol. 7, pp. 256 - 266).

<sup>117</sup> Formal Offer of Evidence (Accused RHETT E. Minguez) dated March 13, 2020, pp. 1 - 5 (Records, Vol. 7, pp. 328 - 334).

<sup>118</sup> Formal Offer of Evidence dated June 8, 2020, of C. P. Verdida, pp. 1 - 6 (Records, Vol. 7, pp. 216 - 221).

<sup>119</sup> Formal Offer of Evidence dated June 29, 2020, of C. A. Martinez III, pp. 1 - 6 (Records, Vol. 7, pp. 362 - 367).

<sup>120</sup> Consolidated Comment (To Accused Celestino A. Martinez' III Formal Offer of Evidence; To Accused Rhett E. Minguez' Formal Offer of Evidence; To Accused Crescencio P. Verdida's Formal Offer of Exhibits; To Accused Julio S. Ursonal's Formal Offer of Evidence) dated July 16, 2020, pp. 1 - 9 (Records, Vol. 7, pp. 391 - 399).

<sup>121</sup> Resolution dated November 17, 2020, pp. 1 - 3 (Records, Vol. 7, pp. 418-B - 418-D).



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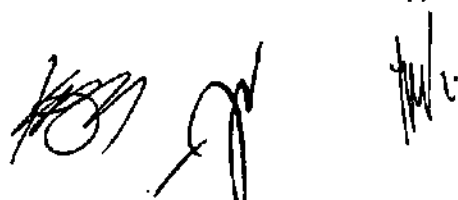
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offered, considering that the objection refer[s] more to the probative value than its admissibility;

- **Exhibit "3"**, the existence, authenticity, content, due execution and the purposes for which it is offered having been admitted by the Prosecution;
- To **ADMIT** the following exhibits offered by accused **URSONAL, JR.**, to wit:
  - **Exhibits "1", "6", and "7"**, the existence, authenticity, content and due execution of which are admitted by the Prosecution and over its objection to the purposes for which they are offered, considering that the objection refer[s] more to the probative value than their admissibility;
  - **Exhibit "4"**, the existence and due execution of which are admitted by the Prosecution and over its objection to the purposes for which they are offered, considering that the objection refer[s] more to the probative value than their admissibility;
  - **Exhibits "2", "3", "8", "9", "10", "11" and "13"**, the existence, authenticity, content and due execution of which are admitted by the Prosecution and over its objection to the purposes for which they are offered, considering that the objection refer[s] more to the probative value than their admissibility;
  - **Exhibits "5" and "14"**, the existence, authenticity, content, due execution and the purposes for which they are offered having been admitted by the Prosecution;
  - **Exhibit "12"**, there being no comment/objection thereto by the Prosecution;
- To **ADMIT** the following exhibits offered by accused **MINGUEZ**, to wit:
  - **Exhibits "1", "2" and series, "3" and series, "4" and series, and "9" and series**, the existence, authenticity, content and due execution of which are admitted by the Prosecution and over its objection to the purposes for which they are offered, considering that the objections refer more to the probative value than their admissibility;



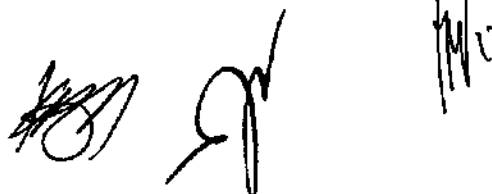
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- **Exhibits "5" and series,** the existence, authenticity, content, due execution and the purposes for which they are offered having been admitted by the Prosecution;
  
  - **Exhibit "6",** there being no comment/objection thereto by the Prosecution;
  
  - **Exhibits "7", "7-A" and series, "8", and "8-A" and series,** the existence of which are admitted by the Prosecution, and over its objection to the purposes for which they are offered, considering that the objections refer more to the probative value than their admissibility;
- To **ADMIT** the following exhibits offered by accused **MARTINEZ III,** to wit:
    - **Exhibits "1" and "2",** the existence, authenticity, content and due execution of which are admitted by the Prosecution and over its objection to the purposes for which they are offered, considering that the objection refer[s] more to the probative value than their admissibility;
  
    - **Exhibit "3",** the existence of which is admitted by the Prosecution and over its objection to the purposes for which it is offered, considering that the objection refer[s] more to the probative value than their admissibility;
  
    - **Exhibits "4", "5" and "5-A",** the existence, authenticity, content and due execution and the purposes for which they are offered having been admitted by the Prosecution;
  
    - **Exhibits "6", "6-A", "7" and "7-A",** over the objection of the Prosecution to the purposes for which they are offered, considering that the objection refer[s] more to the probative value than their admissibility; and
  
  - To **NOTE** the **Manifestation** filed by accused Ursonal, Jr. that he has no comment to the **Formal Offer of Evidence** of accused Martinez III, Minguez, and Verdida and that he does not object to the admission of their evidence.





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"X X X." <sup>122</sup> (Emphasis and Capitalization Supplied.)

By virtue of the Court's admission of the evidence for the four (4) accused, they (except accused Ursal) are deemed to have rested their case.

On February 10, 2021, the Prosecution filed a *Motion for Partial Videoconferencing*<sup>123</sup> for the purpose of presenting its rebuttal witness. Suffice it to say that the COVID-19 pandemic, including quarantine restrictions, necessitated the conduct of off-court hearings. The Court granted said motion.<sup>124</sup>

On February 15, 2021, the Prosecution's lone rebuttal witness, Jeremias A. Bentulan, testified *via* videoconferencing from the COA, Region VII Office, Cebu City.<sup>125</sup> Afterwards, the Prosecution manifested that it would forego the filing of any formal offer of evidence on rebuttal evidence.<sup>126</sup> Then and there, the Court set hearings for the presentation of the Defense's sur-rebuttal evidence.<sup>127</sup> However, accused Minguéz,<sup>128</sup> Martínez III,<sup>129</sup> Verdida<sup>130</sup> and Ursonal<sup>131</sup> filed *via* electronic mail, their respective *Manifestation* that they would no longer present any sur-rebuttal evidence. Thence, the Court ordered both parties to file their respective memoranda within thirty (30) days from notice. Thereafter, these cases shall be submitted for decision.<sup>132</sup>

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<sup>122</sup> *Ibid.*

<sup>123</sup> Dated February 8, 2021, pp. 1 – 5 (Records, Vol. 7, pp. 476 – 480).

<sup>124</sup> Records, Vol. 7, p. 482-B. Accused Ursonal, Jr., in his Comment dated February 15, 2021, stated that he "*joins the prosecutor in his motion for partial videoconferencing in the interest of health and safety for the Court, the counsels and parties.*" (Records, Vol. 7, pp. 485 – 486).

<sup>125</sup> Order dated February 15, 2021, p. 1 (Records, Vol. 7, pp. 482-A).

<sup>126</sup> Manifested during the hearing on February 15, 2021 (Records, Vol. 7, pp. 482-A, 503-A).

<sup>127</sup> TSN, February 15, 2021, pp. 37, 39.

<sup>128</sup> Manifestation with Motion to Cancel Hearing dated February 17, 2021, of R. E. Minguéz, pp. 1 - 2 (Records, Vol. 7, pp. 483 – 484);

<sup>129</sup> Manifestation (Re: Presentation of Sur-rebuttal Evidence on 4 and 12 March 2021) dated March 2, 2021, of C. A. Martínez III, pp. 1 – 3 (Records, Vol. 7, pp. 495 – 497).

<sup>130</sup> Manifestation dated March 4, 2021, of C. P. Verdida, pp. 1 – 2 (Records, Vol. 7, pp. 499 – 500).

<sup>131</sup> Manifestation dated March 4, 2021, of J. S. Ursonal, Jr., pp. 1 – 2 (Records, Vol. 7, pp. 502 – 503).

<sup>132</sup> Resolution dated March 4, 2021, p. 1 (Records, Vol. 7, pp. 503-A).

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On April 8, 2021, accused Ursonal filed via e-mail his *Memorandum*.<sup>133</sup> For their part, his co-accused filed nothing at the appointed time.

## THE FACTUAL MILIEU

The chronology of events, as culled from the records, is portrayed below, viz:

In line with the *Ginintuang Agrikulturang Makamasa*<sup>134</sup> (GAM) program in Region VII, the Department of Agriculture (DA), Regional Field Unit VII (DA-RFU7) received twenty million pesos<sup>135</sup> (P20,000,000.00) from the Priority Development Assistance Fund (PDAF) of Rep. Clavel Asas Martinez.<sup>136</sup> This program sought to address five (5) major concerns under the Agriculture and Fisheries Modernization Act (AFMA) of 1997,<sup>137</sup> to wit: (1) food security; (2) poverty alleviation and social equity; (3) income enhancement and profitability, especially for farmers and fisherfolk; (4) global competitiveness; and (5) sustainability.<sup>138</sup>

On 2006, the Municipal Government of Bogo (LGU-BOGO), thru its local chief executive, accused Celestino Asas Martinez III, offered financial assistance to the Bogo Municipal Employees Multi-Purpose Cooperative (BMEMPC) with the end in view of providing loans for its *bona fide* members.<sup>139</sup>

<sup>133</sup> Memorandum for Accused Julio Ursonal, Jr. dated April 6, 2021, pp. 1 – 19 (Records, Vol. 7, pp. 514 – 532).

<sup>134</sup> The word MAKAMASA is the acronym for the Filipino name of the program that translates into “New and Abundant Harvest”. The acronym itself translates into “pro-masses” to reflect the current leadership’s pro-poor stance – posted in [www.fao.org/3/X6943E/x6943e0a.htm](http://www.fao.org/3/X6943E/x6943e0a.htm)

<sup>135</sup> Under ASA No. 101-2007-300 dated March 13, 2007.

<sup>136</sup> TSN, August 28, 2019, p. 11; Judicial Affidavit dated May 31, 2018, of Lita C. Lamparas, pp. 4 – 5 (Records, Vol. 3, pp. 120 – 121).

<sup>137</sup> Republic Act No. 8435, AN ACT PRESCRIBING URGENT RELATED MEASURES TO MODERNIZE THE AGRICULTURE AND FISHERIES SECTORS OF THE COUNTRY IN ORDER TO ENHANCE THEIR PROFITABILITY, AND PREPARE SAID SECTORS FOR THE CHALLENGES OF THE GLOBALIZATION THROUGH AN ADEQUATE, FOCUSED AND RATIONAL DELIVERY OF NECESSARY SUPPORT SERVICES, APPROPRIATING FUNDS THEREFOR AND FOR OTHER PURPOSES, was approved by the Tenth Congress of the Philippines on December 22, 1997.

<sup>138</sup> Section 13 of R.A. No. 8435; EXHIBIT “2-A” for Martinez III.

<sup>139</sup> Judicial Affidavit dated February 13, 2018, of J. S. Ursonal, Jr., p. 4 (Records, Vol. 2, p. 476); Records, Vol. 1, p. 350.

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On **January 26, 2007**, BMEMPC passed Resolution No. 01-2007, thereby authorizing Julio S. Ursonal, President/Chairperson of the Board of Directors of said Cooperative, to enter into a Memorandum of Agreement (MOA) with LGU-BOGO for the financial assistance amounting to Twenty Million Pesos (P20,000,000.00).<sup>140</sup>

On **February 12, 2007**,<sup>141</sup> a MOA<sup>142</sup> was forged between the LGU-BOGO and BMEMPC.<sup>143</sup> The signatories thereto were Mayor Martinez III and Julio S. Ursonal, Jr., then Assistant Treasurer<sup>144</sup> of Bogo, and President and Chairperson of the BMEMPC.<sup>145</sup>

In a 1<sup>st</sup> Indorsement<sup>146</sup> dated **March 12, 2007**, Rep. Clavel Asas Martinez III, 4<sup>th</sup> Congressional District, Cebu, requested D. Eduardo B. Lecciones, Jr., Executive Director, DA-RFU7, to transfer the amount of twenty million pesos (P20,000,000.00) that was allocated for the GAM in Region VII to LGU-BOGO.

On **March 21, 2007**, the MOA dated February 12, 2007, between LGU-BOGO and BMEMPC was notarized. Pursuant to said contract, LGU-BOGO effectively transferred the P20,000,000.00<sup>147</sup> it had received from DA-RFU7 to BMEMPC as *“financial assistance . . . for the purpose of extending sources of funds to all members who intend to establish livelihood projects or expand such projects.”*<sup>148</sup> Notably, the MOA explicitly mandated that the funds should be *“strictly utilized within (sic) its members only.”*<sup>149</sup>

On **March 23, 2007**, the Sangguniang Bayan of Bogo passed Resolution No. 013-2007 entitled *“Resolution Authorizing*

<sup>140</sup> Records, Vol. 1, pp. 350, 416.

<sup>141</sup> Counter-Affidavit dated March 26, 2010, of Julio S. Ursonal, Jr., p. 1 (Records, Vol. 1, p. 52).

<sup>142</sup> EXHIBITS “H”, “1” for Ursonal, “4” for Martinez III, “4” for Miguez.

<sup>143</sup> BMEMPC was formed on August 1, 2001; EXHIBITS “VV-1” to “VV-3”.

<sup>144</sup>The Informations alleged that accused Ursonal was the Assistant Treasurer of the Municipality of Bogo when the MOA between said LGU and BMEMPC was perfected on February 12, 2007. Contrariwise, accused Ursonal alleged that at that time, he was Bogo’s Market Administrator, and it was only on June 22, 2007 that he was appointed Assistant Treasurer thereat (Amended Judicial Affidavit dated Feb. 16, 2020, of J. S. Ursonal, Jr., pp. 10 – 11 (Records, Vol. 7, pp. 149 – 150).

<sup>145</sup> TSN, September 25, 2019, pp. 24 – 25.

<sup>146</sup> EXHIBIT “I”.

<sup>147</sup> Check No. 327541 dated April 27, 2007 in the amount of 20 Million pesos was encashed from the bank on April 27, 2007 (EXHIBIT “D-6”

<sup>148</sup> 3<sup>rd</sup> Whereas Clause, #1 of EXHIBIT “H”.

<sup>149</sup> 3<sup>rd</sup> Whereas Clause, #2 of EXHIBIT “H”.

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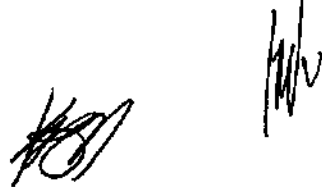
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the Mayor to Enter into [a] Memorandum of Agreement Governing Agriculture Related Projects with the Department of Agriculture through the Office of DA-7 Regional Director Eduardo B. Lecciones, Jr.”<sup>150</sup> On even date,<sup>151</sup> the Memorandum of Agreement<sup>152</sup> (MOA) to that effect was notarized.<sup>153</sup> In turn, said monies (P20,000,000.00) were transferred to LGU-BOGO purportedly for “agriculture related projects”<sup>154</sup> in line with the AFMA.<sup>155</sup>

On April 26, 2007, the Sangguniang Bayan of LGU-BOGO passed Resolution No. 025-2007,<sup>156</sup> thereby ratifying the MOA between the LGU-BOGO and BMEMPC.<sup>157</sup>

On April 27, 2007, Check No. 0000327541<sup>158</sup> was encashed.<sup>159</sup> Thenceforth, the funds (P20,000,000.00) which LGU-BOGO received from DA-RFU7, were transferred to BMEMPC.<sup>160</sup>

BMEMPC disbursed the Twenty Million Pesos to one hundred seventy-nine (179) members.<sup>161</sup> P10,300,000.00 was released as salary loans to local officials and employees,<sup>162</sup> one of whom was accused Verdida.<sup>163</sup> The balance (P9,700,000.00) was granted as loans for livelihood projects to the following borrowers:<sup>164</sup>



<sup>150</sup> EXHIBIT “E”; TSN, September 25, 2019, pp. 9, 12.

<sup>151</sup> The MOA between DA-RFU7 and Bogo was undated; yet, it was notarized on March 23, 2007.

<sup>152</sup> EXHIBITS “F”, “2” for Martinez III, “2” for Minguez.

<sup>153</sup> EXHIBIT “F-1-A”.

<sup>154</sup> EXHIBIT “E-1”.

<sup>155</sup> EXHIBITS “J”, “K”, “L”, “M”, “N”, “O”.

<sup>156</sup> Resolution Ratifying and Confirming the Contract Entered into by and between the Municipality of Bogo and Bogo Municipal Employees Multi-Purpose Cooperative for Purposes of Forging Partnership for Effective Implementation of Livelihood Program (EXHIBIT “3” for Martinez III and Minguez; EXHIBIT “4” for Verdida; EXHIBIT “5” for Ursonal).

<sup>157</sup> TSN, September 17, 2019, pp. 22, 31 – 32; TSN, September 25, 2019, p. 22.

<sup>158</sup> EXHIBIT “S”.

<sup>159</sup> EXHIBIT “D-6”; The Twenty Million Pesos (P20,000,000.00) came from Trust Fund Account No. 093C-0430-100088), EXHIBITS “T”, “T-1”, “T-2”, “T-3”.

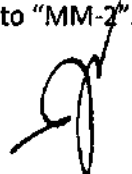
<sup>160</sup> EXHIBITS “J”, “K”, “L”, “P” and series; “S”, “S-1”, “S-2”.

<sup>161</sup> EXHIBITS “Z” to “Z-5”, “Z-6”, “BB” to “BB-5”, “BB-6”, “DD” to “DD-65”, “DD-67” to “DD-103”, “DD-105” to “DD-141”, “HH-1” to “HH-10”, “JJ” to “JJ-2”, “LL” to “LL-5”, “NN” to “NN-3”.

<sup>162</sup> EXHIBITS “D-9” to “D-16”; “D-9-a” to “D-16-a”; Judicial Affidavit dated May 31, 2018, of L. C. Lamparas, p. 21 (Records, Vol. 3, p. 137).

<sup>163</sup> EXHIBITS “1”, “1-A” for Verdida; TSN, September 25, 2019, p. 38; TSN, November 5, 2019, pp. 9 – 10, 28.

<sup>164</sup> EXHIBITS “AA” to “AA-2”, “CC” to “CC-2”; “EE”, “EE-1” to “EE-3”, “GG” to “GG-2”, “II” to “II-2”, “KK” to “KK-2”, “MM” to “MM-2”.



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BORROWER	AMOUNT OF LOAN	PROJECT
Celestino A. Martinez III	₱ 5,500,000.00	Fish and prawn pond
Ronnie Tolingin	500,000.00	Junk shop
Adelle Bendijo	450,000.00	Sari-sari store
Rhett E. Minguez	1,000,000.00	Mango farm
Josephus Montesclaros	400,000.00	Sari-sari store
Samson M. Lepiten	400,000.00	Micro-lending
Shiela F. Orcullo	500,000.00	Soy sauce manufacturing
Julio S. Ursonal, Jr.	500,000.00	Tricycle units for hire and hog raising
Cesar T. Ylanan	450,000.00	Livestock business

The applications for the aforesaid loans were approved by accused Ursonal,<sup>165</sup> president and chairperson of the BMEMPC. In turn, the Cooperative's Board of Directors, upon the recommendation of the Credit Committee,<sup>166</sup> approved the release of the monies therefor.<sup>167</sup>

**ISSUES**

The issues, as succinctly stated in the Court's Pre-Trial Order,<sup>168</sup> are as follows:

**"A. For the Prosecution**

Whether or not the contract between the City of Bogo, Cebu and Bogo Municipal Employees Multi-Purpose Cooperative (BMEMPC) is grossly and manifestly disadvantageous to the government;

Whether or not accused public officers acted with manifest partiality, evident bad faith or gross inexcusable negligence in its contract with BMEMPC;

Whether the subject contract caused undue injury to the government or gave unwarranted benefits to BMEMPC members; and

<sup>165</sup>EXHIBITS "AA-1-a", "BB" to "BB-5", "BB-6", "CC-1-a", "DD-104-B", "EE-1-a", "FF-2", "GG-2-b", "HH-B", "II-1-a", "KK-1-a", "MM-1-a".

<sup>166</sup> TSN, October 7, 2019, p. 13; TSN, November 5, 2019, p. 6.

<sup>167</sup> TSN, March 2, 2020, pp. 41 – 42; TSN, March 3, 2020, pp. 7 – 10, 31 – 32, 38 – 40.

<sup>168</sup> Pre-trial Order dated July 10, 2018, pp. 1- 15 (Records, Vol. 4, pp. 20 - 35).

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Whether Sections 3(f) (sic) and (g) of Republic Act No. 3019 were violated in entering into a contract with BMEMPC.

**"B. For accused Martinez [III]**

Whether or not the instant case against accused Martinez should be dismissed and/or accused Martinez be acquitted of the charges for violation of Section 3(e) and 3(g) of Republic Act No. 3019.

**"C. For accused Minguez**

Whether or not accused Rhett E. Minguez is guilty of the offense charged in the Information.

**"D. For accused Ursonal, Jr.**

Whether or not accused Ursonal[, Jr.] is innocent of the crime of graft and corruption as defined under Section[s] 3(e) and [3](g) of R.A. 3019."<sup>169</sup>

Further, the Court, in its Supplemental Pre-Trial Order,<sup>170</sup> succinctly stated the issues *vis a vis* accused Verdida in this wise:

**"A. For the Prosecution**

As to accused Verdida, the prosecution adopts the issues stated in the Pre-Trial Order.

**B. For accused Verdida**

Whether or not accused Crescencio Verdida is guilty of the offense charged in the Information."<sup>171</sup>

**ADMISSIONS AND STIPULATION OF FACTS**

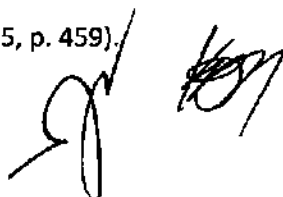
The Prosecution and counsel for accused **Martinez III** and **Minguez** stipulated on the following, *viz*:



<sup>169</sup> Id. at pp. 1 – 2 (Records, Vol. 4, pp. 21 - 22).

<sup>170</sup> Supplemental Pre-Trial Order dated September 11, 2018, pp. 1 – 6 (Records, Vol. 5, pp. 457 – 461).

<sup>171</sup> Id. at p. 3 (Records, Vol. 5, p. 459).



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**"FOR SB-15-CRM-0284 & 0285**

1. The authenticity, existence and due execution of [the] Memorandum of Agreement between the City of Bogo and [the] Department of Agriculture, Regional Field Unit VII marked as Exhibit "F" wherein the amount of Twenty Million Pesos (Php20,000,000.00) was transferred to the City of Bogo to address five major concerns: food security, poverty alleviation and social equity, income enhancement and profitability of farmers, global competitiveness and sustainability;
2. The authenticity, due execution and existence of [the] Memorandum of Agreement between the City of Bogo, Cebu and Bogo Municipal Employees Multi-Purpose Cooperative (BMEMPC) marked as Exhibit "H" with the qualification that it was covered by Sangguniang Panglungsod Resolution No. 025-2007; and
3. Mayor Celestino Martinez III, on behalf of the City of Bogo, signed the Memorandum of Agreement with the BMEMPC.

**"FOR SB-15-CRM-0284**

1. The identities of accused Celestino [A.] Martinez III, Crescencio P. Verdida, Rhett E. Minguez, Mary Lou B. Ursal and Julio S. Ursonal, Jr. and that whenever referred to orally or in writing by the Court and the Prosecution, the accused admit that they are the same persons being referred to in this case; and
2. At the time material to the instant case as alleged in the Information, the accused were public officers holding the following positions in the Municipality of Bogo, Cebu:

Celestino A. Martinez III	Municipal Mayor
Crescencio P. Verdida	Municipal Accountant
Rhett E. Minguez	Municipal Treasurer
Mary Lou B. Ursal	Municipal Budget Officer
Julio S. Ursonal, Jr.	Assistant Treasurer



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**"FOR SB-15-CRM-0285**

1. The identities of accused Celestino Martinez III and Julio S. Ursonal, Jr., in this case; and
2. At the time material to the instant case as alleged in the Information, the accused were public officers holding the following positions in the Municipality of Bogo, Cebu:

Celestino A. Martinez III	Municipal Mayor
Julio S. Ursonal, Jr.	Assistant Treasurer

"x x x." <sup>172</sup>

In so far as accused **Verdida** is concerned, the above-mentioned stipulations are likewise adopted. <sup>173</sup>

Anent the cases relative to accused **Ursonal, Jr.**, the parties entered into the following stipulations:

- "1) The identity of the accused; and
- "2) The jurisdiction of the Court over the case and over the person of the accused.

"x x x." <sup>174</sup>

**EVIDENCE FOR THE PROSECUTION**

**A. Testimonial evidence**

**A.1** The Prosecution presented four (4) witnesses, namely:

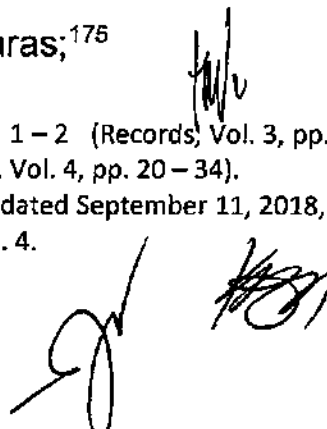
1. Lita C. Lamparas; <sup>175</sup>

<sup>172</sup> Order dated April 4, 2018, pp. 1 – 2 (Records, Vol. 3, pp. 17 - 18); Pre-Trial Order dated July 10, 2018, pp. 1 – 15 (Records, Vol. 4, pp. 20 – 34).

<sup>173</sup> Supplemental Pre-Trial Order dated September 11, 2018, pp. 1 - 2 (Records, Vol. 5, pp. 457 – 458); TSN, August 28, 2018, p. 4.

<sup>174</sup> TSN, July 10, 2018, pp. 5, 27.

<sup>175</sup> TSN, July 10, 2018, pp. 7 – 29.





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- 2. Atty. Fritzie S. Lacanaria;<sup>176</sup>
- 3. Johanna G. Polinar;<sup>177</sup> and
- 4. Jeremias A. Bentulan.<sup>178</sup>

**A.2** The direct testimonies of the witnesses for the Prosecution are summarized below, *viz*:

**1. LITA C. LAMPARAS**

Lita C. Lamparas, State Auditor IV, Commission on Audit (COA), testified through her judicial affidavit.<sup>179</sup> The cross-examination threshed out the involvement of accused Ursonal, Jr. in this imbroglio. Lamparas' testimony run thus:

"Q Let's go into the contract between Bogo LGU promising financial assistance to the cooperative. Would you admit that Mr. Ursonal is representing the cooperative as the recipient of that financial assistance?

A He represented the cooperative.

Q And the cooperative is a recipient?

A Yes, sir.

x x x

Q . . . And this contract was entered before Bogo LGU negotiated and entered [into] a contract with the Department of Agriculture, isn't that right?

A What contract are you referring to?

Q I'm talking about two (2) contracts. The contract of Bogo promising assistance to the cooperative and the contract of Bogo getting assistance from the DA. The

<sup>176</sup> TSN, September 11, 2018, pp. 5 - 9.

<sup>177</sup> Id. at pp. 9 – 31.

<sup>178</sup> The Prosecution's rebuttal witness, J. A. Bentulan, appeared *via* videoconferencing on February 15, 2021. The Court noted the manifestation of Prosecutor J. A. Agustin-Se that she will not file any Formal Offer of Evidence on Rebuttal.

<sup>179</sup> Judicial Affidavit dated May 31, 2018, of Lita C. Lamparas, pp. 1 – 46 (Records, Vol. 3, pp. 117 – 163).

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agreement between the cooperative and the Bogo LGU came ahead of the other, isn't that right?

A Yes, sir.

AJ MIRANDA

Excuse me. There are two (2) agreements?

ATTY. ARNADO

Yes, your Honor.

X X X

L. LAMPARAS

**The first agreement was the Municipality of Bogo and the Department of Agriculture.**

AJ MIRANDA

To what effect?

L. LAMPARAS

**This was executed in March 28, 2007, your Honor.**

AJ MIRANDA

For what purpose, the agreement?

L. LAMPARAS

**Their agreement was to implement the *Ginintuang Agrikulturang Makamasa* under the . . .**

AJ MIRANDA

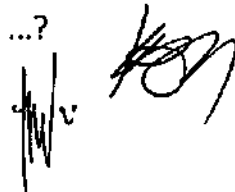
Under the GAM?

L. LAMPARAS

Yes, your Honor. ***Ginintuang Agrikulturang Makamasa* under the AFMA Agricultural and Fisheries Modernization Act.**

AJ MIRANDA

Again, again. This is between DA ...?



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L. LAMPARAS

DA and the Municipality of Bogo, your Honor.

AJ MIRANDA

And the second one?

L. LAMPARAS

**The second one was the memorandum of agreement executed between the Cooperative and the Municipality of Bogo.**

AJ MIRANDA

When was this?

L. LAMPARAS

**February 12, 2007**, your Honor.

X X X

Q X X X When Ursonal signed the contract in behalf of the Cooperative, it was in line with the resolution by the Board of Trustees (sic) authorizing him to sign such a contract, correct?

A I am not aware of that, sir.

Q Would you agree that the Coop or Mr. Ursonal is not [a] signatory or a witness in the agreement between the DA and the LGU of Bogo?

A He is not a signatory, sir.

Q Would you agree that the COA disallowance was voided by [the] RTC, [Branch] 61 on November 19, 2015?

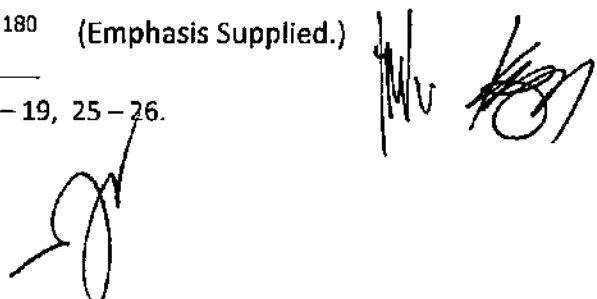
A I was just informed by the Regional Office Accounting.

Q You will also agree that the RTC ruled that the GAM beneficiaries included cooperative?

A I am not aware of that, sir.

X X X." <sup>180</sup> (Emphasis Supplied.)

<sup>180</sup> TSN, July 10, 2018, pp. 16 – 19, 25 – 26.



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State Auditor IV Lamparas shed light on the Memorandum of Agreement (MOA) between the Department of Agriculture and the Municipality of Bogo, viz:

"ASSOC JUSTICE MIRANDA

Q Ms. Lamparas, what do you mean by AFMA?

WITNESS

A **Agriculture and Fisheries Modernization Act**, your Honors.

Q And who are the supposed beneficiaries of this act?

A The beneficiaries should be fisher folks and farmers.

Q Why do you say that?

A I read about AFMA.

Q And this fund was given to what department?

A This financial assistance was given by the Department of Agriculture to the Municipality of Bogo, your Honors.

x x x

Q Does it mean to say, **YOU HAVE TO BE A FARMER TO BE A BENEFICIARY OF THE FUNDS?**

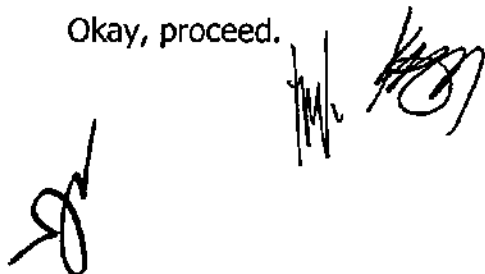
A **It is stated in the MOA.**

Q Precisely counsel is pointing out that it is for food security, poverty alleviation, social equity, income enhancement and then profitability of farmers. So this food security, poverty alleviation, social equity, income enhancement, global competitiveness and sustainability should this only refer to farmers or can it refer to any Filipino?

A No, your Honors, because **THE AFMA IS SPECIFIC FOR FARMERS AND FISHER FOLKS.**

ASSOC. JUSTICE MIRANDA

Okay, proceed.



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ATTY. PACULANANG

Q Do you agree with me, Madam Witness, that under the MOA with the Department of Agriculture and the Municipality of Bogo, the fund of 20 Million mentioned in that MOA is not a loan wherein the Municipality of Bogo has to pay or return to the DA that fund, do you agree with me?

WITNESS

A This is financial assistance coming from the DA, sir.

Q So **THE MUNICIPALITY OF BOGO** has no duty to return it to the DA?

A It **HAS THE DUTY TO RETURN IF IT HAS BEEN MISAPPROPRIATED, it's there in the MOA**, sir.

ASSOC. JUSTICE MIRANDA

Q What part of the MOA?

WITNESS

A The obligation of the DA, RFU, number 3, shall intervene and undertake corrective measure in the event of misappropriation of the funds as set forth in the agreement.

COURT INTERPRETER

The witness read item number 3 under subparagraph A of the Obligations of DA RFU 7.

ATTY. PACULANANG

Q Do you know Madam Witness that the Department of Agriculture intervene[d] or made corrective measures with respect to the MOA with the Bogo Municipal Employees Multipurpose (sic) Cooperative?

WITNESS

A I am not aware, sir.

"X X X." <sup>181</sup> (Emphasis and Capitalization Supplied.)

<sup>181</sup> TSN, July 11, 2018, pp. 9 – 12.

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With respect to the alleged participation of accused Minguez in the execution of the MOA in question, State Auditor IV Lamparas said that he was merely a **witness** thereto.<sup>182</sup>

The Memorandum of Agreement between the Municipality of Bogo and the Bogo Municipal Employees Multi-purpose Cooperative (BMEMPC) has been discussed too. The testimony of State Auditor IV Lamparas on this matter is quoted below, *viz*:

"Q Exhibit "H", your Honors. This is the MOA between the local government of Bogo and the Bogo Municipal Employees Multi-purpose Cooperative. Now, my question, Madam Witness, is that (sic) do you agree with me that Rhett Minguez is not also a signatory to this MOA?

WITNESS

A Yes, sir.

X X X." <sup>183</sup>

State Auditor IV Lamparas affirmed that the *Sangguniang Bayan* authorized Mayor Martinez III, on behalf of the Municipality of Bogo, to enter into a Memorandum of Agreement<sup>184</sup> with the Department of Agriculture for an "*agricultural related project*."<sup>185</sup> However, she looked askance at the fact that the *Sanggunian's* Resolution *vis a vis* the MOA between the Municipality of Bogo and the BMEMPC came afterwards.<sup>186</sup> She frowned upon the way in which Mayor Martinez III overstepped his authority.<sup>187</sup> The twenty million pesos (P20,000,000.00) which was earmarked as financial assistance for farmers and fisher folks were, instead, released as livelihood and salary loans to members of the BMEMPC.<sup>188</sup> This was deemed irregular.

<sup>182</sup> TSN, July 11, 2018, pp. 12 - 16.

<sup>183</sup> TSN, July 11, 2018, pp. 17 - 18.

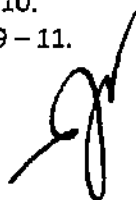
<sup>184</sup> EXHIBIT "E".

<sup>185</sup> TSN, August 7, 2018, p. 7.

<sup>186</sup> TSN, July 11, 2018, pp. 27 - 29.

<sup>187</sup> TSN, August 7, 2018, p. 9 - 10.

<sup>188</sup> TSN, August 28, 2018, pp. 9 - 11.



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**2. ATTY. FRITZIE S. LACANARIA**

Atty. Fritzie S. Lacanaria, Attorney III, Cooperative Development Authority (CDA), Cebu Extension Office, adopted her judicial affidavit<sup>189</sup> as her direct testimony.<sup>190</sup> However, the Court cut short her presentation after the Prosecution admitted the due execution and existence of Exhibits "VV-1",<sup>191</sup> "VV-2",<sup>192</sup> and "VV-3".<sup>193</sup>

**3. JOHANNA G. POLINAR**

Johanna G. Polinar was employed as Cooperative Development Specialist II,<sup>194</sup> Cooperative Development Authority, Cebu Extension Office. After she was qualified as a witness, but before she could commence her testimony, the Defense stipulated and admitted the following facts:

" x x x

1. That if Joanna (sic) Polinar will be presented, the stipulation is that she is connected with the Cooperative Development Authority at [its] Cebu Extension Office as Cooperative Development Specialist II;
2. That in connection with her duties and functions as Cooperative Development Specialist, she has knowledge of the 2007 Financial Statement submitted by Bogo Municipal Employee Multi-Purpose Cooperative to [the] Property Development Authority Extension Office in Cebu City; and
3. That in the year 2007, **Bogo Municipal Employees Multi-Purpose Cooperative did not declare receipt of the P20M purportedly from the Municipality of Bogo in its Financial Statement**

<sup>189</sup> Judicial Affidavit dated September 4, 2018, of Atty. Fritzie Salogaol Lacanaria, pp. 1 + 4 (Records, Vol. 4, pp. 86 – 89).

<sup>190</sup> TSN, September 11, 2018, pp. 6 – 8.

<sup>191</sup> Certificate of Registration of BMEMPC (Records, Vol. 4, p. 91).

<sup>192</sup> Financial Statements for the Year Ended December 31, 2007 and Independent Auditor's Report on BMEMPC (Records, Vol. 4, pp. 92 – 99).

<sup>193</sup> Articles of Incorporation and By-laws of BMEMPC (Records, Vol. 4, pp. 100 – 119); Order dated September 11, 2018, p. 1 (Records, Vol. 4, p. 135-A).

<sup>194</sup> TSN, September 11, 2018, pp. 9 – 10, 17.

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either as a loan or donation.”<sup>195</sup> (Emphasis, Italics and Underscoring Supplied.)

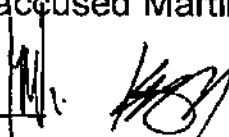
No objection whatsoever was raised regarding the existence, authenticity and due execution of Polinar's judicial affidavit.<sup>196</sup>

**4. JEREMIAS A. BENTULAN**

Jeremias A. Bentulan, Officer-in-Charge, Legal Services Office, Commission on Audit (COA), Region VII, testified *via* videoconferencing.<sup>197</sup> The Prosecution's rebuttal witness was called to the stand to affirm that the Decision dated November 19, 2015, of the Regional Trial Court, Branch 61, Bogó City, in Civil Case No. B-02972,<sup>198</sup> which nullified the COA's Notice of Disallowance *vis a vis* the MOA between Bogó and BMEMPC, was pending appeal.<sup>199</sup> Aggrieved, COA, thru the Office of the Solicitor General, elevated the matter to the Court of Appeals.<sup>200</sup>

**B. Documentary evidence**

**B.1** The documentary evidence which were formally offered<sup>201</sup> by the Prosecution, and admitted<sup>202</sup> by the Court in spite of the objections of accused Martínez, Minguez, Verdida and Ursonal are as follows:



<sup>195</sup> Order dated September 11, 2018, p. 1 (Records, Vol. 4, p. 135-A); TSN, September 11, 2018, pp. 30 – 31.

<sup>196</sup> Judicial Affidavit dated September 4, 2018, of Johanna Gako Polinar, pp. 1 - 5 (Records, Vol. 4, pp. 120 – 124 ).

<sup>197</sup> Order dated February 15, 2021, p. 1 (Records, Vol. 7, p. 482-A); TSN, February 15, 2021, pp. 13 – 40.

<sup>198</sup> The case was entitled "*Celestino A. Martínez III, et. al. versus Commission on Audit (COA), Office of the Auditor in Audit Team for Bogó City, represented by Audit Team Leader Lita C. Lamparas*".

<sup>199</sup> TSN, February 15, 2021, pp. 21, 27.

<sup>200</sup> *Id.*, pp. 32, 35; The appealed case is entitled "*Celestino A. Martínez III, Crescencio P. Verdida, Rhett E. Minguez, Julio Ursonal, representing Bogó Municipal Employees Multi-Purpose Cooperative, Petitioners/Appellees, versus Commission on Audit (COA), Office of the Audit Team for Bogó City, represented by Audit Team Leader Lita C. Lamparas, Respondents/Appellants, and is docketed as CA-GR CV No. 06321.*

<sup>201</sup> Prosecution's Formal Offer of Documentary Evidence dated October 25, 2018, pp. 1 – 35 (Records, Vol. 4, pp. 190 - 224).

<sup>202</sup> Resolution dated December 14, 2018, pp. 1–2 (Records, Vol. 5, pp. 285-A – 285-B).





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<b>EXHIBIT</b>	<b>DESCRIPTION</b>
<b>AAA to AAA-1</b>	Notice of Disallowance, for the amount of Nineteen Million Nine Hundred Four Thousand Pesos (P19,904,000.00) out of the Twenty Million Pesos (P20,000,000.00) released as financial assistance to the BMEMPC by the Municipality of Bogo, Cebu pursuant to the MOA between the two parties (2 pages)
<b>AAA-1-A</b>	Name and signature of Salvador M. Uy
<b>AAA-1-B</b>	Bracketed table under note: "Proof of Service of Copies of ND to Persons Liable," page 2, Notice of Disallowance
<b>AAA-2 to AA-4</b>	Credit Notice signed by Salvador M. Uy (3 pages)
<b>AAA-5</b>	Registry receipts attached to the Credit Notice
<b>D</b>	1 <sup>st</sup> indorsement dated July 28, 2008, of Helen S. Hilayo, Regional Cluster Director, Commission on Audit (COA) , Region VII, Cluster IV-Visayas, Local Government Sector
<b>D-1</b>	Annual Audit Report on the City of Bogo for the Year Ended December 31, 2007
<b>D-2</b>	Letter dated May 31, 2008, of Sheila U. Villa, Director III, Assistant Cluster Director, COA, Cluster IV-Visayas, Local Government Sector, to Hon. Celestino A. Martinez, Jr. (sic), City Mayor, Bogo City Cebu
<b>D-2-A</b>	Name and signature of Sheila U. Villa, Director III, Assistant Cluster Director, COA, Cluster IV-Visayas, Local Government Sector
	Letter dated February 28, 2008, of Lita C. Lamparas, State





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<b>D-3</b>	Auditor III, COA, to the Cluster Director, COA, Cluster IV-Visayas, Local Government Sector (2 pages)
<b>D-4-a</b>	Name and signature of Lita C. Lamparas, State Auditor III, Audit Team Leader of COA, Region VII, on Exhibit "D-3"
<b>D-5 to D-8</b>	Pages 39 to 42 of the COA Annual Audit Report on the City of Boggo for the Year Ended December 31, 2007, pertaining to the release of Twenty Million Pesos (P20,000,000.00) as financial assistance to the BMEMPC
<b>D-9 to D-16</b>	BMEMPC Livelihood Project & Salary Loan of Regular and Casual Employees Accomplishment as of December 31, 2007, attached to the COA Annual Audit Report on the City of Boggo for the Year Ended December 31, 2007, regarding the Twenty Million Pesos (P20,000,000.00) released to the BMEMPC, consisting of seven (7) pages
<b>D-9-a; D-10-a; D-11-a; D-12-a; D-13-a; D-14-a; D-15-a; D-16-a</b>	The name and signature of Julio S. Ursonal, Jr., on the right, lower portion of Exhibits "D-9" to "D-16"

**B.2** The formally offered documents that the Court considered admissible over the objections of accused Martinez, Verdida and Ursonal, but sans any comment from accused Minguez, include the following:

<b>EXHIBIT</b>	<b>DESCRIPTION</b>
	City of Boggo, Schedule of Month Salary/ BMPC Amortization,



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<b>D-17</b>	CY 2007
<b>D-17-A</b>	The name "Adelle Bendijo," No. 10 under the column "Name of Employees" in Exhibit "D-17"
<b>E</b>	<i>Sangguniang Bayan</i> Resolution No. 013-2007, which was approved on March 23, 2007, entitled "Resolution Authorizing the Mayor to Enter into [a] Memorandum of Agreement Governing Agriculture Related Projects with the Department of Agriculture through the Office of DA-7 Regional Director Eduardo B. Lecciones, Jr."
<b>E-1</b>	3 <sup>rd</sup> Whereas Clause of <i>Sangguniang Bayan</i> Resolution No. 013-2007, which reads: ". . . [F]or such purposes, the parties enter into [a] Memorandum of Agreement governing agriculture related projects through the Regional Office 7 of the Department of Agriculture"
<b>F</b>	Undated Memorandum of Agreement between the Department of Agriculture, Regional Field Unit 7 and the Municipality of Bogo, Cebu, signed by Eduardo B. Lecciones, Jr., Regional Executive Director, DA, and Mayor Celestino A. Martinez III
<b>F-1-A</b>	The date "March 23, 2007," below the "Acknowledgment" on page 2 of Exhibit "F"
<b>J</b>	Journal Entry Voucher No. 300-07-04-151 dated April 23, 2007, of the Municipality of Bogo, in the amount of Twenty Million Pesos (P20,000,000.00)
<b>K</b>	Report of Collections and Deposits dated April 23, 2007, in the amount of Twenty Million Pesos (P20,000,000.00), which was verified by Rhett E. Minguez
<b>L</b>	Official Receipt No. 2710068 dated April 24, 2007, issued by the Municipality of Bogo, Cebu, in the amount of Twenty Million Pesos (P20,000,000.00), for "Fund Transfer for Implementation [of] Various Agricultural Development Programs," which was received by Rhett E. Minguez, Collecting Officer
	Report of Collections and Deposits dated April 23, 2007, in the amount of Twenty Million Pesos (P20,000,000.00), which

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<b>N</b>	was verified by Rhett E. Minguez
<b>P</b>	Undated Disbursement Voucher (DV) "to release financial assistance [in] the amount of Twenty Million Pesos Only (P20,000,000.00) . . ."
<b>P-1</b>	Printed name and signature of Crescencio P. Verdida, Municipal Accountant on Box "A" of Exhibit "P"
<b>P-2</b>	Printed name and signature of Rhett E. Minguez, Municipal Treasurer, on Box "B" of Exhibit "P"
<b>P-3</b>	Printed name and signature of Celestino A. Martinez, Municipal Mayor, on Box "C" (Approved for Payment) of Exhibit "P"
<b>P-4</b>	Printed name "BMEMPC" and signature over it on Box "D" (Received Payment) of Exhibit "P"
<b>Q</b>	Official Receipt No. 1449 dated April 26, 2007, showing receipt of P20,000,000.00 by the BMEMPC from the Municipality of Bogo, Cebu as financial assistance
<b>R</b>	Obligation Request No. 300-07-04-031 of the Municipality of Bogo in the amount of Twenty Million Pesos (P20,000,000.00)
<b>R-1</b>	Name and signature of Mayor Celestino A. Martinez III on Box "A" (Certified: Charges to appropriation/ allotment necessary, lawful and under my direct supervision, and "Supporting documents valid, proper and legal"
<b>S</b>	Landbank Check No. 000032741 dated April 26, 2007, pay to the order of BMEMPC the amount of Twenty Million Pesos (P20,000,000.00)
<b>S-1</b>	Name and signature of Rhett E. Minguez on Exhibit "S"
<b>S-2</b>	Name and signature of Celestino A. Martinez III on Exhibit "S"

Handwritten signatures of Rhett E. Minguez and Celestino A. Martinez III.

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<b>V to V-3</b>	BMEMPC Deductions of Property & Salary Loan of Regular Employees for the Month of November 2007 (4 pages)
<b>W to W-3</b>	BMEMPC Deductions of Property & Salary Loan of Regular Employees for the Month of December 2007 (4 pages)
<b>X to X-2</b>	BMEMPC Deductions of Property & Salary Loan of Casual Employees for the Month of December 2007 (2 pages)
<b>Y to Y-4</b>	BMEMPC Deductions of Property, Salary & Livelihood Project Loan of Regular Employees for the Month of April and May 2007 (5 pages)
<b>Z to Z-5</b>	Applications for Property/ Salary/ Emergency/ Rice Loan of members of the BMEMPC (6 pages)
<b>Z-6</b>	Application for Property/ Salary/ Emergency/ Rice Loan of Julio S. Ursonal, Jr., BMEMPC President (1 page)
<b>AA to AA-2</b>	Memorandum of Agreement dated April 25, 2007 between the BMEMPC and Julio S. Ursonal, Jr. to finance the latter's purchase of "TRICYCLE UNITS FOR HIRE by way of loan" (3 pages)
<b>AA-1-a</b>	Printed name and signature of Julio S. Ursonal, Jr. on page 2, Exhibit "AA-1"
<b>BB to BB-5</b>	Applications for Property/ Salary/ Emergency/ Rice Loan of members of the BMEMPC, which are signed by Julio S. Ursonal, Jr., BMEMPC President (6 pages)
<b>BB-6</b>	Application for Property/ Salary/ Emergency/ Rice Loan of BMEMPC member, Cesar T. Ylanan, which is signed by Julio S. Ursonal, Jr., President and Chairperson of BMEMPC (1 page)
<b>CC to CC-2</b>	Memorandum of Agreement dated April 25, 2007 between the BMEMPC, represented by J. S. Ursonal, Jr., and Cesar T. Ylanan to finance the latter's "LIVESTOCK BUSINESS by way of loan" (3 pages)

Handwritten signatures and initials are present at the bottom of the page, including a large signature on the left and several smaller initials and marks on the right.

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<b>CC-1-a</b>	Printed name and signature of Julio S. Ursonal, Jr. on page 2, Exhibit "CC-1"
<b>DD to DD-65</b>	Applications for Property/ Salary/ Emergency/ Rice Loan of members of the BMEMPC, which are signed by Julio S. Ursonal, Jr., BMEMPC President (66 pages)
<b>DD-104</b>	Application for Property/ Salary/ Emergency/ Rice Loan of BMEMPC member, Celestino A. Martinez III (1 page)
<b>DD-104-B</b>	Printed name and signature of Julio S. Ursonal, Jr., BMEMPC President on Exhibit "DD-104"
<b>DD-105 to DD-124</b>	Applications for Property/ Salary/ Emergency/ Rice Loan of members of the BMEMPC, which are signed by Julio S. Ursonal, Jr., BMEMPC President (20 pages)
<b>DD-125</b>	Application for Property/ Salary/ Emergency/ Rice Loan of BMEMPC member, Ronie Tolingin (1 page)
<b>DD-126 to DD-140</b>	Applications for Property/ Salary/ Emergency/ Rice Loan of members of the BMEMPC, which are signed by Julio S. Ursonal, Jr., BMEMPC President (15 pages)
<b>DD-141</b>	Application for Property/ Salary/ Emergency/ Rice Loan of BMEMPC member, Adelle Bendijo (1 page)
<b>EE, EE-1, EE-3</b>	Memorandum of Agreement dated April 25, 2007 between the BMEMPC and Adelle Bendijo as "additional capitalization of her SARI-SARI STORE by way of loan" (3 pages)
<b>EE-1-a</b>	Printed name and signature of Julio S. Ursonal, Jr., BMEMPC President on Exhibit "EE-1"
<b>FF</b>	Application for Property/ Salary/ Emergency/ Rice Loan of BMEMPC member, Rhett Minguez (1 page)
<b>FF-1</b>	Printed name and signature of Rhett E. Minguez (Borrower)

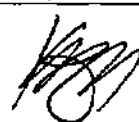
Handwritten signatures are present at the bottom of the page, including a large signature on the left, a signature in the middle, and a signature on the right.

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	on Exhibit "FF"
<b>FF-2</b>	Printed name and signature of Julio S. Ursonal, Jr., BMEMPC President on Exhibit "EE-1"
<b>GG to GG-2</b>	Memorandum of Agreement dated April 25, 2007 between the BMEMPC and Rhett E. Minguez as "additional capitalization of his MANGO FARM PLANTATION by way of loan" (3 pages)
<b>GG-2-a</b>	Printed name and signature of Rhett E. Minguez as SECOND PARTY in Exhibits "GG" to "GG-2"
<b>GG-2-b</b>	Printed name and signature of Julio S. Ursonal, Jr., BMEMPC President, on Exhibits "GG" to "GG-2"
<b>HH</b>	Application for Property/ Salary/ Emergency/ Rice Loan of Rhett E. Minguez (1 page)
<b>HH-A</b>	Printed name and signature of Rhett E. Minguez (Borrower) on Exhibit "HH"
<b>HH-B</b>	Printed name and signature of Julio S. Ursonal, Jr., BMEMPC President, on Exhibit "HH"
<b>HH-1 to HH-9</b>	Applications for Property/ Salary/ Emergency/ Rice Loan of members of the BMEMPC, which are signed by Julio S. Ursonal, Jr., BMEMPC President (9 pages)
<b>HH-10</b>	Application for Property/ Salary/ Emergency/ Rice Loan of Samson M. Lepiten, staff of Rhett E. Minguez (1 page)
<b>II to II-2</b>	Memorandum of Agreement dated April 25, 2007 between the BMEMPC and Samson M. Lepiten as "additional capitalization of his MICRO LENDING BUSINESS by way of loan" (3 pages)
<b>II-1-a</b>	Printed name and signature of Julio S. Ursonal, Jr., BMEMPC President on Exhibit "II-1"
<b>JJ to</b>	Applications for Property/ Salary/ Emergency/ Rice Loan of members of the BMEMPC, which are signed by Julio S.


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<b>JJ-1</b>	Ursonal, Jr., BMEMPC President (2 pages)
<b>JJ-2</b>	Application for Property/ Salary/ Emergency/ Rice Loan of Josephus Montesclaros, staff of Rhett E. Minguez (1 page)
<b>KK to KK-2</b>	Memorandum of Agreement dated April 25, 2007 between the BMEMPC and Josephus Montesclaros as "additional capitalization for his SARI-SARI STORE by way of loan" (3 pages)
<b>KK-1-a</b>	Printed name and signature of Julio S. Ursonal, Jr., BMEMPC President, on Exhibit "KK-1"
<b>LL to LL-4</b>	Applications for Property/ Salary/ Emergency/ Rice Loan of members of the BMEMPC, which are signed by Julio S. Ursonal, Jr., BMEMPC President (5 pages)
<b>LL-5</b>	Application for Property/ Salary/ Emergency/ Rice Loan of Shiela F. Orcullo, staff of Rhett E. Minguez (1 page)
<b>MM to MM-2</b>	Memorandum of Agreement dated April 25, 2007 between the BMEMPC and Shiela F. Orcullo as "additional capitalization of his (sic) SOY SAUCE MANUFACTURING BUSINESS by way of loan" (3 pages)
<b>MM-1-a</b>	Printed name and signature of Julio S. Ursonal, Jr., BMEMPC President, on Exhibit "MM-1"
<b>NN to NN-3</b>	Applications for Property/ Salary/ Emergency/ Rice Loan of members of the BMEMPC, which are signed by Julio S. Ursonal, Jr., BMEMPC President (4 pages)
<b>VV</b>	Letter dated December 15, 2008, of Marilyn J. Estrella, OIC-Director, Cooperative Development Authority (CDA), Cebu Extension Office, to Virginia Palanca-Santiago, Assistant Ombudsman for the Visayas, regarding the certified copy of the Registration Certificate, Articles of Cooperation and by-laws of BMEMPC and its latest financial statement
<b>VV-1</b>	Certificate of Registration of BMEMPC with the CDA
<b>VV-2</b>	Financial Statements for the Year Ended December 31, 2007



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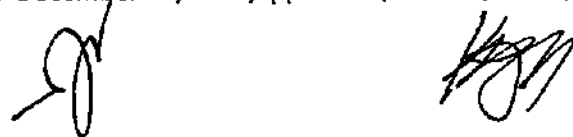
	and Independent Auditor's Report on BMEMPC (8 pages)
<b>VV-2-a</b>	The encircled words "Donation and Grants," and the amount 2,413,026.63 under the column "2007", and the amount 2,413,026.63 under the column "2006" found in BMEMPC Statement of Financial Condition As of December 31, 2007 & 2006
<b>VV-2-b</b>	The encircled words "Loans Payable," and the corresponding amount 44,750.00 under the column "2007", and the amount 44,750.00 under the column "2006" found in BMEMPC Statement of Financial Condition As of December 31, 2007 & 2006
<b>VV-3</b>	Articles of Incorporation and by-laws of BMEMPC (20 pages)

**B.3** The documentary evidence which were formally offered<sup>203</sup> by the Prosecution, and admitted<sup>204</sup> by the Court over the objections of accused Verdida and Ursonal, but sans any comment or objection by accused Martinez and Minguez, are as follows:

<b>EXHIBIT</b>	<b>DESCRIPTION</b>
<b>H</b>	Memorandum of Agreement dated February 12, 2007, between the Municipality of Bogo, Cebu and BMEMPC for said cooperative to receive twenty million pesos which, in turn, shall be distributed as financial assistance to its members (2 pages)
<b>M</b>	Journal Entry Voucher No. 300-07-04-152 dated April 24, 2007, showing that pursuant to the MOA between the Municipality of Bogo, Cebu and DA, Region VII, twenty million pesos was deposited in the account of said LGU
	Land Bank of the Philippines Deposit Slip No. 0932-1000-88

<sup>203</sup> Prosecution's Formal Offer of Documentary Evidence dated October 25, 2018, pp. 1 - 35 (Records, Vol. 4, pp. 190 - 224).

<sup>204</sup> Resolution dated December 14, 2018, pp. 1 -2 (Records, Vol. 5, pp. 285-A - 285-B).



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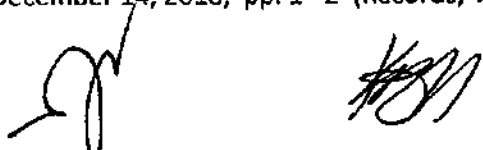
<b>O</b>	dated April 24, 2007, showing that pursuant to the MOA between the Municipality of Bogu, Cebu and DA, Region VII, twenty million pesos was deposited in the account of said LGU
<b>T-1 to T-3</b>	Land Bank Statement of Account covering the period March 31, 2007 – April 30, 2007 for Current Account No. 0932-1000-88 of the Municipality of Bogu, Cebu, showing that the check for twenty million pesos which was issued to BMEMPC was encashed and debited from the Trust Fund of said LGU (4 pages)
<b>U-1</b>	The name and signature of Lita C. Lamparas, State Auditor II – Audit Team Leader, in the Audit Observation Memorandum dated November 23, 2007, which said officer of the COA sent to Mayor Celestino A. Martinez III regarding the twenty million pesos as "financial assistance" from said LGU to BMEMPC

**B.4** The documentary evidence which was formally offered<sup>205</sup> by the Prosecution, and admitted<sup>206</sup> by the Court over the objection of accused Minguez, Verdida and Ursonal, but sans any comment or objection from accused Martinez, is as follows:

<b>EXHIBIT</b>	<b>DESCRIPTION</b>
<b>U</b>	Audit Observation Memorandum dated November 23, 2007, which Lita C. Lamparas, State Auditor II – Audit Team Leader, COA, Cluster IV-Visayas, sent to Mayor Celestino A. Martinez III regarding the twenty million pesos as "financial assistance" from said LGU to BMEMPC 

<sup>205</sup> Prosecution's Formal Offer of Documentary Evidence dated October 25, 2018, pp. 1 – 35 (Records, Vol. 4, pp. 190 - 224).

<sup>206</sup> Resolution dated December 14, 2018, pp. 1–2 (Records, Vol. 5, pp. 285-A – 285-B).



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**B.5** The documentary evidence which the Prosecution formally offered,<sup>207</sup> and which the Court considered admissible<sup>208</sup> over the objections of accused Martinez and Ursonal, but absent any comment or objection from accused Minguez and Verdida, are as follows:

<b>EXHIBIT</b>	<b>DESCRIPTION</b>
<b>DD-67 to DD-103</b>	Applications for Property/ Salary/ Emergency/ Rice Loan of members of the BMEMPC (85 pages)

**EVIDENCE FOR THE ACCUSED**

**A. Testimonial evidence**

**A.1** The Defense called the following witnesses to the stand:

1. Celestino Asas Martinez III;
2. Santiago M. Oliamot;
3. Samson M. Lepiten;
4. Rhett E. Minguez;
5. Crescencio Pilapil Verdida;<sup>209</sup> and
6. Julio S. Ursonal, Jr..<sup>210</sup>

**A.2** The direct testimonies of witnesses for the Defense are summarized below, viz:


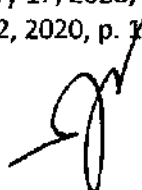


<sup>207</sup> Prosecution's Formal Offer of Documentary Evidence dated October 25, 2018, pp. 1 – 35 (Records, Vol. 4, pp. 190 - 224).

<sup>208</sup> Resolution dated December 14, 2018, pp. 1–2 (Records, Vol. 5, pp. 285-A – 285-B).

<sup>209</sup> Order dated February 17, 2020, p. 1 (Records, Vol. 7, p. 131).

<sup>210</sup> Order dated March 2, 2020, p. 1 (Records, Vol. 7, p. 206).



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**1. CELESTINO ASAS MARTINEZ III**

Celestino Asas Martinez III, erstwhile mayor<sup>211</sup> of the Municipality of Bogo,<sup>212</sup> Cebu, testified during direct examination through his judicial affidavit.<sup>213</sup>

During the cross-examination, accused Martinez III averred that the Memorandum of Agreement<sup>214</sup> (MOA) between the Municipality of Bogo and the Department of Agriculture, Regional Field Unit VII (DA-RFU7)), albeit undated,<sup>215</sup> paved the way for the transfer of Twenty Million Pesos to said LGU for the implementation of the *Ginintuang Agrikulturang Makamasa* (GAM) program.<sup>216</sup> Subsequently, the Municipality of Bogo forged a complementary MOA<sup>217</sup> with the BMEMP for the utilization of the P20 Million by loaning it to members of said cooperative and other non-governmental organizations (NGOs).<sup>218</sup> Truth to tell, said funds were sourced from the Priority Development Assistance Fund (PDAF) of Rep. Clavel Asas-Martinez.<sup>219</sup>

Accused Martinez III maintained that his executive actions were backed by legislative fiat, to wit: *Sanguniang Bayan* Resolution No. 013-2007<sup>220</sup> and Resolution No. 025-2007.<sup>221</sup> On its face, the latter ratified the MOA between Bogo and BMEMPC.<sup>222</sup>



<sup>211</sup> Now a member of the *Sangguniang Panlalawigan* (Provincial Board) of the Province of Cebu, wherein Martinez' term of office is from July 30, 2018 to January 1, 2023; TSN, August 7, 2019, pp. 7 – 9.

<sup>212</sup> Now a Sixth (6<sup>th</sup>) class component city. The plebiscite for the cityhood of Bogo was held on June 16, 2007 wherein 97.82% of all voters of Bogo voted for its cityhood.  
<https://cityofbogocebu.gov.ph>

<sup>213</sup> TSN, August 7, 2019, pp. 12 – 16; Judicial Affidavit dated August 1, 2019, of C. A. Martinez III, pp. 1 – 6 (Records, Vol. 6, pp. 178 – 183).

<sup>214</sup> EXHIBIT "F" ("2" for Martinez III).

<sup>215</sup> TSN, August 28, 2019, pp. 19 – 20.

<sup>216</sup> Id. pp. 8 – 9, 18, 27; EXHIBIT "2-A" for Martinez III.

<sup>217</sup> EXHIBIT "H" ("4" for Martinez III).

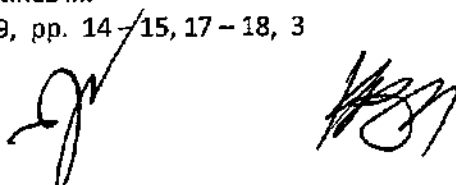
<sup>218</sup> TSN, August 28, 2019, pp. 10, 16, 31 – 32.

<sup>219</sup> Id.. p. 11.

<sup>220</sup> EXHIBIT "E" ("1" for Martinez III); TSN, August 28, 2019, pp. 30 - 31.

<sup>221</sup> EXHIBIT "3" for Martinez III.

<sup>222</sup> TSN, August 28, 2019, pp. 14 - 15, 17 – 18, 3



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Accused Martinez' negation<sup>223</sup> of the allegations in his Counter-Affidavit<sup>224</sup> is noteworthy. His testimony in this regard reads:

"COURT INTERPRETER:

For the record, Your Honors, witness was referred to an original Counter-Affidavit consisting of two pages which the witness executed on March 25, 2010.

PROSEC. SE:

May I call your attention to **no. 9 of your Counter-Affidavit** which states, *'The fact that affiant himself made a loan from the fund is not a violation of [the] MOA.'*

Q: With this, you are **now contradicting your earlier statement that beforehand you know that the loan will be coming from the fund?**

X X X

A: Yes, Maam, ***yes, I contradict.***

X X X

PROSEC. SE:

Q When you say you contradict, you are admitting that you know that it came from the fund . . .

A Actually, now all the funds that I – I never insisted that the funds should be taken out of BMEMPC, but part of the funds that (sic) I acted as guarantor came from the fund because **I only acted as guarantor of (sic) some of those who borrowed money,** Maam.

"X X X." <sup>225</sup> (Emphasis and Italics Supplied.)

Admittedly, accused Martinez III signed the disbursement voucher,<sup>226</sup> the obligation request<sup>227</sup> and the requisition slip.<sup>228</sup>

<sup>223</sup> TSN, August 28, 2019, pp. 23 – 24.

<sup>224</sup> Dated March 25, 2010.

<sup>225</sup> TSN, August 28, 2019, pp. 23 – 24.

<sup>226</sup> EXHIBIT "M"; TSN, August 28, 2019, p. 21.

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As a matter of course, these led to the release of Twenty Million Pesos to members of the BMEMPC.<sup>229</sup>

In so far as the fact that he took out a loan from BMEMPC, accused Martinez III had this to say, viz:

"Q: Mr. Witness, in no. 18 [of your Judicial Affidavit], you were asked this question, 'You were accused in (sic) borrowing money from the Bogo coop. What can you say about that?'

x x x [Y]ou answered this way,

'It's true I loan money from Bogo coop, which is not the first instance that I did so, but I did not intend or request that this be taken from the DA funds, since the coop also has it own funds. But this has already been fully paid with interest.

A: Yes, Maam.

Q: Okay. Are you saying that you are **not sure that the amount that was loaned to you before came from the Twenty Million that you authorized to be transferred to the BMEMPC?**

A: x x x I have always loaned from the cooperative since way back even during the time I was a counselor (sic), Maam.

PROSEC. SE:

Q: No, my only question is, you are not aware that the Five Million<sup>230</sup> that you loaned from the BMEMPC . . . was (interrupted)

A: No, Maam. **I did not intend for them to get it from that. They have their own funds,** Maam.

Q: But do you recall signing the Disbursement Voucher granting to Bogo Municipal Employees [Multi-Purpose]

<sup>227</sup> EXHIBIT "R"; TSN, August 28, 2019, p. 22.

<sup>228</sup> TSN, August 28, 2019, p. 21.

<sup>229</sup> Id., p. 22.

<sup>230</sup> Records show that is actually Five Million, Five Hundred Thousand Pesos (P5,500,000.00).



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Cooperative a financial assistance amounting to Twenty Million?

A: Yes, it was the agreement between the council and I, Maam, to disburse it to BMEMPC.

Q: Yes, the Disbursement Voucher. You signed it, correct?

A: Yes, Maam.

x x x

Q: x x x Aside from that, you also signed the Obligation for Twenty Million, correct?

A: Yes, Maam.

Q: So, you are aware at that time that you signed these documents, the Twenty Million will be used as a financial assistance, rather will be transferred to be used as a financial assistance to the employees of Bogo which (sic) are members of the BMEMPC?

A: Partly used for the employees, Maam.

"x x x

PROSEC. SE:

Q: What do you mean by partly used?

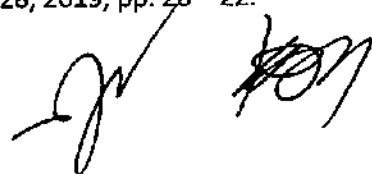
A: Because there are some of those loans that I just acted as guarantor, Maam."<sup>231</sup> (Emphasis Supplied.)

Accused Martinez III refuted the COA's audit findings, to wit:

"PROSEC. SE:

Q: Now, let's go to no. 20 [of your Judicial Affidavit]. You were asked about the COA's interpretation of the MOA that BMEMPC is disqualified to be a beneficiary? And you answered that, **'It is not true that the cooperative is not qualified.** In fact, this is (sic) already became the subject of [a] petition for declaratory relief before the Bogo court and the court

<sup>231</sup> TSN, August 28, 2019, pp. 20 – 22.



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made a decision finding that BMEMPC and its members are qualified.'

A: Yes, Maam.

X X X

Q: And this decision of the court is not yet final, correct?

A: No, I believe they appealed to the Court of Appeals, Maam.<sup>232</sup> (Emphasis Supplied.)

**2. SANTIAGO M. OLIAMOT**

Santiago M. Oliamot, a member of the *Sangguniang Bayan* of the Municipality of Bogo, Cebu in 2007, testified thru his Judicial Affidavit<sup>233</sup> on direct examination.<sup>234</sup>

Initially, Oliamot said that when the *Sangguniang Bayan* passed Resolution No. 013-2007, the MOA<sup>235</sup> between Bogo and DA-RFU7 had already been signed by the parties' representatives, Mayor Martinez and Executive Director Lecciones, Jr.<sup>236</sup> However, upon re-direct examination, he backtracked and clarified that the passage of said Resolution came after the perfection of said MOA.<sup>237</sup> Said MOA catalyzed the transfer of P20 Million from the DA-RFU7 to Bogo for the implementation of agricultural projects in said locale. Oliamot described it in this wise, viz:

" . . . The fund will be ***downloaded*** . . . to the municipality upon passage of the resolution."<sup>238</sup> (Italics and Underscoring Supplied.)

Meanwhile, the MOA<sup>239</sup> between Bogo and BMEMPC was ratified by the *Sangguniang Bayan* thru Resolution No.

<sup>232</sup> Id., p. 25.

<sup>233</sup> Judicial Affidavit of Santiago M. Oliamot dated September 11, 2019, pp. 1 - 5 (Records, Vol. 6, pp. 399 - 403).

<sup>234</sup> TSN, September 17, 2019, pp. 7 - 10.

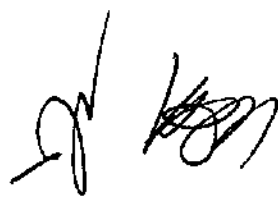
<sup>235</sup> EXHIBIT "2".

<sup>236</sup> TSN, September 17, 2019, pp. 13 - 15.

<sup>237</sup> TSN, September 25, 2019, pp. 9, 12.

<sup>238</sup> Id., p. 18.

<sup>239</sup> EXHIBIT "3" for Martinez III.





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025-2007.<sup>240</sup> Notably, this second MOA was dated February 12, 2007, and it was notarized on March 21, 2007.<sup>241</sup> Parenthetically, local legislators had reached a consensus regarding the approval of the MOA in question. Oliamot went further and stated that –

“[I]t was the *Sangguniang Bayan’s* idea that Bogo will enter into [a] partnership with BMEMPC in order for the said cooperative to be the recipient of the P20 Million coming from DA.”<sup>242</sup>

**3. SAMSON M. LEPITEN**

Samson M. Lepiten adopted his Judicial Affidavit<sup>243</sup> as his direct testimony.<sup>244</sup> Lepiten, then Chairman of the Committee on Ways and Means,<sup>245</sup> *Sangguniang Bayan* of the Municipality of Bogo, Cebu, sponsored the bill calling for the ratification of the two Memoranda of Agreement, to wit: (1) MOA between Bogo and DA-RFU7; and (2) MOA between Bogo and BMEMPC. Notably, Lepiten was employed at the Office of the Municipal Treasurer, Bogo, at the time he was appointed by accused Ursonal, then Chairman of the Board of BMEMPC, as Operations Manager of said cooperative.<sup>246</sup>

On April 2007, accused Ursonal informed Lepiten that P20 Million was “**downloaded**” from Bogo to BMEMPC.<sup>247</sup> The money, which came from DA-RFU7, was loaned to members of BMEMPC.<sup>248</sup> Incidentally, accused Martinez III, Miguez and Verdida were *bona fide* members of said cooperative.



<sup>240</sup> TSN, September 17, 2019, pp. 22, 31 – 32; TSN, September 25, 2019, p. 22.

<sup>241</sup> TSN, September 17, 2019, pp. 25 – 26.

<sup>242</sup> *Id.*, p. 22.

<sup>243</sup> Judicial Affidavit dated September 20, 2019, of S. M. Lepiten, pp. 1 – 4 (Records, Vol. 6, pp. 450 – 453).

<sup>244</sup> TSN, September 25, 2019, pp. 28 – 30.

<sup>245</sup> *Id.*, p. 18.

<sup>246</sup> TSN, October 7, 2019, pp. 7 – 8; TSN, September 25, 2019, pp. 29, 36 – 38; TSN, November 25, 2019, pp. 27 – 28.

<sup>247</sup> *Id.*, pp. 10, 13.

<sup>248</sup> *Id.*, pp. 11, 13.



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Lepiten disclosed that accused Martinez III,<sup>249</sup> Minguuez,<sup>250</sup> Ursonal<sup>251</sup> and Verdida,<sup>252</sup> who were all members of BMEMPC, availed of loans from said Cooperative last April 2007. The details thereof are summarized below, viz:

DEBTOR	AMOUNT OF LOAN	WITH/ NO COLLATERAL	NATURE OF LOAN	PURPOSE
CELESTINO ASAS MARTINEZ III	P5,500,000.00	NONE	LIVELIHOOD	FISH AND PRAWN POND
RHETT E. MINGUEZ	1,000,000.00	WITH (MORTGAGE)	LIVELIHOOD	MANGO FARM
JULIO S. URSONAL, JR.	500,000.00	NONE	LIVELIHOOD	TRICYCLE UNITS FOR HIRE/HOG RAISING
CRESCENCIO P. VERDIDA	100,000.00	NONE	SALARY	
TOTAL:	P7,100,000.00			

Based on the ledgers<sup>253</sup> and records,<sup>254</sup> albeit unofficial, kept by the bookkeeper of BMEMPC, Jessie Allen Minguuez,<sup>255</sup> the above-mentioned loans were fully paid within two years.<sup>256</sup>

Further, Lepiten declared that other government employees took out loans sourced from the P20 Million fund.<sup>257</sup> The obligations incurred by these persons are as follows:

<sup>249</sup> TSN, October 7, 2019, pp. 15 – 17; TSN, November 5, 2019, pp. 23, 27.

<sup>250</sup> TSN, September 25, 2019, pp. 31 -32; TSN, October 7, 2019, pp. 20 – 22.

<sup>251</sup> TSN, September 25, 2019, p. 31; TSN, November 5, 2019, pp. 6 – 8.

<sup>252</sup> EXHIBITS "1", "1-A" for Verdida; TSN, September 25, 2019, p. 38; TSN, November 5, 2019, pp. 9 – 10, 28.

<sup>253</sup> EXHIBITS "6", "6-A" for Martinez III; EXHIBIT "12" for Ursonal; EXHIBITS "8", "8-A" and series for Minguuez.

<sup>254</sup> EXHIBITS "7", "7-A" for Martinez III; TSN, November 5, 2019, pp. 8 – 9, 35 – 39.

<sup>255</sup> TSN, October 7, 2019, pp. 16 – 17; TSN, November 5, 2019, pp. 35 – 39; TSN, November 25, 2019, pp. 26 - 27.

<sup>256</sup> EXHIBIT "1" for Verdida; EXHIBIT "6" for Minguuez; EXHIBIT "12" for Ursonal; TSN, October 7, 2019, p. 18; TSN, September 25, 2019, pp. 33 – 35.

<sup>257</sup> TSN, November 5, 2019, pp. 12 – 18.

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<b>OBLIGOR &amp; POSITION/WORKPLACE IN MUNICIPAL GOVERNMENT OF BOGO, CEBU</b>	<b>AMOUNT OF LOAN</b>	<b>PURPOSE FOR LIVELIHOOD LOAN</b>
RONNIE TULINGIN (Executive Secretary of Mayor)	P 500,000.00	JUNK SHOP
JOSEPHUS MONTESCLAROS (Treasurer's Office)	400,000.00	SARI-SARI STORE
ADELLE BENDIJO (Accounting Department)	250,000.00	SARI-SARI STORE
CESAR T. YLANAN (Municipal Agriculturist)	450,000.00	LIVESTOCK BUSINESS
TOTAL:	P1,600,000.00	

#### 4. RHETT ECHAVEZ MINGUEZ

Rhett E. Minguez, former Municipal Treasurer<sup>258</sup> of Bogo, Cebu, adopted his judicial affidavit<sup>259</sup> as his direct testimony.<sup>260</sup> He was querulous as to why he was called to account for the release of the subject P20 Million. True, he signed the disbursement voucher and the check which, in turn, led to the fund transfer to BMEMPC. Nonetheless, he was merely performing his duties and functions as Municipal Treasurer. For good measure, he made sure that the transaction was regular, legal and proper and that all the supporting documents were present and complete.<sup>261</sup> On this score, he testified thusly:

"ATTY. ANGLIONGTO:

Q: Mr. Witness, you mentioned that one of the signatories that you relied on is the Municipal Mayor?

A: Yes, Maam.

<sup>258</sup> TSN, November 25, pp. 11 – 12.

<sup>259</sup> Judicial Affidavit dated October 18, 2019, of R. E. Minguez, pp. 1 – 8 (Records, Vol. 7, pp. 11 - 18).

<sup>260</sup> TSN, November 25, 2019, pp. 5 – 9.

<sup>261</sup> Id., pp. 15 – 16; Judicial Affidavit dated October 18, 2019, of R. E. Minguez, p. 4 (Records, Vol. 7, p. 14).

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Q: Mr. Witness, did the Municipal Mayor, accused Martinez, give you any instructions pertaining to the Disbursement Voucher?

A: Yes, Maam.

Q: What instructions, Mr. Witness, did Mr. Martinez give to you?

A: He instructed me to release the funds if the officers that (sic) will affix their signatures [had] already signed in the vouchers; second, to release the amount when the attached papers that (sic) are complete and in order.

Q: Mr. Witness, you mentioned attachments, what attachments are you referring to?

A: In this particular transaction, the authority that the Mayor is authorized by the council to sign the MOA with (sic) the Municipality of Bogo, first MOA and the second MOA, the authority from the council for the MOA entered into by the Municipality of Bogo to (sic) the Bogo Municipal Employees Multi-Purpose Cooperative."<sup>262</sup>

Accused Minguez explained further, viz:

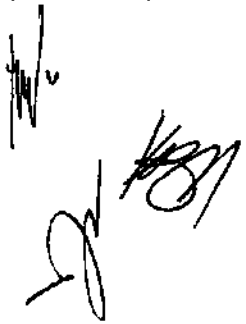
"PROSEC. AGUSTIN-SE:

Q: . . . [H]ow can you reconcile your statement that the transfer of the Twenty (20) Million coming from DA to BMEMPC was to give effect to the MOA between DA and Bogo, when the said MOA, meaning the MOA between DA and Bogo was not yet in existence when the MOA between Bogo and BMEMPC was signed and notarized?

WITNESS:

A: **My role as Treasurer is only to see to it that there are documents attached to it for the release . . .**, I have nothing to do with the notarial (sic) because I'm not an errand boy, I'm a Treasurer.

x x x



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<sup>262</sup> Id., p. 10.

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X X X

PROSEC. AGUSTIN-SE:

Q: Sir, you are a Treasurer and as a Treasurer, your duties and responsibility is (sic) not merely ministerial, correct?

X X X

A: What do you mean **ministerial**?

Q: It means to say that you can say no to the disbursement if you know that the disbursement was not for the purpose for which that was intended, yes or no?

A: **But if I will see the documents, that the intent of the MOA is to implement the same purpose and program, I have to release based on the MOA.**

Q: So, even if the disbursement is not for the intended purpose, for as long as there is a go signal for you to release, you will release it, is that what you are saying?

A: **I will also examine the MOA if it is the same MOA that [will] implement the five (5) areas of concern by (sic) the GAM, Ginintuang Agricultural (sic) Makamasa Banner Program**  
...

Q: Okay, now according to you, you believe that the **Coop is [a] competent beneficiary of the Twenty (20) Million because the members of the Coop are themselves, farmers** as stated in your judicial affidavit?

A: Yes, in my understanding that they are farmers.

Q: But do you agree with me that the members of the Coop are the employees of the Cooperative, in which you are one of the members?

A: I agree.

Q: So, technically your main source of income, including that of the beneficiaries, are (sic) not farming?



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A: I have a farm.

x x x

Q: Yes, but that is not your main source of income?

x x x

ASSOC. JUSTICE VIVERO:

Q: **When you were still the Municipal Treasurer of the Municipality of Bogo, are you saying that you were at the same time a farmer?**

WITNESS:

A: **Yes**, Your Honors.

Q: You were maintaining what farm?

A: **Mango farm.**

x x x

PROSEC. AGUSTIN-SE:

Q: But is it correct to say, sir, that you don't till the land that you farm?

WITNESS:

A: I only manage."<sup>263</sup> (Emphasis Supplied.)

Admittedly, accused Minguez took out a loan of One Million Pesos (P1,000,000.00) from BMEMPC.<sup>264</sup> The loan was secured by a real estate mortgage.<sup>265</sup> Based on the ledger of payments,<sup>266</sup> full payment was made on October 17, 2012.<sup>267</sup> Thence, the mortgage was released.<sup>268</sup>



<sup>263</sup> TSN, November 25, 2019, pp. 20 - 23.

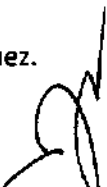
<sup>264</sup> *Id.*, p. 24.

<sup>265</sup> *Id.*, p. 28.

<sup>266</sup> EXHIBITS "8", "8-A" and series.

<sup>267</sup> TSN, November 25, 2019, p. 30.

<sup>268</sup> *Ibid*, EXHIBITS "6", "7", "8" for Minguez.



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**5. CRESCENCIO PILAPIL VERDIDA**

Crescencio Pilapil Verdida testified thru his judicial affidavit.<sup>269</sup> Besides, he gave additional testimony during direct examination.<sup>270</sup>

On April 2007, accused Verdida took out a salary loan from BMEMPC.<sup>271</sup> As the Municipal Accountant,<sup>272</sup> he is cognizant that it is part of his duty to ensure compliance with auditing rules issued by COA.<sup>273</sup> However, he maintained that it is someone else's job to ensure that any contract entered into by the Mayor is lawful and will pass audit.<sup>274</sup>

Accused Verdida expressly admitted that he signed the Disbursement Voucher, Allotment Obligation Slip and the Journal Entry Vouchers, among others, in connection with the subject ₱20 Million transaction.<sup>275</sup> Moreover, he spoke of the appurtenant procedure, viz:

"Q: Now, Mr. Witness, in your Judicial Affidavit that you prepared, you mentioned some of the procedures that (sic) to be followed in signing the disbursement voucher. According to you, the first procedure is that the disbursement voucher will be prepared by the requesting (sic), first by the requesting party, correct? That's the first step?

A: Yes.

Q: And in this particular case, do you know who's the **requesting party for the disbursement of the 20 million pesos?**

A: I think that's **the Mayor.**

X X X



<sup>269</sup> Judicial Affidavit dated November 14, 2019, of C. P. Verdida, pp. 1 – 9 (Records, Vol. 7, pp. 64 – 72).

<sup>270</sup> TSN, February 17, 2020, pp. 7 – 9.

<sup>271</sup> *Ibid.*

<sup>272</sup> *Id.*, pp. 14 – 16.

<sup>273</sup> *Id.*, p. 16.

<sup>274</sup> *Id.*, pp. 17 – 18.

<sup>275</sup> *Id.*, pp. 19 – 20



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PROSECUTOR AGUSTIN-SE:

Q: Now, and the second step is that, **after the preparation of the Disbursement Voucher, it will go to the Treasurer's Office for the Certification as to the availability of funds,** correct? x x x

A: **Yes.**

Q: And in this particular case, the one that (sic) certified as to the availability of the 20 million pesos is the Treasurer, Mr. Rhett Miguez, who is also your co-accused in this case, correct?

A: I think so.

Q: You think so?

A: Yes, yes.

Q: **And after that, it now goes to your office, the Accountant[']s Office,** correct, for your signature?

"x x x

A: Yes, Maam.

Q: x x x [T]here is somebody from your office who will (sic) going to **review** the documents attached to the Disbursement Voucher, do you affirm that?

A: Yes, Maam.

Q: Okay, and then **if this Disbursement Voucher is complete, it will be recorded, the payee and the amount will be recorded in the logbook,** correct?

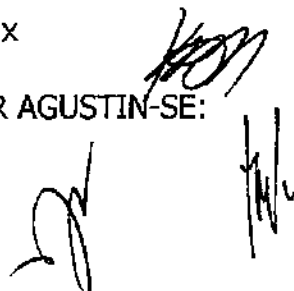
A: Yes, **including the date it is received** if it is complete with the necessary supporting documents.

Q: And then **the third . . .** is, there is again somebody who **scrutinized this document if complete for computation of the necessary withholding tax,** correct?

A: Yes . . .

x x x

PROSECUTOR AGUSTIN-SE:





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Q: And then **the last** one is, there is a **further verification that is to be conducted if the voucher is legal and warrant[s] to be signed by you and if the voucher is not complete, this will be returned to the office that prepared the Disbursement Voucher with a note indicating whatever is the document that was absent, correct?**

A: Yes.

Q: Now, since Mr. Witness you are the final person that (sic) who will (sic) going to sign this Disbursement Voucher, is it correct to say that you at least **go over this documents attached to the Disbursement Voucher to be able for you to say that it is really complete and in accordance with the purpose for which it was being released?**

A: Yes, I will go over it again.

Q: So that is your responsibility, Sir?

A: Yes." <sup>276</sup> (Emphasis Supplied.)

Accused Verdida knew that the ₱20 Million was earmarked for the agricultural development of Bogo, and that the primary beneficiaries thereof are farmers.<sup>277</sup> His testimony on this is quoted below, viz:

"Q: . . . [A]s a responsible Accountant, you know for a fact that this money [₱20 Million] is intended for agricultural project[s], correct?

A: Yes.

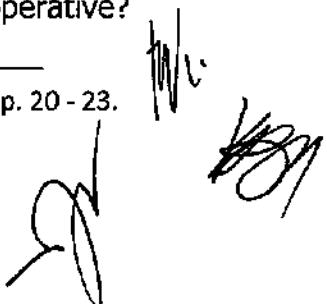
Q: And **despite knowing that, you approved the disbursement voucher for the release of the 20 million not to the farmers but to the Cooperative, correct?**

A: Yes.

Q: Okay, now, Sir, you are a member of the Cooperative?

<sup>276</sup> TSN, February 17, 2020, pp. 20 - 23.

<sup>277</sup> Id., pp. 24, 27.

Handwritten signatures and initials at the bottom of the page, including a large signature on the left and several smaller initials and scribbles on the right.

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A: Yes.

Q: And **YOU KNOW FOR A FACT THAT IF YOU ARE MEMBER OF THE COOPERATIVE, YOU WILL IN A WAY BENEFIT FROM WHATEVER FUND THAT THE COOPERATIVE WILL BE GETTING FROM THE MUNICIPALITY OF BOGO**, correct? Yes or no?

A: **YES, BUT I AM ALSO A FARMER.**

Q: In fact, Sir, you availed [of] a loan in 2007 after the transfer of the 20 million to the Cooperative?

A: As I've said, my loan is regular x x x.

x x x

Q: Were you aware that the funds that will be given to you, that will be loaned to you will come from the 20 million?

A: No, it's not, it's a regular salary loan, x x x it's a continuing process." <sup>278</sup> (Emphasis and Capitalization Supplied.)

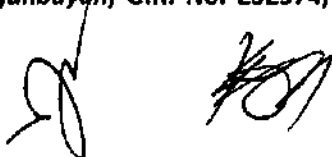
Accused Verdida encapsulates his defense thusly:

**". . . I was merely doing my job as a Municipal Accountant of Bogo when I signed the DV for the release of the amount of P20,000,000.00 to BMEMPC. The slips and vouchers were supported by complete attachments.** If the attachments were complete, I could have indicated the same in the DVs as I have (sic) done in **SB-15-CRM-0413**" <sup>279</sup> <sup>280</sup> (Emphasis Supplied.)

<sup>278</sup> *Id.*, pp. 27 – 28, 30.

<sup>279</sup> In **Crim. Case No. SB-15-CRM-0413**, Mayor Celestino Asas Martinez III and Rhett E. Minguez were indicted for allegedly violating Sec. 3(e) of R.A. No. 3019, by conspiring in causing and/or approving the implementation of the Department of Agriculture's Farm Inputs and Farm Implements program (FIFIP), identifying Sikap Yaman as the project implementer despite its lack of qualifications under Commission on Audit Circular No. 96-003, and causing the release of fund in the total amount of P6,000,000.00 to said association, and by failing to monitor and ascertain the status of the project, the proper utilization of the fund, and the receipt of the fertilizers by the farmer beneficiaries, resulting and causing undue injury to the Municipality of Bogo, Cebu, in the total amount of P6,000,000.00.

In *Celestino A. Martinez III and Rhett E. Minguez v. People of the Philippines and Hon. Sixth Division of the Sandiganbayan*, G.R. No. 232574, October 01, 2019, the Supreme Court



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**6. JULIO SENINING URSONAL, JR.**

Accused Ursonal adopted his *Amended Judicial Affidavit*<sup>281</sup> as his direct testimony. However, the second portion of affiant's Answer to Question No. 43, as well as the Questions and Answers Nos. 44 and 45, were stricken off.<sup>282</sup> Thereafter, he gave additional testimony during direct examination.<sup>283</sup> This dwelt on the decision of the Regional Trial Court, Branch 61, Bogo, Cebu, which nullified the Notice of Disallowance of the COA in connection with the subject transaction.<sup>284</sup>

At the time material to this case, accused Ursonal was Bogo's Market Administrator, not the Assistant Treasurer<sup>285</sup> as alleged in the Information.<sup>286</sup> Concomitantly, he was the President and Chairperson of the Board of Directors of Bogo Municipal Employees Multi-Purpose Cooperative (BMEMPC).<sup>287</sup>

During the cross-examination, accused Ursonal admitted that he knew that after the MOA<sup>288</sup> between Bogo and BMEMPC was signed, ₱20 Million would be used by the latter to grant loans to its members. ₱9,700,000.00 was taken out as

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dismissed the complaint against accused (petitioners). The dispositive portion of said Decision reads:

***"WHEREFORE, the Court GRANTS the petition for review on certiorari; NULLIFIES and SETS ASIDE the resolutions promulgated by the Sandiganbayan on March 1, 2017 and May 18, 2017 in SB-16-CRM-0413; and DISMISSES Criminal Case No. SB-16-CRM-0413 on the ground that its filing violated the right of the petitioners to the speedy disposition of their cases.***

No pronouncement on costs of suit.

**SO ORDERED."** (Emphasis and Italics Supplied.)

<sup>280</sup> Judicial Affidavit dated November 14, 2019, of C. P. Verdida, p. 7 (Records, Vol. 7, p. 70).

<sup>281</sup> Amended Judicial Affidavit dated February 26, 2020, of J. S. Ursonal, Jr., pp. 1 - 18 (Records, Vol. 7, pp. 142 - 157).

<sup>282</sup> TSN, March 2, 2020, pp. 13 - 17, 44.

<sup>283</sup> *Id.*, pp. 20 - 28; Order dated March 2, 2020, p. 1 (Records, Vol. 7, p. 206).

<sup>284</sup> TSN, March 2, 2020, pp. 21 - 26.

<sup>285</sup> Accused Ursonal alleged that he was appointed Market Administrator of Bogo, Cebu on May 1, 2003, while he was appointed Assistant Treasurer thereat on June 22, 2007.

<sup>286</sup> Amended Judicial Affidavit dated February 26, 2020, of J. S. Ursonal, Jr., pp. 10 - 11 (Records, Vol. 7, pp. 149 - 150).

<sup>287</sup> TSN, March 3, 2020, p. 40.

<sup>288</sup> EXHIBIT "1" for Ursonal.



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livelihood loans, and the remainder (P10,300,000.00) as salary loans.<sup>289</sup> Yet, accused Ursonal denied that he approved the applications for loans of members of BMEMPC. Rather, it was the Cooperative's Board of Directors, upon the recommendation of the Credit Committee, that ultimately decided on the matter.<sup>290</sup> Curiously, although all loan applications<sup>291</sup> were signed by accused Ursonal, nowhere were the signatures of Susan Minguez and Rey M. Ylanan, Chairperson and member, respectively of the Credit Committee, affixed in any of those application forms.<sup>292</sup> Accused Ursonal elucidated that "they recommended verbally" and "[t]hey will submit [it] as a credit report to the Board."<sup>293</sup>

Accused Ursonal affirmed that livelihood loans were availed of by the nine (9) borrowers.<sup>294</sup> The particulars, which were culled from each MOA,<sup>295</sup> are summarized below, viz:

BORROWER	AMOUNT OF LOAN	PROJECT
Celestino A. Martinez III	₱ 5,500,000.00	Fish and prawn pond
Ronnie Tolingín	500,000.00	Junk shop
Adelle Bendijo	450,000.00	Sari-sari store
Rhett E. Minguez	1,000,000.00	Mango farm
Josephus Montesclaros	400,000.00	Sari-sari store
Samson Lepiten	400,000.00	Micro-lending
Sheila F. Orcullo	500,000.00	Soy sauce manufacturing
Julio S. Ursonal, Jr.	500,000.00	Tricycle units for hire and hog raising
Cesar T. Ylanan	450,000.00	Livestock business
TOTAL:	₱8,800,000.00	

Further, accused Ursonal clarified that others took out salary loans which were used to finance livelihood projects. He hastened to add that no MOA was executed in that regard.

<sup>289</sup> TSN, March 2, 2020, pp. 40 – 41; TSN, March 3, 2020, pp. 4 – 5.

<sup>290</sup> TSN, March 2, 2020, pp. 41 – 42; TSN, March 3, 2020, pp. 7 – 10, 31 – 32, 38 – 40.

<sup>291</sup> EXHIBITS "Z" to "Z-6", "BB" to "BB-6", "DD" to "DD-63", "DD-104", "DD-105" to "DD-124", "DD-125" to "DD-140", "DD-141" to "FF", "HH" to "JJ-2"

<sup>292</sup> TSN, March 3, 2020, pp. 11 – 19, 32.

<sup>293</sup> *Id.*, p. 33.

<sup>294</sup> *Id.*, pp. 21 – 24.

<sup>295</sup> EXHIBITS "AA" to "AA-2", "CC" to "CC-2", "EE", "EE-1" to "EE-3", "GG" to "GG-2", "II" to "II-2", "KK" to "KK-2", "MM" to "MM-2".

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After all, payroll deductions were made from their salaries; hence, collection was one hundred percent (100%).<sup>296</sup>

Accused Ursonal stated that BMEMPC's receipt of the ₱20 Million from Bogo was reported to the Cooperative Development Authority (CDA) as receivables.<sup>297</sup>

The cross-examination of Ursonal unraveled relevant matters. These may be gleaned from his testimony, to wit:

"Q . . . [D]o you agree with me if I say that the purpose and objectives of the BMEMPC does not include the implementation of the AFMA Law, the Agricultural (sic) and Fisheries Modernization [Act]?"

ATTY. ARNADO:

Objection, Your Honors, that calls for a legal opinion and the interpretation of the AFMA Law.

PROSEC. SE:

Your Honors, I am just asking the objectives. As a member of the Cooperative, if he knows the AFMA Law.

JUSTICE FERNANDEZ:

Objection overruled.

Q . . . [D]o you agree with me if I say that the implementation of any law is not any (sic) of the objectives of the Cooperative?

A I will not agree with you.

x x x

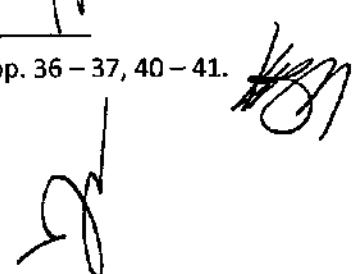
Q What do you mean when you say you do not agree with me?



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<sup>296</sup> TSN, March 3, 2020, pp. 36 – 37, 40 – 41.

<sup>297</sup> *Id.*, pp. 25 – 26.



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A As far as I know, **our objectives is (sic) also aligned with the law** that you mentioned.

Q Can you pinpoint where in the Articles of Incorporation of BMEMPC is stated that one of the objectives is for the implementation of the AFMA Law?

A Actually, it is not, it is a form of (sic), **one of the objectives of the Cooperative is to enhance that income of the members** and that is also being mentioned by that law, RA 8435 to enhance maybe the income of all sectors including the Cooperative.

Q To improve the income of the members. The members of the BMEMPC are not . . . primarily farmers, correct? x x x

A Yes.

Q x x x Now, you mentioned that sometime in **2006 the Local Government Unit of Bogo, represented by then Mayor Celestino Martinez III offered a financial assistance to the cooperative as seed for loans for the member's livelihood projects.** Do you affirm that statement?

A Yes, ma'am.

x x x

Q Who was the representative from BMEMPC . . . ?

A Myself, ma'am.

x x x

Q After learning about that offer, you also did not bother to ask where this amount will be coming from?

A No, ma'am.

Q After that you told the Board of Directors [about] the offer of Mayor Celestino Martinez III?

A Yes, ma'am.

Q . . . [W]hat did the board do by the way?



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A I discussed with the board based on what has been said by Mayor Martinez. x x x He just asked [about] the status of the cooperative, whether we need an additional capital for the operation and for the loans. And I said yes. **He told me that he might raise the capitalization for the cooperative.**<sup>298</sup> (Emphasis Supplied.)

When asked about the contents of the Counter-Affidavit<sup>299</sup> that he submitted to the Office of the Ombudsman during the preliminary investigation, Ursonal retracted. His testimony runs thus:

"Q . . . [N]obody forced you to signed (sic) this Counter-Affidavit, correct? . . .


A No.


Q x x x Let me call your attention to Question No. 3, rather paragraph 3. It is stated here that **on February 12, 2007, BMEPC (sic) entered into a Memorandum of Agreement with Bogo City whereby a grant [of] Php20 Million from the Department of Agriculture shall be channeled through and known (sic) out to the BMEMPC members** in accordance with the intent and purposes of the MOA entered into by and between the Department of Agriculture and the City of Bogo.

4. Pursuant to the purpose and grant of the Department of Agriculture, BMEMPC proceeded to loan out the funds to its members most of whom were already engaged in small business enterprises either farming, cattle raising or retailing, among others. Now with this statement, **do you agree with me . . . that you know for a fact where the Php20 Million is coming from,** correct?

A **No,** I could not.

Q What do you mean you could not? Are you denying your statement here that you know the source of the fund?

  
<sup>298</sup> TSN, March 2, 2020, pp. 31 – 34.

  
<sup>299</sup> Dated March 26, 2010, pp. 1 – 2 (Records, Vol. 1, pp. 52 – 53).



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A Yes, ma'am. x x x

x x x

Q When you said you deny here, you are not agreeing with these statements, correct?

A That, ma'am?

Q 3 and 4?

A Yes . . ." (Emphasis Supplied.)

In the course of the re-cross examination, the inquiry zeroed in on the subject P20 Million fund, viz:

"CHAIRPERSON:

Q: Mr. Ursonal so, at that time that the financial assistance was extended by the local government unit to the Cooperative, you were the President and Chairperson of the Cooperative, is that right ?

WITNESS:

A: Yes, Your Honors.

Q: And how much was the financial assistance given?

A: Twenty (20) Million, Your Honors.

x x x

Q: It was given in lumpsome (sic)?

A: Yes, Your Honors.


Q: And you were the one who accepted it?

A: Yes, Your Honors.

Q: And you are (sic) the one who accepted it?

A: Yes, representing the Cooperative, Your Honors by virtue of Board authority, Your Honors.

Q: It was through a check?





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A: Yes, Your Honors.

Q: What was the condition of this financial assistance?

A: **According to our MOA that I signed with LGU Bogo, these funds should be utilized solely for cooperative members to finance the livelihood projects** and to expand the livelihood existing (sic) projects, Your Honors.

Q: So, it is limited to livelihood projects?

A: **And any activities of the member that could increase their meager income**, Your Honors.

Q: So, it's not only for livelihood, so it's any activity that could increase their income, so meaning they should engage somehow in a business?

A: Yes, Your Honors, because as part of the objective of the Cooperative to help the members to increase or develop their social being, Your Honors.

Q: But the Cooperative members when they borrow money from the Cooperative, when they take out a loan, are these loan[s] limited to livelihood, limited to investments for livelihood projects only or can they use the funds for something else, for personal or for whatever purpose that they deem fit?

A: For these funds, Your Honors –

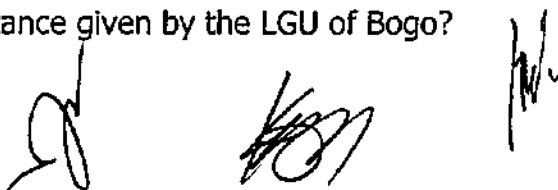
Q: No, we are not talking of the twenty (20) million, we are talking of the entirety of the funds of the cooperative.

A: **They can use for any project**, Your Honors, **even for the improvement of their house or for the tuition fee of their children.**

Q: Okay, so when you received the Twenty (20) Million pesos, was this deposited together with the other funds of the Cooperative or did you open a separate bank account for that?

A: It was deposited in the existing account as far as I know, Your Honors.

Q: And so when the Cooperative member borrows or takes out a loan, do they indicate in their application that the loan that they will take out should be taken from the financial assistance given by the LGU of Bogo?



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A: No, Your Honors, it's generic.

x x x

Q: **So, when you finally approved the loan, it is indicated there, from the financial assistance of LGU Bogo?**

A: **Yes**, Your Honors, upon recommendation also of [the] Credit Committee.

Q: Okay, so you have a separate list of borrowers which (sic) took out their loan from the LGU funds and a separate list of the borrowers which (sic) took out their loan from the other funds of the Cooperative?

A: Yes, Your Honors.

Q: **So, out of the funds of the financial assistance of LGU Bogo, the Twenty (20) Million, how much of that fund was lent out to the members of the Cooperative?**

A: As far as I can recall, it was **nineteen (19) point something million**, Your Honors.

Q: Nineteen (19) point something million over the course of how many years?

A: Five (5) years, Your Honors.

Q: But of course when the cooperative members pay back the loan, you again allow the funds to be lent out?

A: It is now part of our revolving fund or our capitalization for our lending activities, Your Honors.

x x x

Q: So when it is paid, the money now goes to the entire funds of the Cooperative?

A: Yes, Your Honors.<sup>300</sup> (Emphasis Supplied.)



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<sup>300</sup> TSN, March 3, 2020, pp. 42 – 46.



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**B. Documentary evidence**

**B.1** The documentary evidence which were formally offered<sup>301</sup> by accused **Martinez III**, and admitted<sup>302</sup> by this Court include the following:

<b>EXHIBIT</b>	<b>DESCRIPTION</b>
<b>1 (Exh. "E")</b>	Resolution No. 013-2007 of the <i>Sangguniang Bayan</i> , authorizing the Mayor to enter into a Memorandum of Agreement (MOA) concerning agriculture-related projects with the Department of Agriculture (DA) through Director Eduardo B. Lecciones, Jr., DA, Region VII
<b>2 (Exh. "F")</b>	Memorandum of Agreement (MOA) between the DA, Regional Field Unit (RFU) and the Municipality of Bogo, Cebu
<b>3</b>	Resolution No. 025-2007 of the <i>Sangguniang Bayan</i> , ratifying and confirming the Contract entered into between the Municipality of Bogo and the Bogo Municipal Employees Multi-Purpose Cooperative (BMEMPC)
<b>4 (Exh "H")</b>	Memorandum of Agreement between the Municipal Government of Bogo, Cebu and the BMEMPC, to prove that this MOA was forged in pursuit of livelihood sustainability
<b>5</b>	Decision dated November 19, 2015, of the Regional Trial Court (RTC), Branch 61, Bogo, Cebu, to prove that – (1) Cooperatives are beneficiaries of funds from the DA; (2) Livelihood programs are included under the scope of said MOA; (3) Accused is in good faith when he signed said MOA for the effective implementation of livelihood programs

<sup>301</sup> Formal Offer of Evidence dated June 29, 2020, of Celestino A. Martinez III, pp. 1 – 7 (Records, Vol. 7, pp. 362 – 368).

<sup>302</sup> Resolution dated November 27, 2020, pp. 2 - 3 (Records, Vol. 7, pp. 418-C - 418-D).

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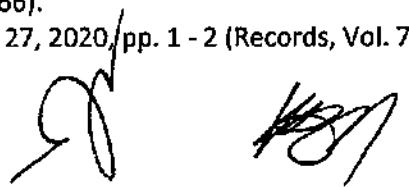
<b>5-A</b>	Dispositive portion of the Decision dated November 19, 2015, of the Regional Trial Court (RTC), Branch 61, Bogu, Cebu
<b>6</b>	Ledger # 2007-001
<b>6-A</b>	Signature of Samson M. Lepiten, Operations Manager of the Bogu Municipal Employees Multi-Purpose Cooperative (BMEMPC)
<b>7</b>	Report of Payment (As of December 31, 2012) of the BMEMPC
<b>7-A</b>	Signature of Samson M. Lepiten, Operations Manager of the Bogu Municipal Employees Multi-Purpose Cooperative (BMEMPC)

**B.2** The documentary evidence which were formally offered<sup>303</sup> by accused **Ursonal, Jr.**, and admitted<sup>304</sup> by this Court include the following:

<b>EXHIBIT</b>	<b>DESCRIPTION</b>
<b>1</b>	Memorandum of Agreement between the Municipal Government of Bogu, Cebu, represented by Mayor Celestino A. Martinez III and the BMEMPC, represented by J. S. Ursonal, Jr.
<b>2</b>	Certificate of Registration dated August 1, 2001, of the BMEMPC which was issued by the Cooperative Development Authority (CDA)
<b>3</b>	Amended by-laws (25 pages) of the BMEMPC which was adopted by its members on September 9, 2011,

<sup>303</sup> Formal Offer of Exhibits for Accused Julio S. Ursonal, Jr. dated March 10, 2020, pp. 1 – 11 (Records, Vol. 7, pp. 256 – 266).

<sup>304</sup> Resolution dated November 27, 2020, pp. 1 - 2 (Records, Vol. 7, pp. 418-A - 418-B).



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	and duly signed by the seven (7) directors of its Board
<b>4</b>	Resolution No. 01-2007 of the BMEMPC, authorizing J. S. Ursonal, Jr., President of said Cooperative, to enter into a MOA with the Municipality of Bogó, Cebu, for purpose of obtaining financial assistance (P20,000,000.00)
<b>5</b>	Resolution No. 025-2007 of the <i>Sangguniang Bayan</i> , ratifying and confirming the Contract entered into between the Municipality of Bogó and the Bogó Municipal Employees Multi-Purpose Cooperative (BMEMPC)
<b>6</b>	Resolution No. 013-2007 of the <i>Sangguniang Bayan</i> , authorizing the Mayor to enter into a Memorandum of Agreement (MOA) concerning agriculture-related projects with the Department of Agriculture (DA) through Director Eduardo B. Lecciones, Jr., DA, Region VII
<b>7</b>	MOA (2 pages) dated March 23, 2007, wherein the DA, thru Regional Director Eduardo Lecciones, Jr., extended P20 Million financial assistance to the Municipality of Bogó, Cebu, represented by Mayor C. A. Martínez III
<b>8</b>	Resolution No. 3031-2009 of the <i>Sangguniang Panlalawigan</i> of Cebu, accrediting BMEMPC as a non-governmental organization (NGO) of said Province
<b>9</b>	Certificate of Accreditation dated May 11, 2009, issued by the <i>Sangguniang Panlalawigan</i> of Cebu, certifying that the BMEMPC complied with R.A. No. 7160 (The Local Government Code of 1991) and Ordinance No. 2004-01, as amended by Ordinance No. 2008-06
<b>10</b>	Certificate of Good Standing of the BMEMPC, issued by the Cooperative Development Authority (CDA) on April 30, 2014
<b>11</b>	Decision dated February 4, 2016, of the Office of the Ombudsman in the administrative case entitled " <i>Field Investigation Office – Office of the Ombudsman, Visayas vs. Julio S. Ursonal, Jr.</i> ", OMB-V-A-14-0527,

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	dismissing said case (for Grave Misconduct)
<b>12</b>	Certified Ledger of Payment, prepared by the Cooperative's bookkeeper, Jessie Alyn Minguez, and confirmed by its Operations Manager, Samson M. Lepiten, stating the, as of December 15, 2012, accused Ursonal, Jr. fully paid the P500,000.00 livelihood loan for tricycle units for hire and hog-raising projects, which he borrowed from the Cooperative
<b>13</b>	Certificate of Receipt dated March 18, 2015, issued by Rodolfo V. Alburo, Accountant, Bogó City, stating that the BMEMPC received financial assistance from various sources, including the Presidential Management Staff (PMS), Office of the President, Provincial Government of City, and City Government of Bogó
<b>14</b>	Decision dated November 19, 2015, of the Regional Trial Court (RTC), Branch 61, Bogó, Cebu, in " <i>Celestino Martínez III, the Bogó Municipal Employees Multi-Purpose Cooperative (BMEMPC), represented by Julio S. Ursonal, Jr., et. al. vs. Commission on Audit (COA), et. al.,</i> " Civil Case No. BOGO-02972 (for Declaratory Relief), which ruled that the Cooperative is one of the lawful beneficiaries of the DA program under Republic Act No. 8435

**B.3** The documentary evidence which were formally offered<sup>305</sup> by accused **Minguez**, and admitted<sup>306</sup> by this Court include the following:

<b>EXHIBIT</b>	<b>DESCRIPTION</b>
<b>1</b>	Resolution No. 013-2007 of the <i>Sangguniang Bayan</i> , authorizing the Mayor to enter into a Memorandum of Agreement (MOA) concerning agriculture-related projects with the Department of Agriculture (DA) through Director Eduardo B. Lecciones, Jr., DA, Region VII

<sup>305</sup> Formal Offer of Evidence (Accused RHETT E. MINGUEZ) dated March 13, 2020, pp. 1 – 5 (Records, Vol. 7, pp. 328 – 332).

<sup>306</sup> Resolution dated November 27, 2020, p. 2 (Records, Vol. 7, p. 418-C).

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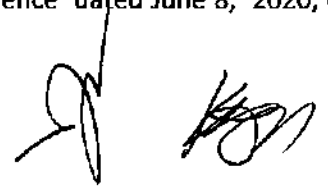
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<b>2 and series</b>	Memorandum of Agreement (MOA) between the DA, Regional Field Unit (RFU) VII and the Municipality of Bogo, Cebu
<b>3 and series</b>	Resolution No. 025-2007 of the <i>Sangguniang Bayan</i> , ratifying and confirming the Contract entered into between the Municipality of Bogo and the Bogo Municipal Employees Multi-Purpose Cooperative (BMEMPC)
<b>4 and series</b>	Memorandum of Agreement between the Municipal Government of Bogo, Cebu and the BMEMPC
<b>5 and series</b>	Decision dated November 19, 2015, of the Regional Trial Court (RTC), Branch 61, Bogo, Cebu, to prove that as per judicial interpretation, cooperatives are among the qualified beneficiaries of the 20 Million pesos DA program
<b>6</b>	Release of Real Estate Mortgage dated March 30, 2015
<b>7</b>	Declaration of Real Property
<b>7-A and series</b>	Official Receipt # 0866980 dated January 28, 2018
<b>8</b>	Ledger showing that accused Rhett Minguez has fully paid his loan
<b>8-A and series</b>	Signature of Samson M. Lepiten, Operations Manager of the Bogo Municipal Employees Multi-Purpose Cooperative (BMEMPC), certifying the entries in Exhibit "8"

**B.4** The documentary evidence which were formally offered<sup>307</sup> by accused **Verdida**, and admitted<sup>308</sup> by this Court include the following:



<sup>307</sup> Formal Offer of Evidence dated June 8, 2020, of C. P. Verdida, pp. 1 – 6 (Records, Vol. 7, pp. 216 –221).



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<b>EXHIBIT</b>	<b>DESCRIPTION</b>
<b>1</b>	Certification dated August 23, 2018, issued by Samson M. Lepiten, BMEMPC, Manager, that: (1) Crescencio P. Verdida applied for a salary loan with BMEMPC in April 2007; (2) said obligation was fully paid on May 2009; and (3) C. P. Verdida applied for and was granted salary loans prior to his salary loan on April 2007
<b>1-A</b>	Signature of Samson M. Lepiten, BMEMPC, Manager in Exhibit "1"
<b>2</b>	Memorandum of Agreement between the Municipal Government of Bogo, Cebu and the BMEMPC
<b>3</b>	Memorandum of Agreement (MOA) between the DA, Regional Field Unit (RFU) VII and the Municipality of Bogo, Cebu
<b>4</b>	Resolution No. 025-2007 of the <i>Sangguniang Bayan</i> , ratifying and confirming the Contract entered into between the Municipality of Bogo and the Bogo Municipal Employees Multi-Purpose Cooperative (BMEMPC)
<b>5</b>	Resolution No. 013-2007 of the <i>Sangguniang Bayan</i> , authorizing the Mayor to enter into a Memorandum of Agreement (MOA) concerning agriculture-related projects with the Department of Agriculture (DA) through Director Eduardo B. Lecciones, Jr., DA, Region VII

**THE COURT'S RULING**

*Imprimis*, the case against accused Mary Lou B. Ursal<sup>309</sup> is excluded from the Court's determination. Since she has not been

<sup>308</sup> Resolution dated November 27, 2020, p. 1 (Records, Vol. 7, p. 418-B).

<sup>309</sup> No further action had been taken against accused M. L. B. Ursal, former Municipal Budget Officer, who allegedly took flight and was neither arrested nor arraigned. (Records, Vol. 2, pp. 12 – 16)



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arraigned in Criminal Case No. SB-15-CRM-0284, hiving her off from the group (i.e. co-conspirators) is proper.

Accused Celestino Asas Martinez and Julio S. Ursonal, Jr. are formally charged for conspiring in the commission of acts violative of Sections 3(e)<sup>310</sup> and 3(g)<sup>311</sup> of Republic Act No. 3019, as amended, in Criminal Case No. SB-15-CRM-0284 and Criminal Case No. SB-15-CRM-0285, respectively. On the other hand, the indictment against their alleged co-conspirators, accused Crescencio Pilapil Verdida and Rhett E. Minguez, is confined to Section 3(e) of said penal statute.



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<sup>310</sup> Section 3(e) of Republic Act No. 3019, as amended, provides:

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

(a) x x x

x x x

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

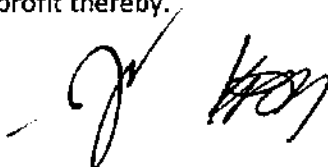
<sup>311</sup> Section 3(g) of Republic Act No. 3019, as amended, provides:

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

(a) x x x

x x x

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



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**I.**

**SB-15-CRM-0284**

(For Violation of Section 3(e) of R. A. No. 3019, as amended)

The Prosecution proceeded against accused Celestino Asas Martinez, Crescencio Pilapil Verdida, Rhett E. Minguez and Julio S. Ursonal, Jr. for allegedly conspiring in the commission of acts violative of Section 3(e) of Republic Act No. 3019, as amended.

In *Fuentes v. People*,<sup>312</sup> the Supreme Court held that to justify an indictment under Section 3(e) of the Anti-Graft and Corrupt Practices Act, the concurrence of the following essential elements must be established:

- (1) the accused must be a public officer discharging administrative, judicial or official functions (or a private individual acting in conspiracy with such public officers);
- (2) that the accused must have acted with manifest partiality, evident bad faith or gross inexcusable negligence; and
- (3) the action of the accused caused undue injury to any party, including the government, or gave any private party unwarranted benefits, advantage or preference in the discharge of the functions of the accused.<sup>313</sup>

*Cabrera v. Sandiganbayan*<sup>314</sup> is jurisprudential precedent that there are two ways<sup>315</sup> by which a public official runs afoul with Section 3(e) of R.A. No. 3019, as amended, in the performance of his functions, to wit:

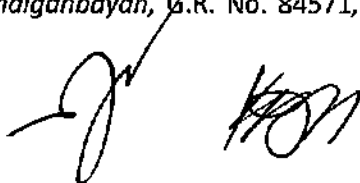


<sup>312</sup> G.R. No. 186421, April 17, 2017.

<sup>313</sup> See *Cuerpo v. People*, G.R. No. 203382, September 18, 2019; *Cambe v. Ombudsman*, G.R. Nos. 212014-15, December 6, 2016, 812 SCRA 537, citing *Presidential Commission on Good Government v. Navarro-Gutierrez*, G.R. No. 194159, October 21, 2015, 773 SCRA 434, 446; *Ciron v. Gutierrez*, G.R. Nos. 194339-41, April 20, 2015; *Dela Chica v. Sandiganbayan*, G.R. No. 144823, December 8, 2003, 417 SCRA 242.

<sup>314</sup> G.R. No. 162314 – 17, October 25, 2004 (484 Phil. 350, 360; 441 SCRA 377).

<sup>315</sup> Citing *Jacinto v. Sandiganbayan*, G.R. No. 84571, October 2, 1989 (387 Phil. 872, 881; 178 SCRA 254, 259).



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- (1) by causing undue injury to any party, including the Government; **or**
- (2) by giving any private party any unwarranted benefit, advantage or preference.

The accused may be charged under either mode or both.<sup>316</sup> The disjunctive term "**or**" connotes that either act qualifies as a violation of Section 3(e) of R.A. 3019.<sup>317</sup>

**A. FIRST ELEMENT.**

Accused Martinez III, Minguez<sup>318</sup> and Verdida expressly admitted that, indeed, they were incumbent officials of the Municipality of Bogo, Cebu, at the time (2007) material to this case.<sup>319</sup> The former positions of said officials are as follows:

NAME	POSITION
CELESTINO ASAS MARTINEZ III	MAYOR
CRESCENCIO PILAPIL VERDIDA	MUNICIPAL ACCOUNTANT
RHETT E. MINGUEZ	MUNICIPAL TREASURER
JULIO S. URSONAL, JR.	ASSISTANT TREASURER

Section 444<sup>320</sup> of the Republic Act No. 7160<sup>321</sup> provides for the powers and duties of a municipal mayor:

**Section 444. The Chief Executive: Powers, Duties, Functions and Compensation. --**



<sup>316</sup> *Velasco v. Sandiganbayan*, G.R. No. 160991, February 28, 2005 (492 Phil. 669, 677; 452 SCRA 593).

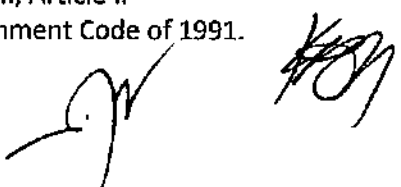
<sup>317</sup> *Coloma v. Sandiganbayan (Third Division)*, G.R. No. 205561, September 24, 2014; *Braza v. Sandiganbayan*, G.R. No. 195032, February 20, 2013, 691 SCRA 471; *Constantino v. Sandiganbayan*, 559 Phil. 622, 638 (2007).

<sup>318</sup> The Court **NOTED** the Manifestation (RE: Minute Resolution issued on May 22, 2019) of accused Rhett E. Minguez, stating that he has retired from government service and is no longer a public official, and was not appointed or elected (Records, Vol. 7, p. 118).

<sup>319</sup> Pre-Trial Order dated July 10, 2018, pp. 1 – 15 (Records, Vol. 4, pp. 20 – 34); Supplemental Pre-Trial Order dated September 11, 2018, pp. 1 - 2 (Records, Vol. 5, pp. 457 – 458); TSN, August 28, 2018, p. 4.

<sup>320</sup> Title II, Chapter III, Article I.

<sup>321</sup> The Local Government Code of 1991.



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x x x

(b) For efficient, effective and economical governance the purpose of which is the general welfare of the municipality and its inhabitants pursuant to section 16 of this Code, the municipal mayor shall:

(1) Exercise **general supervision and control over all programs, projects, services, and activities of the municipal government, and in this connection, shall:**

x x x

(vi) Upon authorization by the Sangguniang Bayan, **represent the municipality in all its business transactions and sign** on its behalf all bonds, contracts, and obligations, and such other documents made pursuant to law or ordinance;

x x x (Emphasis Supplied.)

When accused Martinez III, for and on behalf of LGU-BOGO, executed the two Memoranda of Agreement, approved the Disbursement Voucher,<sup>322</sup> and signed the check<sup>323</sup> for the fund transfer to BMEMPC, said local chief executive exercised his general supervision and control as Municipal Mayor.

As regards a Municipal Accountant, accused Verdida's powers and duties under R. A. No. 7160<sup>324</sup> include:

**Section 474. Qualifications, Powers and Duties. –**

x x x

(b) The accountant shall take charge of both the accounting and internal audit services of the local government unit concerned and shall:

x x x

<sup>322</sup> EXHIBITS "P", "P-3".

<sup>323</sup> EXHIBIT "S".

<sup>324</sup> Title V, Article IV.

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- (4) Certify to the availability of budgetary allotment to which expenditures and obligations may be properly charged;
- (5) Review supporting documents before preparation of vouchers to determine completeness of requirements;

x x x

Accused Verdida acted in his capacity as Municipal Accountant, when he certified the availability of budgetary allotment, and reviewed supporting documents to be attached to the Disbursement Voucher.<sup>325</sup>

Turning now to Minguez' role, the Government Accounting and Auditing Manual (GAAM) provides that the local treasurers shall maintain the depository accounts in the name of their respective local government units with banks.<sup>326</sup> The Local Government Code of 1991 vests upon the municipal treasurer the power, among others, to take charge of the disbursement of all local government funds and such other funds the custody of which may be entrusted to him by law or other competent authority.<sup>327</sup> The GAAM defines disbursements as constituting all cash paid out during a given period either in currency or by check.<sup>328</sup>

The Local Government Code provides stringent requirements in cases of disbursements, to wit:

**Section 344. Certification, and Approval of, Vouchers.** - No money shall be disbursed unless the local budget officer certifies to the existence of appropriation that has been legally made for the purpose, the local accountant has obligated said appropriation, and the local treasurer certifies to the availability of funds for the purpose. Vouchers and payrolls shall be certified to and approved by the head of the department or office who has administrative control of the fund concerned, as to the validity, propriety, and legality of the claim involved. Except in cases of disbursements involving regularly recurring administrative expenses x x x approval of the disbursement voucher by the

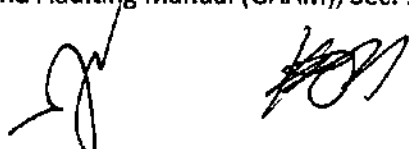


<sup>325</sup> EXHIBIT "P-1".

<sup>326</sup> Book II, Chapter 4, Art. 4, Sec. 129.

<sup>327</sup> Title V, Article II, Sections 344, 470, paragraph (d), subparagraph (3) of R.A. No. 7160; EXHIBIT "P-2".

<sup>328</sup> Government Accounting and Auditing Manual (GAAM), Sec. 167.



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**local chief executive** himself shall be required whenever local funds are disbursed.

X X X

**Section 345. Officials Authorized to Draw Checks in Settlement of Obligations.** - Checks in obligations shall be drawn by the **local treasurer** and countersigned by the local administrator.

X X X

**Section 346. Disbursements of Local Funds and Statement of Accounts.** - Disbursements shall be made in accordance with the **ordinance** authorizing the annual or supplemental appropriations without the prior approval of the *sanggunian* concerned. Within thirty (30) days after the close of each month, the **local accountant** shall furnish the *sanggunian* with such financial statements as may be prescribed by the Commission on Audit. In the case of the year-end statement of accounts, the period shall be sixty (60) days after the thirty-first (31st) of December. (Emphasis and Underscoring Supplied.)

Thus, as a safeguard against unwarranted disbursements, **certifications** are required from: (a) the **local budget officer** as to the existence and validity of the appropriation; (b) the **local accountant** as to the legal obligation incurred by the appropriation; (c) the **local treasurer** as to the availability of funds; and (d) **the local department head** as to the validity, propriety and legality of the claim against the appropriation.<sup>329</sup>

Further, the GAAM provides for the basic requirements applicable to all classes of disbursements that shall be complied with, to wit:

- a) **Certificate of Availability of Fund.**—Existence of lawful appropriation, the unexpended balance of which, free from other obligations, is sufficient to cover the expenditure, certified as available by an accounting officer or any other official required to accomplish the certificate.

Use of moneys appropriated solely for the specific purpose for which appropriated, and for no other, except when authorized by law or by a corresponding appropriating body.



<sup>329</sup>Aquilino Q. Pimentel, Jr., The Local Government Code of 1991, The Key to National Development, 1993, p. 393.



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- b) **Approval of claim or expenditure by head of office or his duly authorized representative.**
- c) **Documents to establish validity of claim.** – Submission of documents and other evidences to establish the validity and correctness of the claim for payment.
- d) **Conformity of the expenditure to existing laws and regulations.**
- e) **Proper accounting treatment.**<sup>330</sup>

This prescribed legal framework governing the release and disbursement of public funds to the LGU disabuses from the notion that a local chief executive (accused Martinez III) has unbridled discretion over its use. Strict compliance with applicable rules and procedures is indispensable.

Meanwhile, accused Ursonal insists that he “acted as a *functionary of a private entity, the BMEMPC;*”<sup>331</sup> hence, the first element of the offense is wanting.

The Court is loath to agree.

Whether accused Ursonal was, at the time material to this case, the Assistant Treasurer, as alleged in the Informations, or then Market Administrator,<sup>332</sup> as he stated under oath, the fact of the matter is that he was a public officer. Also, he was actively performing his official duties.


Granting *arguendo* that accused Ursonal was a private person, this does not pose an issue nor a bar to potential liability under R.A. No. 3019 since the punitive clause itself of said statute provides:

**“Section 9. Penalties for Violations.** – (a) Any public officer or **private person** committing any of the unlawful acts or omissions enumerated in Sections 3, 4, 5 and 6 of this Act shall be punished x x x.” (Emphasis and Underscoring Supplied.)

<sup>330</sup> Government Accounting and Auditing Manual, Sec. 168.

<sup>331</sup> Records, Vol. 6, p. 98, 100.

<sup>332</sup> Accused Ursonal alleged that he was appointed Market Administrator of Bogo, Cebu on May 1, 2003, while he was appointed Assistant Treasurer thereat on June 22, 2007.



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Jurisprudence lends flesh to the above provision when the High Tribunal affirmed, as in the case of *Go v. Sandiganbayan*,<sup>333</sup> that:

"The precept that could be drawn x x x is that private persons, when acting in conspiracy with public officers, may be indicted and, if found guilty, held liable for the pertinent offenses under Section 3 of RA 3019 . . . This is in consonance with **the avowed policy of the Anti-Graft law to repress certain acts of public officers and private persons alike constituting graft or corrupt practices act or which may lead thereto.**"<sup>334</sup> (Emphasis Supplied.)

The crux in determining culpability of a private person is collusion with a public officer in committing an unlawful act or omission proscribed by R.A. No. 3019, as amended. The Information aptly alleges that the five (5) accused committed the malfeasance by "**conspiring and confederating with one another while in the performance of their official duties.**"<sup>335</sup>

True, the Information ascribes fault in "**the approval by JULIO S. URSONAL, JR. of the loan applications of herein accused and other BMEMPC members,**" but that does not *propio vigore* exclude such private party as a malefactor. Lest we forget, accused Ursonal, while in cahoots with other erring officials, transgressed the law by "**frustrating the objectives of the Ginintuang Agrikulturang Makamasa program.**"<sup>336</sup> Consequently, farmers and fisherfolks were unjustly "**deprived of the opportunity to avail of financial support in the amount of P20,000,000.00.**"<sup>337</sup>

Further, in *Ambil v. Sandiganbayan*,<sup>338</sup> the Supreme Court elucidated, viz:

"In drafting the Anti-Graft Law, the lawmakers opted to use **"PRIVATE PARTY"** rather than "private person" to describe the recipient of the unwarranted benefits, advantage or preference for a reason. The term "party" is a technical word having a precise meaning in legal parlance<sup>339</sup> as distinguished from "person" which,

<sup>333</sup> G.R. No. 172602, April 13, 2007.

<sup>334</sup> 115 SCRA 793.

<sup>335</sup> Information dated May 6, 2015, pp. 1 – 2 (Records, Vol. 1, pp. 1 - 2).

<sup>336</sup> *Ibid.*

<sup>337</sup> *Id.*, p. 2 (Records, Vol. 1, p. 2).

<sup>338</sup> G.R. Nos. 175457/ 175482, July 6, 2011.

<sup>339</sup> H.C. Black, Black's Law Dictionary, 1979 Ed., 1010.



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in general usage, refers to a human being.<sup>340</sup> Thus, a private person simply pertains to one who is not a public officer. While a **private party is more comprehensive in scope to mean either a private person or a public officer acting in a private capacity to protect his personal interest.**

X X X. (Emphasis and Capitalization Supplied.)

**B. SECOND ELEMENT.**

Anent the **second element**, the pivotal issue is whether or not the utilization of public funds for a purpose other than that explicitly stated in the agreement between the DA-RFU7 (grantor) and LGU-BOGO (grantee) constitutes criminal diversion or siphoning of public funds. To be sure, the interconnected acts imputed against the accused under the Information are the following:

1. Constituting the BMEMPC as a conduit for public funds in the amount of TWENTY MILLION PESOS (P20,000,000.00) and making the fund available exclusively to BMEMPC members, mostly through salary loans, although said funds were intended to be provided as agricultural and livelihood loans and financial assistance to farmers, fisher folks and members of the marginalized sectors under the *Ginintuang Agrikulturang Makamasa* program of the Department of Agriculture (DA);
2. causing the transfer of said funds to BMEMPC; and
3. availing themselves of huge loans from the fund.

Whether or not the aforesaid circumstances, taken together, run afoul with the law, the following parameters should be considered, to wit:

"There is **"manifest partiality"** when there is a clear, notorious, or plain inclination or predilection to favor one side or person rather than another. **"Evident bad faith"** connotes not only bad judgment but also palpably and patently fraudulent and dishonest purpose to do moral obliquity or conscious wrongdoing for some perverse motive or ill will. X X X [It] contemplates a state of mind affirmatively operating with furtive design or with some motive of self-interest or ill will or for ulterior

<sup>340</sup> Id., p. 1028.

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purposes. "**Gross inexcusable negligence**" refers to negligence characterized by the want of even the slightest care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but wilfully and intentionally, with conscious indifference to consequences insofar as other persons may be affected."<sup>341</sup> (Citations Omitted.)

The acts imputed against accused Martinez III are:

- a) signing on behalf of the Municipal Government of Bogo, Cebu, of a Memorandum of Agreement (MOA) with the BMEMPC; and
- b) approval of the Disbursement Voucher covering the release of the P20,000,000.00 fund to BMEMPC.

The MOA<sup>342</sup> between DA-RFU7 and the Municipality of Bogo explicitly provides:

"x x x

WHEREAS, the DA-RFU7 has received an amount of Twenty Million Pesos (P20,000,000.00) with ASA No. 101-2007-300 dated March 13, 2007 for the **implementation of various projects/intervention under the GMA (sic) Banner Program;**

x x x

WHEREAS, the DA-RFU and the LGU-BOGO are collaborating in the (sic) **bringing agricultural development programs of the government closer to the people of Bogo.**"<sup>343</sup> (Emphasis and Underscoring Supplied.)

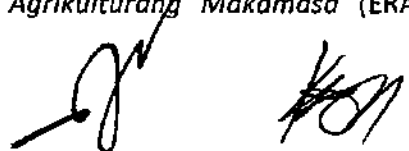
There is no gainsaying that the *raison d'etre* for the MOA is in pursuance of the *Ginintuang Agrikulturang Makamasa*<sup>344</sup> (Pro-People

<sup>341</sup> *People v. Atienza*, G.R. No. 171671, June 18, 2012, 673 SCRA 470, 480 – 481. See also *Araullo v. Office of the Ombudsman*, G.R. No. 194157, July 30, 2014; See *Albert v. Sandiganbayan*, G.R. No. 164015, February 26, 2009, 580 SCRA 279, 290.

<sup>342</sup> EXHIBIT "F".

<sup>343</sup> *Ibid.*

<sup>344</sup> The Department of Agriculture (DA) rice banner programs of the succeeding administrations were all in the mold of *Masagana 99* (M-99) but were baptized with new names and acronyms. From M-99 under President Marcos, our rice programs underwent cosmetic name changes: Rice Action Program under President Cory Aquino; *Gintong Ani* (FVR); *Agrikulturang Makamasa* (ERAP); *Ginintuang Masaganang Ani*



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Agriculture) program. As signatory to said MOA, accused Martinez III cannot feign ignorance that said funds should primarily, directly and exclusively be used to address the major concerns of the Agriculture and Fisheries Modernization Act (AFMA). Diversion of said funds to BMEMPC and their distribution, as loans to members of BMEMPC, defeats the overarching policy objectives of the AFMA. The Prosecution's argument is right on the money, viz:

**"X X X Such act of said accused [Martinez III] effectively circumvent[s] the objectives of the GAM program and excludes the farmers and fisherfolks of Bogo who under the MOA with DA Region VII were supposed to be the bona fide beneficiaries of the said amount.**

. . . Accused Martinez' intention to utilize the Php20 million fund transfer received from the DA Region VII as the source of the financial assistance released to BMEMPC appears to be a **calculated move** on the part of the said accused given the timeline of the execution of the two MOA's. Being the signatory to the two MOA's he [Martinez III] was aware that **the execution of the MOA with BMEMPC was made over a month before**<sup>345</sup> the (sic) **he signed the MOA with the DA** or that even the notarization of the BMEMPC's MOA was made three days before the MOA with the DA was notarized on March 23, 2007. In the normal course of events, the MOA with BMEMPC should have been executed only after the execution of the MOA with the DA, Region VII, since the Php20 million that was released to BMEMPC came from DA. Given that circumstance, **it is not hard to fathom that when accused Martinez entered into a MOA with DA, Region VII, his intention was to have a source for the financial assistance he intends to release to the BMEMPC, and not to implement the GAM program.**"<sup>346</sup> (Emphasis and Italics Supplied.)



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(GMA); *Agri-Pinoy* under President Noynoy Aquino and now *Ani at Kita* (Du30). Posted on June 6, 2020 in - <https://mb.com.ph/2020/06/06/masagana-99-was-a-success-but-could-have-been-better>

<sup>345</sup> Lita C. Lamparas, Head of the COA Audit Team had the same observation, to wit:

"We found out that the Php20,000,000.00 was released by the Municipality of Bogo not in accordance with the MOAQ entered into between the DA and Bogo; that the released (sic) of the said amount to the BMEMPC is also disadvantageous to the government; that it also give (sic) preference to the members of the BMEMPC to the disadvantage of the farmers who are supposed to be the beneficiaries under the MOA between DA and the Municipality of Bogo; and it turned out that **the MOA between the Municipality of Bogo and the BMEMPC was executed prior to the execution of the MOA between DA and the Municipality of Bogo.**" (Judicial Affidavit dated May 31, 2018, of L. C. Lamparas, pp. 15 - 16 [Records, Vol. 3, pp. 131 - 132]).

<sup>346</sup>Records, Vol. 5, pp. 383 - 384.



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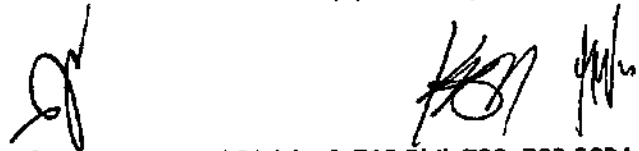
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As regards whether there is **gross inexcusable negligence** on the part of accused Martinez III, noteworthy is the case of ***Ampil v. Office of the Ombudsman, et al.***,<sup>347</sup> where the Supreme Court ruled:

“ . . . [P]etitioner was ***grossly negligent*** x x x considering that **as municipal mayor, petitioner ought to implement the law to the letter. As local chief executive, he should have been the first to follow the law and see to it that it was followed by his constituency.** Sadly, however, he was the first to break it.”<sup>348</sup> (Emphasis and Italics Supplied.)

R.A. No. 7160<sup>349</sup> inexorably confirms that the *Sanggunian's imprimatur* is a **condition a priori** and a **condition sine qua non** for the execution of a contract by the local government unit (LGU) thru its local chief executive. In this case, accused Martinez III acted on his own initiative and without prior authorization of the *Sangguniang Bayan* when he prematurely sealed the deal with BMEMPC for the P20 Million fund transfer. As it turned out, he got the lion's share thereof to the tune of P5½ Million.<sup>350</sup>

**Manifest partiality** towards BMEMPC was circumstantiated too. Accused **Martinez III, Minguez and Verdida** were, as confirmed by Samson M. Lepiten, members of said Cooperative.<sup>351</sup> At that juncture, they were the **certifying and approving officers**<sup>352</sup> who facilitated the release of P20 Million from the coffers of LGU-BOGO to BMEMPC. Accused **Ursonal** completed the cast. As President and Chairperson of BMEMPC, accused Ursonal, who was an incumbent local official, sealed the Cooperative's covenant with LGU-BOGO. In the end, the four (4) accused became the primary beneficiaries of the very thing which they, as *Lingkod Bayan*, should have distributed to farmers and fisherfolks. Apparently, they got



<sup>347</sup>G.R. Nos. 192685, 199115, July 31, 2013 [J. Perez, Second Division], 715 Phil. 733, 703 SCRA 1

<sup>348</sup>Id. at p. 758; See also *Sison v. People of the Philippines*, G.R. No. 170339, 170398-403, March 9, 2010 [J. Corona, Third Division], 628 Phil. 573, 584, 614 SCRA 670.

<sup>349</sup>Section 444(b),(1), (vi).

<sup>350</sup>TSN, October 7, 2019, pp. 15 – 17.

<sup>351</sup>TSN, October 7, 2019, p. 12.

<sup>352</sup> **Martinez III and Minguez** certified to the availability of funds (DV, Box B) and signed Check No. 327541 in the amount of P20 Million. **Verdida** certified that the allotment was obligated for the purpose indicated and that the supporting documents were complete (DV, Box A)

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more than what they could have gotten from a “**Bogo**”.<sup>353</sup> Lamentably, they capitalized on the opportunity for self-aggrandizement while aggravating the hardscrabble life and immiseration of disadvantaged have-nots. They stole their “**ayuda**”.<sup>354</sup> To add insult to injury, these civil servants even had the gall to declare before this Honorable Court their inane, threadbare excuse that they were not ineligible beneficiaries because they moonlighted as weekend farmers.<sup>355</sup> For them to resort to that defense is preposterous, considering that as public employees they are required to perform and discharge their duties with the highest degree of excellence, professionalism, intelligence and skill.<sup>356</sup> The law and the subject Memoranda of Agreement are clear and do not provide for exceptions.

All these amply demonstrated **gross negligence amounting to bad faith** on the part of the accused Martinez III, Minguez and Verdida.<sup>357</sup> They were well aware of their responsibilities before they affixed their signatures – at one time or another - on the MOA, voucher, check, etc.. Yet, they still chose to disregard the requirements laid down by law in order to bring to fruition their furtive purpose.

Accused Martinez III, Minguez<sup>358</sup> and Verdida<sup>359</sup> cannot hide behind the High Tribunal's declaration in **Arias v. Sandiganbayan**<sup>360</sup> that heads of offices cannot be convicted of a conspiracy charge just because they did not personally examine every single detail before they, as the final approving authorities, affixed their signatures to certain documents. The Court explained in that case that conspiracy was not adequately proven, contrary to the case at bar in which accused's unity of purpose and unity in the execution of an unlawful

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<sup>353</sup> **Bogo** refers to a sales promotion in which an item is offered free or at a reduced price when another item is purchased at full price. Posted in - <https://www.merriam-webster.com/dictionary/BOGO>  
The UK variant stands for "buy one, get one free". Posted in - <https://www.collinsdictionary.com/dictionary/english/bogo>

<sup>354</sup> The term “**ayuda**” has a special meaning in Filipino now—it is cash entitlement for designated beneficiaries. Posted on October 17, 2020 in <https://opinion.inquirer.net/134515>

<sup>355</sup> TSN, November 25, 2019, pp. 20 – 23; TSN, February 17, 2020, pp. 27 – 30.

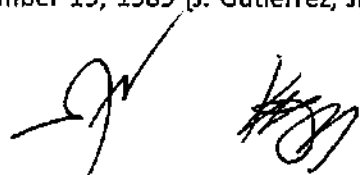
<sup>356</sup> R.A. No. 6713, Sec. 4 (b) (1989).

<sup>357</sup> See *Bacasmás v. Sandiganbayan and People*, G.R. No. 189343, 189369, 189553, July 10, 2013 [C.J. Sereno, First Division].

<sup>358</sup> Records, Vol. 5, p. 347.

<sup>359</sup> Records, Vol. 5, p. 372.

<sup>360</sup> G.R. No. 81563, December 19, 1989 [J. Gutierrez, Jr., En Banc] 259 Phil. 794,801, 180 SCRA 309, 315-316..



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objective were sufficiently established. Also, unlike in *Arias*, where there were no reasons for the heads of offices to further examine each voucher in detail, accused herein, by virtue of the duty given to them by law as well as by rules and regulations, were hidebound to examine the disbursement voucher<sup>361</sup> and other papers (obligation request,<sup>362</sup> Memoranda of Agreement,<sup>363</sup> etc.) to ascertain whether it was proper to sign it in order to approve and disburse the monies.

Accused Martinez III maintained that:

“... the Prosecution miserably failed to present sufficient evidence to substantiate that BMEMPC members were prohibited from being qualified beneficiaries of the funds. x x x In fact, there is nothing in the MOA between the Department of Agriculture and the Municipality of Bogó (Exhibit “F”) which limits intended beneficiaries to farmers only, as the Prosecution would like to make it appear, because “AFMA” pertains to ‘Agricultural Fisheries Modernization Act,’ meaning it does not exclusively pertain to farmers only. There is no indication that AFMA and financial assistance is mutually exclusive.”<sup>364</sup>

On the same vein, accused Ursonal argued that:

“[The] innocent act of signing a MOA in behalf of the Coop [and] accepting a financial aid from the Bogó LGU is (sic) not only devoid of any criminal intent, but also an act (sic) pursuant to and in consonance with the legal purpose of the Coop.”<sup>365</sup>

The Court is not swayed. Quite the contrary, the Supreme Court has declared in *National Power Corporation v. Olandesca*<sup>366</sup> that “[t]he Machiavellian principle that ‘the end justifies the means’ has no place in government service, which thrives on the rule of law, consistency and stability.” Besides, claiming exculpation on the premise that his acts are compliant with BMEMPC’s by-laws is immaterial and *non sequitur*.

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<sup>361</sup> EXHIBIT “P”.

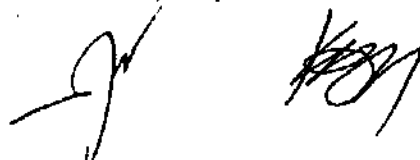
<sup>362</sup> EXHIBIT “R”.

<sup>363</sup> EXHIBITS “F”, “H”.

<sup>364</sup> Records, Vol. 5, p. 352

<sup>365</sup> Memorandum for Accused Julio S. Ursonal, Jr. dated April 6, 2021, p. 14 (Records, Vol. 7, p. 527).

<sup>366</sup> G.R. No. 171434, April 23, 2010 [Per J. D. M. Peralta]; *Linsangon v. Tolentino*, A.C. No. 6672, September 4, 2009 (598 SCRA 133, 142).



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Accused Ursonal alleged that signing the MOA as representative of BMEMPC, a private entity, is not illegal *per se*.<sup>367</sup> Neither is his act of signing the BMEMPC members' loan applications pursuant to the recommendation of the Credit Committee of said cooperative illegal *per se*.<sup>368</sup> The justification that undergirds his defense is as follows:

“. . . [H]e signed the MOA by compulsion of a legal duty. Pursuant to the cooperative[s] By-Laws of 2001 . . . , the ACCUSED URSONAL must sign all contracts of the cooperative and other documents that the Board of Directors directed and authorized him to sign.

. . . It was the Cooperative, which is the recipient of Bogo's financial aid. If the grant was illegal, the Cooperative and its Board would have been indicted by the Ombudsman.”<sup>369</sup>

The matter is otherwise. Displacing responsibility to BMEMPC and its Board of Directors will not shield accused Ursonal from criminal liability. Truth to tell, it is self-serving. Accused Ursonal took pains in adducing evidence<sup>370</sup> about BMEMPC's fealty with the requirements under Republic Act No. 6938,<sup>371</sup> as well as his authority as the Cooperative's agent, when it contracted with LGU-BOGO.<sup>372</sup> But these are non-issues here. The gravamen of the malfeasance imputed against him (and his co-conspirators) pertains to deliberate breach of contract (MOA) following the release of the P20 Million fund to BMEMPC to the prejudice of Bogo's farmers and fisherfolks. By signing, for and on behalf of BMEMPC, the members' loan applications<sup>373</sup> and the corresponding MOA,<sup>374</sup> entitlement of Bogo's agricultural workers to the P20 Million fund has become kaput. In fact, it defeats the MOA's<sup>375</sup> intent of “implementing programs that generate livelihood opportunities to such marginalized sectors.”<sup>376</sup>

<sup>367</sup> Records, Vol. 6, p. 257.

<sup>368</sup> Id. at p. 258.

<sup>369</sup> Records, Vol. 5, p. 483.

<sup>370</sup> EXHIBITS “2”, “3”, “9”, “10” for Ursonal.

<sup>371</sup> R.A. No. 6938, the Cooperative Code of the Philippines was approved on March 10, 1990. On February 17, 2009, it was amended by R.A. No. 9520, otherwise known as the Philippine Cooperative Code of 2008.

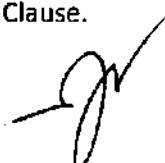
<sup>372</sup> EXHIBIT “4” for Ursonal.

<sup>373</sup> EXHIBITS “BB” to “BB-6”, “DD” to “DD-65”, “DD-104” to “DD-141”, “FF”, “GG” to “GG-2”, “HH”, “HH-1” to “HH-9”, “JJ” to “JJ-2”, “LL” to “LL-5”, “NN” to “NN-3”.

<sup>374</sup> “CC” to “CC-2”, “EE”, “EE-1” to “EE-3”, “II” to “II-2”, “KK” to “KK-2”, “MM” to “MM-2”.

<sup>375</sup> EXHIBIT “H”.

<sup>376</sup> Id. at 2<sup>nd</sup> Whereas Clause.



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Further, accused Ursonal went out on a limb by alleging that:

“. . . 12 February 2007 MOA is clear beyond doubt, that the accused URSONAL, JR. received benefit in behalf of the Cooperative. He did ***not*** **GIVE** benefit to the Cooperative.

. . . Thus, prosecution evidence, if unrebutted, could not convict the accused URSONAL, JR. of the first charge, i.e. **GIVING UNDUE BENEFIT TO THE COOPERATIVE.**" <sup>377</sup> (Italics and Capitalization Supplied.)

Quibbling about semantics will get accused Ursonal nowhere. Admittedly, he signed the MOA on behalf of BMEMPC.<sup>378</sup> In fact, BMEMPC clothed him with ***actual*** authority<sup>379</sup> to do so. Even if none had been conferred or delegated, BMEMPC is estopped from denying its agent's (Ursonal) ***apparent*** authority as to innocent third parties who dealt with this agent in good faith.<sup>380</sup> As BMEMPC's President, his acts are, unless repudiated by the Board (which is not the case here), binding on the Cooperative. Applying by analogy, the Supreme Court's *dictum* in ***People's Aircargo and Warehousing Co., Inc. v. Court of Appeals***<sup>381</sup> is quoted below, viz:

"Inasmuch as a corporate president is often given general supervision and control over corporate operations, the strict rule that said officer has no inherent power to act for the corporation is slowly giving way to the realization that such officer has certain limited powers in the transaction of the usual and ordinary business of the corporation. **In the absence of a charter or bylaw provision to the contrary, the PRESIDENT IS PRESUMED TO HAVE THE AUTHORITY TO ACT WITHIN THE DOMAIN OF THE GENERAL OBJECTIVES OF ITS BUSINESS AND WITHIN**

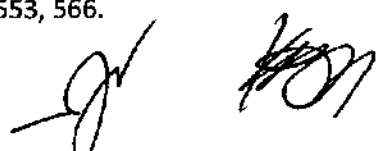
<sup>377</sup> Records, Vol. 6, p. 30.

<sup>378</sup> *Id.* at pp. 31 - 32.

<sup>379</sup> EXHIBIT "4" for Ursonal (Resolution No. 01-2007 of the BMEMPC, authorizing J. S. Ursonal, Jr., President of said Cooperative, to enter into a MOA with the Municipality of Bogo, Cebu, for purpose of obtaining financial assistance (₱20,000,000.00).

<sup>380</sup> *Calubad v. Ricarcen Development Corporation*. G.R. No. 202364, August 30, 2017 [J. Leonen, Third Division], citing *Yao Ka Sin Trading v. Court of Appeals*, 285 Phil. 345, 367 (1992) [Per J. Davide, Jr., Third Division].

<sup>381</sup> G.R. No. 117847, October 7, 1998 [J. Panganiban, First Division], 297 SCRA 170, 184-185, citing *Francisco v. Government Service Insurance System*, Nos. L-18287 and L-18155, March 30, 1963, 7 SCRA 577, 583; and *Maharlika Publishing Corporation v. Tagle*, No. L-65594, July 9, 1986, 142 SCRA 553, 566.





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**THE SCOPE OF HIS OR HER USUAL DUTIES."** (Emphasis and Capitalization Supplied, Citations Omitted.)

In the light of the foregoing, accused Ursonal is an interloper who acted with manifest partiality in according unwarranted preference to BMEMPC's members despite the risk, as the COA discovered, that "[the] members/borrowers' salary is not capable of paying the monthly amortization."<sup>382</sup> Parenthetically, records<sup>383</sup> of the Cooperative Development Authority show that BMEMPC did *not* declare receipt of the P20 Million from the LGU-BOGO in its Financial Statement either as a loan or a donation.<sup>384</sup>

**C. THIRD ELEMENT.**

R.A. No. 3019, as amended, lays down two (2) alternative modes of committing Section 3(e) of R.A. No. 3019, to wit:

- 1) By causing undue injury to any party, including the Government; or
- 2) By giving any private party any unwarranted benefit, advantage or preference.<sup>385</sup>

Although the Information alleges both, proving one will suffice. To reiterate, accused Ursonal's manifest partiality for BMEMPC's members precipitated the illegal diversion of the P20 Million fund. This redounded to **unwarranted benefit** in their favor at the expense of Bogo's farmers and fisherfolks. Under the second mode, proof of the extent or quantum of damage is not required.<sup>386</sup> It is sufficient that the injury suffered or the benefit received can be perceived to be **substantial enough** and not merely negligible. Under the facts

<sup>382</sup> EXHIBIT "D-7" (Records, Vol. 4, p. 281).

<sup>383</sup> EXHIBITS "VV-2", "VV-2-a", "VV-2-b".

<sup>384</sup> TSN, September 11, 2018, pp. 30 – 31.

<sup>385</sup> In *Gallego v. Sandiganbayan* (G.R. No. L-57841, July 30, 1982 (115 SCRA 793), the Supreme Court explained that:

"The word 'unwarranted' means lacking adequate or official support; unjustified; unauthorized or without justification or adequate reason. 'Advantage' means a more favorable or improved position or condition; benefit, profit or gain of any kind; benefit from some course of action. 'Preference' signifies priority or higher evaluation or desirability; choice or estimation above another."

<sup>386</sup> *Fonacier v. Sandiganbayan*, G.R. No. L-50691, December 5, 1994 (238 SCRA 655).

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established, accused Martinez III,<sup>387</sup> Minguez,<sup>388</sup> Verdida<sup>389</sup> and Ursonal<sup>390</sup> were among BMEMPC's members who took out sizable loans therefrom for their own business.

**Undue injury**,<sup>391</sup> within the ambit of Section 3(e) of R.A. No. 3019, has been equated with the civil law concept of "actual damage".<sup>392</sup> That Bogo took a hit to the tune of ₱20 Million has been specified, quantified and proved to the point of moral certainty during the trial.<sup>393</sup>

Further, the Court lends credence to the Ombudsman's postulation, viz:

"By availing themselves of loans from the fund, they also precluded intended beneficiaries of GAM from benefiting from the program, thereby causing them as well as the government **UNDUE INJURY** to the extent of the amounts loaned." <sup>394</sup>  
(Emphasis and Capitalization Supplied.)

Perhaps, beyond the concrete adverseness to the pecuniary interests of Bogo and its stakeholders, the illegal diversion of public funds had a demoralizing effect on Bogo's constituency. The knock-on-effect was succinctly stated in the *Annual Audit Report on the City of Bogo for the Year Ended December 31, 2007*,<sup>395</sup> viz:

**"Had the City of Bogo implemented the release of the financial assistance from the Department of Agriculture (DA) Regional Field Unit VII in accordance with the**

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<sup>387</sup> EXHIBIT "DD-104".

<sup>388</sup> EXHIBITS "FF", "GG" to "GG-2", "HH".

<sup>389</sup> EXHIBITS "1", "1-A" for Verdida; TSN, September 25, 2019, p. 38.

<sup>390</sup> EXHIBITS "Z-6", "AA" to "AA-2"; TSN, November 5, 2019, pp. 6 – 8.

<sup>391</sup> *Undue* has been defined as "more than necessary, not proper, illegal;" and *injury* as "any wrong or damage done to another, either in his person, rights, reputation or property, [that is, [the] invasion of any legally protected interest of another." (*Pecho v. Sandiganbayan*, G.R. No. 111399, November 14, 1994, 238 SCRA 116, 133.)

<sup>392</sup> ARTICLE 2199, CIVIL CODE; Noel G. Villaroman, *LAWS AND JURISPRUDENCE ON GRAFT AND CORRUPTION*, 3<sup>rd</sup> Edition, 2010, citing *Santos v. People*, G.R. No. 161877, March 23, 2006; *Caugma v. People*, G.R. No. 167048, April 7, 2006.

<sup>393</sup> *Llorente, Jr. v. Sandiganbayan*, G.R. No. 122166, March 11, 1998, 287 SCRA 382; *People v. Sandiganbayan (Fourth Division), Arciaga, et. al.*, G.R. No. 160619, September 9, 2015.

<sup>394</sup> Resolution dated October 27, 2014, of the Office of the Ombudsman, p. 14 (Records, Vol. 1, p. 21)

<sup>395</sup> EXHIBIT "D-1".



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**purpose stated in the Memorandum of Agreement (MOA), the intended farmer-beneficiaries could have been benefited and the purpose of the MOA could have been attained.”** <sup>396</sup>

**D. CONSPIRACY LOOP.**

Without buy-in from fiscal administrators of LGU-BOGO, release of the subject funds pursuant to the MOA signed by accused Martinez would not have materialized. Elsewise stated, sans their certification and approval, said monies could not have been disbursed.<sup>397</sup> **Martinez III**, as Mayor, initiated the request for obligation of allotments and certified and approved the disbursement vouchers.<sup>398</sup> **Verdida**, as Municipal Accountant, obligated the allotments. **Minguez**, the Municipal Treasurer, certified to the availability of funds and released the money to BMEMPC even though he knew beforehand that it should have been used **directly, exclusively and strictly** for agriculture related projects of native farmers and fisherfolks.<sup>399</sup> Their interconnected acts lead to the inescapable conclusion that they were dead set on perpetrating their kleptocracy.

Strangely, the MOA<sup>400</sup> between LGU-BOGO and BMEMPC was executed **before** the MOA<sup>401</sup> between DA-RFU7 and LGU-BOGO. Here, putting the carriage before the horse ringed true. Since, as Councilor Santiago M. Oliamot put it, “[t]he fund will be **downloaded** . . . to the municipality upon passage of the resolution,”<sup>402</sup> it was temerarious for accused Martinez III and Ursonal to finalize the MOA way ahead of Congresswoman Asas Martinez’ identification of the project to be funded by her PDAF.



<sup>396</sup> EXHIBIT “D-5”; Records, Vol. 4, p. 279.

<sup>397</sup> *People v. Pajaro, et. al.*, G.R. Nos. 167860-65, June 17, 2008, 554 SCRA 572.

<sup>398</sup> EXHIBITS “M”, “R”, “R-1”.

<sup>399</sup> EXHIBITS “J”, “K”, “L”, “M”, “N” “O”, “Q”.

<sup>400</sup> The Memorandum of Agreement (EXHIBIT “H”) between LGU-BOGO and BMEMPC was signed on February 12, 2007.

<sup>401</sup>The MOA (EXHIBIT “F”) between DA-RFU7 and LGU-BOGO was signed on March 23, 2007.

<sup>402</sup> Id. at p. 18.



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Significantly, the passage of *Sangguniang Bayan* Resolution No. 025-2007,<sup>403</sup> the legislative *imprimatur* to the MOA between LGU-BOGO and BMEMPC, came almost **three (3) months after** the execution of said MOA. This run afoul with the Local Government Code of 1991<sup>404</sup> and the Supreme Court's ruling in

<sup>403</sup> *Sangguniang Bayan* of Bogo passed Resolution No. 025-2007 (EXHIBIT "3" for Martinez III and Miguez) on April 26, 2007.

<sup>404</sup> Republic Act No. 7160 provides:

**BOOK I  
GENERAL PROVISIONS**

**TITLE I  
BASIC PRINCIPLES**

x x x

**CHAPTER II  
General Powers and Attributes of Local Government Units**

x x x

**Section 22. Corporate Powers. –**

(a) Every local government unit, as a corporation, shall have the following powers:

(1) x x x  
x x x

(5) To enter into contracts; x x x  
x x x

(b) x x x

(c) Unless otherwise provided in this Code, no contract may be entered into by the local chief executive in behalf of the local government unit without **PRIOR AUTHORIZATION BY THE SANGGUNIAN** concerned. A legible copy of such contract shall be posted at a conspicuous place in the provincial capitol or the city, municipal or barangay hall.

x x x

**BOOK III  
LOCAL GOVERNMENT UNITS**

**TITLE II  
THE MUNICIPALITY**

**CHAPTER III  
Officials and Offices Common to All Municipalities**

**ARTICLE I  
The Municipal Mayor**

**Section 444. The Chief Executive: Powers, Duties, Functions and Compensation. –**

(a) The municipal mayor, as the chief executive of the municipal government, shall exercise such powers and performs such duties and functions as provided by this Code and other laws.

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**Gaite v. Bismonte**<sup>405</sup> that **prior sanggunian authorization** – not subsequent ratification - is required before the local chief executive may enter into any contract.

Accused Ursonal, Jr. stands pat on his position that affixing his signature on each of the BMEMPC members' loan applications is not illegal or a crime *per se*.<sup>406</sup> His line of reasoning runs thus:

"10.3 For one, URSONAL is a Coop official, whose legal duty and responsibility includes signing of loan applications of Coop members, pursuant to the approvals by the Coop's Loan Committee.

"10.4 **The equivocal quality of URSONAL's signing of the Coop members' loan applications is lacking to amount the same as an overt act of criminal conspiracy.**" <sup>407</sup> (Emphasis Supplied.)

Accused Ursonal's argument is untenable.

Conspiracy is present when one concurs with the criminal design of another, indicated by the performance of an overt act

(b) For efficient, effective and economical governance the purpose of which is the general welfare of the municipality and its inhabitants pursuant to Section 16 of this Code, the municipal mayor shall:

(1) Exercise general supervision and control over all programs, projects, services, and activities of the municipal government, and in this connection, shall:

(i) x x x

x x x

(vi) **UPON AUTHORIZATION BY THE SANGGUNIANG BAYAN, represent the municipality in all its business transactions and sign on its behalf all bonds, contracts, and obligations, and such other documents made PURSUANT TO LAW OR ORDINANCE;**

x x x

(3) **Initiate and maximize the generation of resources and revenues, and apply the same to the implementation of development plans, program objectives and priorities as provided for under Section 18 of this Code, particularly those resources and revenues programmed for AGRO-INDUSTRIAL DEVELOPMENT and country-wide growth and progress, and relative thereto, shall:**

x x x (Emphasis and Capitalization Supplied.)

<sup>405</sup> G.R. No. 235752, September 19, 2018.

<sup>406</sup> Memorandum for Accused Julio S. Ursonal, Jr. dated April 6, 2021, p. 14 (Records, Vol. 7, p. 527).

<sup>407</sup> *Ibid.*

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leading to the crime committed.<sup>408</sup> To establish conspiracy, direct proof of an agreement concerning the commission of a felony and the decision to commit it is not necessary.<sup>409</sup> It may be inferred from the acts of the accused before, during or after the commission of the crime which, when taken together, would be enough to reveal a community of criminal design,<sup>410</sup> as the proof of conspiracy is perhaps most frequently made by evidence of a chain of circumstances.<sup>411</sup> Once established, all the conspirators are criminally liable as co-principals regardless of the degree of participation of each of them, for in contemplation of the law the act of one is the act of all.<sup>412</sup>

Accused Minguez and Verdida willingly went along with the knavish scheme which accused Martinez III spearheaded by lending a semblance of legitimacy to an otherwise irregular diversion of public funds. To the point of being repetitive, certifying, approving and signing the disbursement voucher,<sup>413</sup> obligation request,<sup>414</sup> check<sup>415</sup> and attachments<sup>416</sup> were not perfunctory, ministerial tasks. These demanded the exercise of sound judgment. They acted *ex cathedra*; hence, it behooved them to observe utmost circumspection. Discretion had been narrowly tailored by the textual basis of the law. By failing to act surefootedly, they shared equal guilt with the Mayor for which they should be held answerable. *Ergo*, the "**overt act**" in pursuance of the conspiracy, as required in *Bahilidad v. People*,<sup>417</sup> was shown clearly through weighty and probative evidence. Besides, "**moral assistance**" to their co-principal, accused Martinez III, which element was considered crucial in *Pecho v. People and Sandiganbayan*,<sup>418</sup> was extant herein.

In the grand scheme of things, accused Ursonal completed the puzzle. He figured prominently in the beginning and in the end of the storyline. As signatory to the subject MOA, he paved the way for the fund transfer to BMEMPC, the payee-beneficiary. During the

<sup>408</sup> *People v. Garcia, Jr.*, G.R. No. 138470, April 1, 2003, 400 SCRA 229.

<sup>409</sup> *People v. Astudillo*, G.R. No. 141518, April 29, 2003, 401 SCRA 723.

<sup>410</sup> *People v. Cañete*, G.R. No. 138366, September 11, 2003, 410 SCRA 544.

<sup>411</sup> *People v. Almoguerro*, G.R. No. 121177, November 12, 2003, 415 SCRA 647.

<sup>412</sup> *People v. Caballero*, G.R. Nos. 149028-30, April 2, 2003, 400 SCRA 424.

<sup>413</sup> EXHIBITS "P", "P-1", "P-2", "P-3", "P-4".

<sup>414</sup> EXHIBITS "R", "R-1".

<sup>415</sup> EXHIBITS "S", "S-1", "S-2".

<sup>416</sup> EXHIBITS "L", "Q".

<sup>417</sup> G.R. No. 185195, March 17, 2010 (615 SCRA 597, 604); Ramon C. Aquino, THE REVISED PENAL CODE, Vol. 1 [1987], 497.

<sup>418</sup> G.R. No. 111399, September 27, 1996 (262 SCRA 518, 530-531), citing *People vs. De Roxas*, G.R. No. 106783, February 15, 1995 (241 SCRA 369)



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distributive phase, he approved the loan applications of members of BMEMPC, which inevitably led to the consummation of their planned embezzlement. Thus, to dodge responsibility on the pretext that "[n]either [he] nor BMEMPC is the implementor of the GAM project[, and] [t]herefore, neither is answerable for it,"<sup>419</sup> was puerile. His acts dovetailed those of his co-accused. This called to mind the Supreme Court's pronouncement in *Jaca v. People*,<sup>420</sup> *videlicet*:

"x x x [I]t bears stressing that the separate acts or omissions of all the accused in the present case contributed in the end result of defrauding the government. Without anyone of these acts or omissions, the end result would not have been achieved. Suffice it to say that since each of the accused contributed to attain the end goal, it can be concluded that their acts, taken collectively, satisfactorily prove the existence of conspiracy among them."<sup>421</sup>

In sum, conspiracy among accused Martinez III, Minguez, Verdida and Ursonal has been proven beyond reasonable doubt. Consequently, these co-principals are adjudged **GUILTY** beyond reasonable doubt of violation of Section 3(e) of Republic Act No. 3019, as amended.

**II.**

**SB-15-CRM-0285**

(For Violation of Section 3(g) of R. A. No. 3019, as amended)

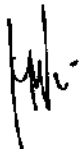
The Anti-Graft and Corrupt Practices Act provides:

**Section 3. Corrupt practices of public officers.**

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

(a) x x x

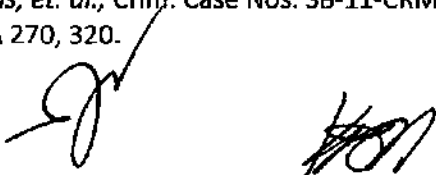
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<sup>419</sup> Records, Vol. 5, p. 490.

<sup>420</sup> G.R. Nos. 166967, 166974, 167167, January 28, 2013, cited in *People v. VADM Mariano J. Dumancas, et. al.*, Crim. Case Nos. SB-11-CRM-0422 to SM-11-CRM-0433, January 12, 2017.

<sup>421</sup> 689 SCRA 270, 320.



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

Accused Martinez III and Ursonal are charged with violation of Section 3(g) of said statute. The elements constitutive of an offense thereunder are the following:

- (1) that the accused is a public officer;
- (2) that he entered into a contract or transaction on behalf of the government; and
- (3) that such contract or transaction is grossly and manifestly disadvantageous to the government.<sup>422</sup>

Notably, private individuals may also be charged with violation of Section 3(g) of R.A. No. 3019 if they conspired with public officers,<sup>423</sup> as in the instant case. This is consistent with the policy behind the statute, which, as provided in its first section, is "to repress certain acts of public officers and *private persons alike* which may constitute graft or corrupt practices or which may lead thereto."<sup>424</sup>

In as much as the Information alleges that accused are "**conspiring**" in the commission of an act violative of Section 3(g) of R.A. No. 3019, then even if, as Ursonal contends, he "was not acting or exercising [his] official functions as Assistant Treasurer but as duly authorized **representative** of the cooperative,"<sup>425</sup> the Information against him is sufficient in form and substance.<sup>426</sup>

To be a conspirator, one need not participate in every detail of the execution; he need not even take part in every act or need not even know the exact part to be performed by the others in the execution of the conspiracy. Each conspirator may be assigned

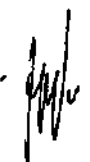
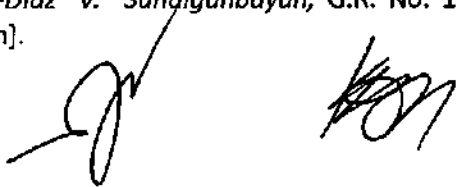
<sup>422</sup> *Go v. The Fifth Division, Sandiganbayan*, G.R. No. 172602, April 13, 2007, 549 Phil. 783, 809; 521 SCRA 270, 290.

<sup>423</sup> *Id.* at pp. 800-801, citing *Singian, Jr. v. Sandiganbayan*, G.R. No. 160577-94, December 16, 2005, 514 Phil. 536.

<sup>424</sup> *Balmadrid v. Sandiganbayan*, G.R. No. L-58327, March 22, 1991, 272-A Phil. 486, 492, 195 SCRA 497 [Per J. Paras, En Banc].

<sup>425</sup> Judicial Affidavit dated February 13, 2018, of J. S. Ursonal, Jr., p. 12 (Records, Vol. 2, p. 484).

<sup>426</sup> *Garcia-Diaz v. Sandiganbayan*, G.R. No. 193236, September 17, 2018 [J. Leonen, Third Division].





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separate and different tasks which may appear unrelated to one another but, in fact, constitute a whole collective effort to achieve their common criminal objective. Once conspiracy is shown, the act of one is the act of all the conspirators. The precise extent or modality of participation of each of them becomes secondary, since all the conspirators are principals.<sup>427</sup>

There is no debate as to the existence of the first two elements. Anent the third element, Section 3(g) of R.A. No. 3019 gives judges some latitude in determining whether the disadvantage to the government, occasioned by the act of a public officer in entering into a particular contract is, indeed, gross and manifest.<sup>428</sup> Otherwise stated, there is no hard and fast rule against which the disadvantageous acts complained of should be calibrated. The determination of whether the disadvantage caused was gross and manifest, as contemplated by Section 3(g), should be done on a case-to-case basis.

**"Gross"** connotes something "glaring, reprehensible, flagrant, or shocking."<sup>429</sup> **"Manifest"** is defined as "evident to the senses, open, obvious, notorious, and unmistakable."<sup>430</sup> On the one hand, **"disadvantageous"** is defined as unfavorable, prejudicial.<sup>431</sup> Assessed against these definitions, we cannot slough over the backlash of the illegal diversion of public funds

Accused Ursonal remains remonstrant, arguing that "the contract is not grossly disadvantageous to the government being in consonant (sic) with three valid and existing laws, namely: a) the Local Government Code, b) the Cooperative Code and c) the GMA Banner Program or RA 8435."<sup>432</sup>

The Court begs to differ. Rather, the Prosecution's stance, including its evidentiary basis, on this matter warrants approval, viz:

"... [T]he finding of the COA regarding the incapacity of BMEMPC to implement the project to be funded is corroborated by

<sup>427</sup> *People v. De Jesus*, G.R No 134815, May 27, 2004, 473 Phil. 405, 429 [Per Curiam].

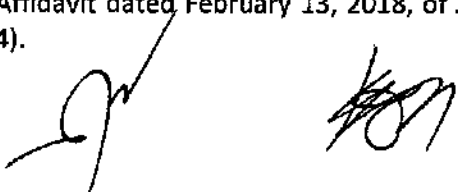
<sup>428</sup> *Dans, Jr. v. People*, 349 Phil. 434, 463 (1998).

<sup>429</sup> *Crucillo v. Ombudsman*, 552 Phil. 699, 724 (2007); *Morales, v. People of the Philippines*, 434 Phil. 471, 488 (2002).

<sup>430</sup> *Sajul v. Sandiganbayan*, 398 Phil. 1082, 1105; 345 SCRA 262 (2000).

<sup>431</sup> Webster's Third New International Dictionary, 1983, cited in *Miranda v. Sandiganbayan*, G.R. Nos. 144760-61, August 2, 2017.

<sup>432</sup> Judicial Affidavit dated February 13, 2018, of J. S. Ursonal, Jr., p. 11-12 (Records, Vol. 2, p. 483 - 484).



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the testimony of the representative from [the] Cooperative Development Authority, Cebu Extension Office, who testified that in the financial statement submitted by the cooperative in 2007, **the Php20 million that was received from the LGO (sic) of Bogo as financial assistance was not declared as a donation received from LGU Bogo or as loan payable by its members despite the evidence that the said amount was loaned to the members.**<sup>433</sup> The failure of the BMEMPC to declare in its financial statement the fact of receipt of the Php20 million from the LGU of Bogo is only reflective of the fact that said cooperative does not have the capacity to implement a project to be funded.

. . . Given the foregoing, the MOA entered into between the LGU of Bogo and BMEMPC is no doubt manifestly and grossly disadvantageous to the government, specifically to the Department of Agriculture who expected that the fund it allowed to be transferred to the LGU of Bogo will be used for the implementation of the GAM program to address the concerns of the AFMA, but instead, **the fund was allowed to be used as a financial assistance to BMEMPC, who in turn was not able to implement the project to be funded from the Php20 million it received from LGU Bogo.**" <sup>434</sup> (Emphasis and Underscoring Supplied.)

The principal evidence presented during trial was the COA's findings of irregularities.<sup>435</sup> The auditorial power under the Constitution<sup>436</sup> of the Commission on Audit ensures **accountability** enforcement in the disbursement of public funds.<sup>437</sup> As a mechanism for checks and balances, it wields exclusive authority to define the scope of its audit and examination and to establish the required techniques and methods.<sup>438</sup>

Thus, COA's findings are accorded not only respect but also finality, when they are not tainted with grave abuse of discretion.<sup>439</sup> Only upon a clear showing of grave abuse of discretion may the courts set aside decisions of government agencies entrusted with the regulation of activities coming under their special technical knowledge and training.<sup>440</sup> In this case, the COA Report can

<sup>433</sup> EXHIBITS "VV-2", "VV-2-A", "VV-2-B"; Judicial Affidavit dated September 4, 2018, of Johanna Gako Polinar, pp. 1 – 5 (Records, Vol. 4, pp. 120 – 124).

<sup>434</sup> Records, Vol. 5, pp. 387 – 388.

<sup>435</sup> EXHIBITS "D-1", "D-5" to "D-16".

<sup>436</sup> 1987 CONSTITUTION, ARTICLE IX-D, Section 2(1).

<sup>437</sup> *Veloso v. Commission on Audit*, G.R. No. 193677, September 6, 2011, 656 SCRA 767, 776.

<sup>438</sup> CONSTITUTION, Art. IX-D, Sec. 2(2).

<sup>439</sup> *Cuerdo v. Commission on Audit*, G.R. No. 84592, October 27, 1988, 166 SCRA 657.

<sup>440</sup> *Villanueva v. Commission on Audit*, G.R. No. 151987, March 18, 2005, 453 SCRA 782; *Olaguez v. Domingo*, G.R. No. 109666, June 20, 2001, 359 SCRA 78.



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withstand legal scrutiny. In *Delos Santos v. Commission on Audit*,<sup>441</sup> the Supreme Court, in upholding the Commission on Audit's disallowance of the irregularly disbursed Priority Development Assistance Fund, stated:

" . . . [I]t must be emphasized that the COA is endowed with enough latitude to determine, prevent, and disallow irregular, unnecessary, excessive, extravagant or unconscionable expenditures of government funds. It is tasked to be vigilant and conscientious in safeguarding the proper use of the government's, and ultimately the people's, property. The exercise of its general audit power is among the constitutional mechanisms that gives life to the check and balance system inherent in our form of government.

Corollary thereto, **it is the general policy of the Court to sustain the decisions of administrative authorities, especially one which is constitutionally-created, such as the COA, not only on the basis of the doctrine of separation of powers but also for their presumed expertise in the laws they are entrusted to enforce.** Findings of administrative agencies are accorded not only respect but also finality when the decision and order are not tainted with unfairness or arbitrariness that would amount to grave abuse of discretion. It is only when the COA has acted without or in excess of jurisdiction, or with grave abuse of discretion amounting to lack or excess of jurisdiction, that this Court entertains a petition questioning its rulings.<sup>442</sup> (Emphasis Supplied, Citation Omitted.)

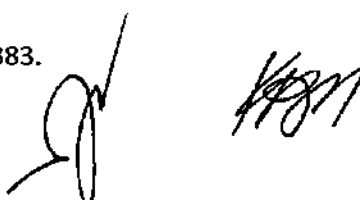
Accused Martinez III contends that diversion of the largesse had positive distributive consequences, and that, contrary to the Prosecution's position,<sup>443</sup> the subject MOA was not grossly and manifestly disadvantageous to the government. His expostulation is quoted below, *viz*:

"x x x The Prosecution failed to show that the qualified BMEMPC members who availed of the loans do not qualify as farmers and fisherfolks, not that the loans availed of were not for the promotion of poverty alleviation or income enhancement . . . . [T]here is nothing in the Memorandum of Agreement between the Department of Agriculture and the Municipality of Bogu which expressly excludes financial assistance to members of cooperatives, such as BMEMPC. Moreover, as

<sup>441</sup> G.R. No. 198457 : August 13, 2013, 716 Phil. 322 [Per J. Perlas-Bernabe, En Banc].

<sup>442</sup> *Id.*, pp. 332-333.

<sup>443</sup> Records, Vol. 5, p. 383.



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admitted during the cross-examination of prosecution witness Lita Lamparas, among other things, accused – who was then the **Municipal Mayor of the Municipality of Bogo, was authorized by the Sangguniang Bayan to enter into the Memorandums (sic) of Agreement with the Department of Agriculture and BMEMPC, respectively, and further, that the Notice of Disallowance issued by the Commission on Audit was voided by the Regional Trial Court in 2015.**<sup>444</sup>

X X X" <sup>445</sup> (Emphasis Supplied.)

Accused Ursonal avowed that:

"[The] innocent act of signing a MOA in behalf of the Coop accepting a financial aid from the Bogo LGU is not only devoid of any criminal intent, but also an act pursuant to and in consonance with the legal purpose of the Coop."<sup>446</sup>



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<sup>444</sup> On November 19, 2015, the Regional Trial Court, Branch 61, Bogo City, Cebu in the case entitled "*Celestino A. Martinez III, et. al., Petitioners, versus Commission on Audit (COA), et. al., Respondents,*" Civil Case No. Bogo-02972 (For Declaratory Relief), ruled in favor of Petitioners. The decretal portion reads, *inter alia*:

"**WHEREFORE**, premises considered, the instant Petition dated September 16, 2013 is hereby **GRANTED**.

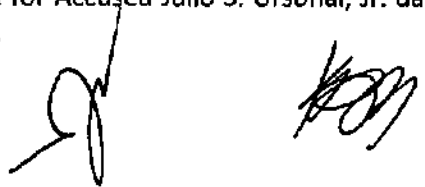
Judgment is hereby rendered in favor of the petitioners as follows:

1. Judicial interpretation the First MOA in relation to the GMA Banner Program and RA 8435 includes cooperative as beneficiary of the 20 million DA Project.
2. Judicial interpretation that the 20 million DA project in pursuance to the First MOA, the GMA Banner Program and RA 8435 include in its coverage the utilization of 20 million DA fund through cooperative credit financing on livelihood endeavors or business like junk shop, sari-sari store, micro-lending, soy sauce manufacturing, tricycle units for hire, livestock, fish and prawn pond and mango farm.
3. Judicial declaration that the rights of petitioners shall be protected from the effects of the COA's Notice of Disallowance which is erroneous, illegal and/or in ultra vires interpretation of the First MOA.
4. Declare the COA's Final Notice of Disallowance which contains the adverse findings as null and void.
5. X X X

"SO ORDERED."

<sup>445</sup> Records, Vol. 5, p. 353.

<sup>446</sup> Memorandum for Accused Julio S. Ursonal, Jr. dated April 6, 2021, p. 14 (Records, Vol. 7, p. 527).



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A *sensu contrario*, the MOA between LGU-BOGO and BMEMPC is manifestly and grossly disadvantageous to the government for the following reasons:

1. All interests, surcharges and fees earned in the course of the lending agreement shall accrue exclusively to the account of BMEMPC. The MOA effectuates a disbursement of funds out of the Bogo's treasury without the corresponding appropriation, law or ordinance duly passed for the purpose. The *Sanggunian's* resolution, which is merely declaratory of the will or opinion of a municipal corporation on a given matter,<sup>447</sup> cannot *ipso facto* insulate them from prosecution.
2. Bogo has its back against the wall of an inequitable situation because it accords BMEMPC *carte blanche* in administering the lending of the ₱20 Million public fund while reaping interests, and under no specific condition are said gains kept in trust for said Municipality.
3. The subject ₱20 Million was used primarily to suit private ends of Municipal employees (who are also members of BMEMPC), a purpose not aligned with the *Ginintuang Agrikulturang Makamasa* (GAM) program and the MOA's target beneficiaries, poor farmers and subsistence fishermen of Bogo. Concededly, this Machiavellian scheme is off line.
4. Mr. Ursonal admitted that the ₱20,000,000.00 was commingled with the other funds of BMEMPC, and when portions of the ₱20,000,000.00 that were lent out were paid, it became part of BMEMPC's revolving fund, or capitalization for its lending activities.<sup>448</sup>

More.



<sup>447</sup> 62 C.J.S. 786-7, cited in *Masculiana v. Provincial Board of Negros Occidental*, G.R. No. L-27013, October 18, 1977, 169 Phil. 385. 391;

<sup>448</sup> TSN, March 3, 2020, p. 46.



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Like accused Martinez III, accused Ursonal obstinately banked on the verdict of the Regional Trial Court (RTC) of Bogo for exoneration.<sup>449</sup>

Absolution based on a *red herring*<sup>450</sup> is illusory. As confirmed by the Prosecution's rebuttal witness, Jeremias A. Bentulan, the lower court's ruling is not final and executory.<sup>451</sup> True, disallowance in audit by the Commission on Audit may be set aside and nullified. Yet, that power is reserved to the Supreme Court, and only when the Constitutional Commission's audit findings are tainted with grave abuse of discretion.<sup>452</sup> In particular, this Court ordered that portions of accused Ursonal's *Amended Judicial Affidavit* relative thereto be stricken off.<sup>453</sup>

Further, the Defense queried: "If accused URSONAL is not administratively liable based on exactly the same set of facts, circumstances and evidence, how can he be held criminally liable therefor?"<sup>454</sup> Truth to tell, the Office of the Ombudsman has exonerated him.<sup>455</sup>

Accused Ursonal is gravely mistaken. Absolution from an administrative prosecution is not a bar to a criminal charge or *vice versa*. In *Villaseñor v. Sandiganbayan*,<sup>456</sup> the Supreme Court explained that:



<sup>449</sup> EXHIBIT "14" for Ursonal; Records, Vol. 6, p. 31; Records, Vol. 5, pp. 428 – 444, 486, 489.

<sup>450</sup> "*Red herring*" refers to something irrelevant that diverts attention away from the main problem or issue. Posted in <https://idioms.thefreedictionary.com/red+herring>

<sup>451</sup> TSN, February 15, 2021, pp. 21, 27.

<sup>452</sup> *Buscaino v. Commission on Audit*, G.R. No. 110798, July 20, 1999, citing *Court of Industrial Relations v. COA*, 218 SCRA 230.

<sup>453</sup> TSN, March 2, 2020, pp. 13 – 17, 44.

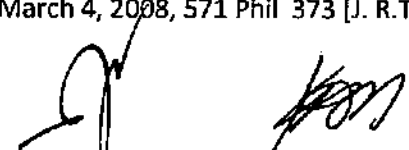
<sup>454</sup> EXHIBIT "11" for Ursonal; Records, Vol. 6, pp. 101 , 259; Records, Vol. 5, pp. 483 – 486; See also Memorandum for Accused Julio S. Ursonal, Jr. dated April 6, 2021, pp. 16 - 17 (Records, Vol. 7, p. 529 - 530).

<sup>455</sup> On October 25, 2015, in the administrative case before the Office of the Ombudsman entitled "*Field Investigation Office, Office of the Ombudsman-Visayas, Complainant, versus Julio S. Ursonal, Jr. (SG-24) Assistant Municipal Treasurer, Municipality of Bogo, Province of Cebu, Respondent, OMB-V-A-14-0527 (For: Grave Misconduct)*", the Office of the Ombudsman ruled:

"WHEREFORE, this administrative case for Grave Misconduct against JULIO S. URSONAL, JR. is hereby **DISMISSED** for lack of substantial evidence.

"SO ORDERED." (Records, Vol. 5, pp. 495 - 499.)

<sup>456</sup> G.R. NO. 180700 : March 4, 2008, 571 Phil 373 [J. R.T. Reyes, Third Division].



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“ . . . [T]here are three kinds of remedies that are available against a public officer for impropriety in the performance of his powers and the discharge of his duties: (1) civil, (2) criminal, and (3) administrative. **These remedies may be invoked separately, alternately, simultaneously or successively.** Sometimes, the same offense may be the subject of all three kinds of remedies.

**Defeat of any of the three remedies will not necessarily preclude resort to other remedies or affect decisions reached thereunder,** as different degrees of evidence are required in these several actions. In criminal cases, proof beyond reasonable doubt is needed whereas a mere preponderance of evidence will suffice in civil cases. In administrative proceedings, only substantial evidence is required.

It is clear, then, that **criminal and administrative cases are distinct from each other.** The settled rule is that criminal and civil cases are altogether different from administrative matters, such that the first two will not inevitably govern or affect the third and *vice versa*. Verily, administrative cases may proceed independently of criminal proceedings.<sup>457</sup> (Emphases and Underscoring Supplied, Citations Omitted.)

Finally, quittance upon full payment of their loans will not absolve accused of criminal liability. Payment of the loans is a post-contract development that is inconsequential in determining culpability under Section 3(g) of R.A. No. 3019, as amended. The Supreme Court's *dictum* in *Luciano v. Estrella*<sup>458</sup> is instructive, viz:

“ . . . [H]erein respondent municipal officials were charged with violation of Republic Act 3019 under its Section 3(g) . . .  
x x x [T]he act treated thereunder partakes of the nature of a **MALUM PROHIBITUM; it is the COMMISSION of that act as defined by the law, NOT the character or effect thereof, that determines whether or not the provision has been violated.** And this construction would be in consonance with the announced purpose for which Republic Act 3019 was enacted, which is the repression of certain acts of Republic officers and private persons constituting graft or corrupt practices or which may lead thereto.<sup>459</sup> Note that **the law does not merely contemplate repression of acts that are unlawful or corrupt per se, but even of those that may lead to or result in graft and corruption.** Thus, to require for conviction under the Anti-

<sup>457</sup> Id. at pp. 381-382.

<sup>458</sup> G.R. No. L-31622. August 31, 1970 [J. J.B.L. Reyes, En Banc].

<sup>459</sup> Section 11, Republic Act 3019, as amended.



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Graft and Corrupt Practices Act that the validity of the contract or transaction be first proved would be to enervate, if not defeat, the intention of the Act. For what would prevent the officials from entering into those kinds of transactions against which Republic Act 3019 is directed, and then deliberately omit the observance of certain formalities just to provide a convenient leeway to avoid the clutches of the law in the event of discovery and consequent prosecution? x x x." (Emphasis and Capitalization Supplied.)

All things considered, accused Martinez III, Minguez, Verdida and Ursonal are hereby adjudged **GUILTY** beyond reasonable doubt for conspiring to commit acts violative of Section 3(g) of Republic Act No. 3019, as amended.

**III.**

**CIVIL LIABILITY.**

Conformably with Republic Act No. 10660,<sup>460</sup> recovery of civil liability shall be simultaneously instituted with, and jointly determined in, the same proceeding. Here, the facts and surrounding circumstances warrant indemnity in favor of the Government.

The MOA<sup>461</sup> between DA-RFU7 and LGU-BOGO mandates:

**"B. OBLIGATIONS OF LGU-BOGO:**

- 1. x x x
- x x x

**1. Shall refund/return to the DA-RFU7 the full amount released in case of:**

- a. Misappropriation**
- b. Non-utilization of funds
- c. Non-compliance of (sic) any provisions stated in the agreement.**

"x x x." <sup>462</sup> (Emphasis and Italics Supplied.)

<sup>460</sup> Approved on April 16, 2015.

<sup>461</sup> EXHIBITS "F", "7" for Ursonal.

Handwritten signatures and initials are present at the bottom of the page, including a large signature on the left and several smaller initials or signatures on the right.



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Breach of said MOA by accused public officials who conspired and directly participated in the misapplication of public funds has been proven beyond cavil. Accordingly, the penal clause quoted above is enforceable.

Further, the public officers who **certified** to the necessity, legality and availability of funds/budgetary allotments, adequacy of documents, etc. involving the expenditure of funds and those who **approved or authorized** transactions involving said expenditure shall be liable to refund the amount disallowed by the COA. The Budget Reform Decree of 1977<sup>463</sup> (Presidential Decree No. 1177), the Government Auditing Code of the Philippines<sup>464</sup> (P.D. No. 1445), the Revised Administrative Code of 1987<sup>465</sup> (Executive Order No.

<sup>462</sup> *Ibid.*

<sup>463</sup> Section 49 of P.D. No. 1177 provides:

**Section 49. Liability for Illegal Expenditure.** Every expenditure or obligation authorized or incurred in violation of the provisions of this Decree or of the general and special provisions contained in the annual General or other Appropriations Act shall be void. Every payment made in violation of said provisions shall be illegal and every official or employee authorizing or making such payment, or taking part therein, and every person receiving such payment shall be jointly and severally liable to the Government for the full amount so paid or received.

x x x

<sup>464</sup> P.D. No. 1445 provides:

**Section 102. Primary and secondary responsibility. -**

1. The head of any agency of the government is immediately and primarily responsible for all government funds and property pertaining to his agency
2. Persons entrusted with the possession or custody of the funds or property under the agency head shall be immediately responsible to him, without prejudice to the liability of either party to the government.

**Section 103. General liability for unlawful expenditures. -** Expenditures of government funds or uses of government property in violation of law or regulations shall be a personal liability of the official or employee found to be directly responsible therefor.

x x x

**Section 105. Measure of liability of accountable officers. - (1) x x x**

- (2) Every officer accountable for government funds shall be liable for all losses resulting from the unlawful deposit, use, or application thereof and for all losses attributable to negligence in the keeping of the funds.

<sup>465</sup>The following provisions of E.O. No. 292 identify the persons liable to return the disallowed amounts, viz:

**1. Section 43, Chapter V, Book VI of the 1987Administrative Code:**

**Section 43. Liability for Illegal Expenditures. -** Every expenditure or obligation authorized or incurred in violation of the provisions of this Code or of the general and special provisions contained in the annual General or other Appropriations Act shall be void. Every payment made in violation of said provisions shall be illegal and every official or employee authorizing or making

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292) are legal anchors on the matter. Thence, personal liability to return the disallowed amounts must be understood as **civil liability**<sup>466</sup> based on the loss incurred by the government because of the transaction. Accused Martinez III, Minguez and Verdida were directly responsible for the subject transactions. Nobody merely initialed or witnessed the disbursement voucher's approval. Rather, each was the approving/certifying authority.<sup>467</sup> Besides, said public officers figured in the policy-making and decision-making concerning contracts germane to Bogó's fiscal interests, and they were not merely performing assigned duties which can be characterized as ministerial. Notably, they were clearly shown to have acted in bad faith, with malice, or were grossly negligent.<sup>468</sup> That said, accused **Martinez III, Verdida and Minguez** are liable *in solidum*, and must reimburse twenty million pesos (P20,000,000.00) to the government.

With respect to accused **Ursonal**, the rule, as enunciated by the Supreme Court in **Madera v. Commission on Audit**,<sup>469</sup> is

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such payment, or taking part therein, and every person receiving such payment shall be jointly and severally liable to the Government for the full amount so paid or received.

xxx xxx xxx

**2. Sections 38 and 39, Chapter 9, Book I, of the 1987 Administrative Code:**

**Section 38. Liability of Superior Officers. –**

(1) A public officer shall not be civilly liable for acts done in the performance of his official duties, unless there is a clear showing of bad faith, malice or gross negligence.

(2) x x x

(3) A head of a department or a superior officer shall not be civilly liable for the wrongful acts, omissions of duty, negligence, or misfeasance of his subordinates, unless he has actually authorized by written order the specific act or misconduct complained of.

**Section 39. Liability of Subordinate Officers. –** No subordinate officer or employee shall be civilly liable for acts done by him in good faith in the performance of his duties. However, he shall be liable for willful or negligent acts done by him which are contrary to law, morals, public policy and good customs even if he acted under orders or instructions of his superiors.

**3. Section 52, Chapter 9, Title I-B, Book V of the 1987 Administrative Code:**

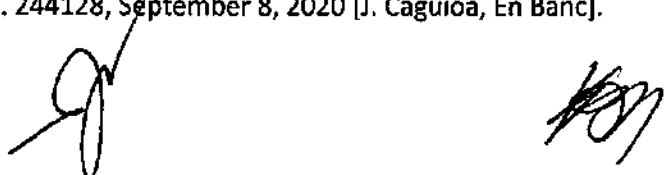
**Section 52. General Liability for Unlawful Expenditures. –** Expenditures of government funds or uses of government property in violation of law or regulations shall be a personal liability of the official or employee found to be directly responsible therefor.

<sup>466</sup> See *Suarez v. Commission on Audit*, G.R. No. 131077, August 7, 1998, 294 SCRA 96, 108-109, which treats liability for disallowance as civil liability.

<sup>467</sup> See *Catu-Lopez v. Commission on Audit*, G.R. No. 217997, November 12, 2019 [J. Gesmundo (now Chief Justice), En Banc].

<sup>468</sup> *Teresita P. De Guzman v. Commission on Audit*, G.R. No. 245274, October 13, 2020 [J. Lazaro-Javier, En Banc].

<sup>469</sup> G.R. No. 244128, September 8, 2020 [J. Caguioa, En Banc].



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*apropos.* Passive recipients of disallowed benefits must be held liable to return disallowed payments on ground of ***solutio indebiti***<sup>470</sup> or **unjust enrichment**.<sup>471</sup> Under the circumstances, accused Ursonal may not invoke good faith and claim that he "*should not be held liable to refund what [he] had unwittingly received,*" a defense which was upheld in the High Court's ruling in ***Silang v. COA***.<sup>472</sup> ***Commodum ex injuria sua nemo habere debet*** (No one shall be permitted to profit by his own fraud.).<sup>473</sup>

Since the ledgers and records of the book keeper of BMEMPC showed that the loans availed of by accused Martinez III, Verdida, Minguez and Ursonal had been fully paid, and the loaned amounts had been sourced from the ₱20,000,000.00 subject of the present cases, the civil liability is limited to the indemnification, jointly and severally, of the amount of ₱20,000,000.00 by accused Martinez III, Verdida, Minguez and Ursonal.

**III.**  
**PENALTY**

The penalty for violation of Section 3 of Republic Act No. 3019, as amended, is imprisonment for not less than six (6) years and one (1) month nor more than fifteen (15) years, and perpetual absolute disqualification from public office.<sup>474</sup> In addition, Section 13 of the Anti-Graft and Corrupt Practices Act provides that if convicted by final judgment, the erring public officer shall lose all retirement or gratuity benefits under any law. Consistent with Section 1 of Act No. 4103, as amended (i.e. Indeterminate Sentence Law),<sup>475</sup> and taking

<sup>470</sup> Under **Article 2154 of the Civil Code**, if something is received and unduly delivered through mistake when there is no right to demand it, the obligation to return the thing arises.

<sup>471</sup> **Article 22 of the Civil Code** provides that "[e]very person who through an act of performance by another, or any other means, acquires or comes into possession of something at the expense of the latter without just or legal ground, shall return the same to him."

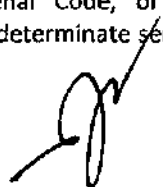
<sup>472</sup> G.R. No. 213189, September 8, 2015, 770 SCRA 110, 129.

<sup>473</sup> *New York Mutual Life Insurance Company v. Armstrong*, 117 U.S. 59.

<sup>474</sup> Section 9(a) of R.A. No. 3019, as amended.

<sup>475</sup> Section 1 of Act No. 4103 reads:

"Hereafter, in imposing a prison sentence for an offense punished by the Revised Penal Code, or its amendments, the court shall sentence the accused to an indeterminate sentence the maximum term of which shall be that which, in view of the



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its cue from previously decided cases of similar import,<sup>476</sup> this Court sentences accused **Martinez III** and his co-conspirators, accused **Minguez, Verdida and Ursonal**, to imprisonment of six (6) years and one (1) month, as *minimum*, to ten (10) years and one (1) day, as *maximum*, with perpetual disqualification from public office and loss of all retirement and gratuity benefits under any law, for violation of Section 3(e) of Republic Act No. 3019, as amended, in Criminal Case No. SB-15-CRM-0284.

With respect to Criminal Case No. SB-15-CRM-0285, this Court sentences accused **Martinez III**, together with his co-conspirator, accused **Ursonal** to imprisonment of six (6) years and one (1) month, as *minimum*, to ten (10) years and one (1) day, as *maximum*, with perpetual disqualification from public office and loss of all retirement and gratuity benefits under any law, for violation of Section 3(g) of R.A. No. 3019.

**WHEREFORE**, premises considered, the Court hereby finds and so holds as follows:

**A. Criminal Case No. SB-15-CRM-0284:**

Accused **CELESTINO ASAS MARTINEZ III, CRESCENCIO PILAPIL VERDIDA, RHETT E. MINGUEZ and JULIO S. URSONAL, JR.** are ***GUILTY*** beyond reasonable doubt for conspiring in the commission of acts violative of **Section 3(e) of Republic Act No. 3019, as amended.**



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attending circumstances, could be properly imposed under the rules of the said Code, and the minimum which shall be within the range of the penalty next lower to that prescribed by the Code for the offense; and if the offense is punished by any other law, the court shall sentence the accused to an indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum term prescribed by the same. (As amended by Act No. 4225.)

<sup>476</sup> *People v. Pajaro, et. al.*, G.R. Nos. 167860-65, June 17, 2008 (554 SCRA 572, 582 – 583); *Ong v. People*, G.R. No. 176546, September 25, 2009 (601 SCRA 47, 52); *Nacaytuna v. People*, G.R. No. 171144, November 24, 2006 (508 SCRA 128, 131); *People v. Eric A. Cabarios, et. al.*, SB-10-CRM-0186 to 0195, August 30, 2016; *People v. Carlos Racadio Asuncion, et. al.*, SB-17-CRM-1393 to 1404, May 17, 2019; *People v. Sylvia P. Binarao*, SB-12-CRM-016 to 0023, August 24, 2018; *People v. Dante S. Garcia, et. al.*, SB-14-CRM-0337 to 0345, February 9, 2018; *People v. Jose T. Villarosa*, SB-14-CRM-0348 to 0356, November 17, 2016.



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Accordingly, accused **Martinez III, Verdida, Minguez and Ursonal** are sentenced to suffer the indeterminate penalty of six (6) years and one (1) month, as *minimum*, to ten (10) years and one (1) day, as *maximum*.

In addition, accused **Martinez III, Verdida, Minguez and Ursonal** shall suffer perpetual disqualification from holding any public office and loss of all retirement and gratuity benefits under any law.

The case against **MARY LOU URSAL** shall, pending her arrest, remain **ARCHIVED**.

**B. Criminal Case No. SB-15-CRM-0285:**

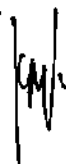
Accused **CELESTINO ASAS MARTINEZ III and JULIO S. URSONAL, JR.** are ***GUILTY*** beyond reasonable doubt for conspiring in the commission of acts violative of **Section 3(g) of Republic Act No. 3019, as amended**.

Accordingly, accused **Martinez III and Ursonal** are sentenced to suffer the indeterminate penalty of six (6) years and one (1) month, as *minimum*, to ten (10) years and one (1) day, as *maximum*.

In addition, accused **Martinez III and Ursonal** shall suffer perpetual disqualification from holding any public office, and loss of all retirement and gratuity benefits under any law.

**C. CIVIL LIABILITY:**

Accused **Martinez III, Verdida, Minguez and Ursonal** are ordered to indemnify *jointly and severally* the National Government the amount of **Twenty Million Pesos, Philippine Currency (P20,000,000.00)**. The indemnity shall be paid immediately by said accused to the Bureau of the Treasury.



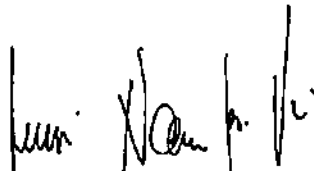
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**SO ORDERED.**

  
**KEVIN NARCE B. VIVERO**  
*Associate Justice*

**WE CONCUR:**

  
**SARAH JANE T. FERNANDEZ**  
*Associate Justice*  
*Chairperson*

  
**KARL B. MIRANDA**  
*Associate Justice*

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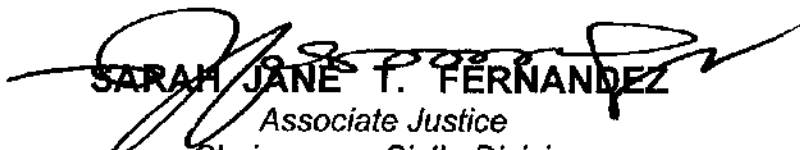
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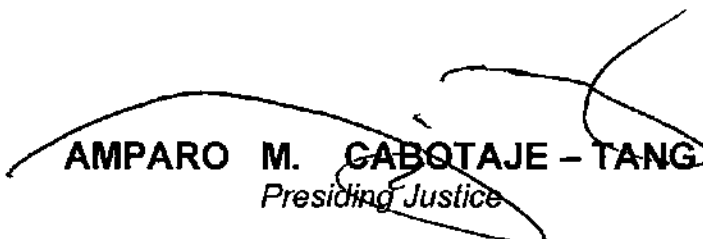
**ATTESTATION**

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**SARAH JANE T. FERNANDEZ**  
*Associate Justice*  
*Chairperson, Sixth Division*

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the 1987 Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**AMPARO M. GABOTAJE - TANG**  
*Presiding Justice*



