



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

FOURTH DIVISION

PEOPLE OF THE PHILIPPINES, SB-15-CRM-0288

Plaintiff,

For: Malversation through
Falsification of Public
Documents

- versus -

Present:

Quiroz, J., *Chairperson*

Cruz, J.

Jacinto, J.

BLAS ALMAZAN CANLAS,

Promulgated:

Accused.

September 14, 2018 *unb*

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DECISION

JACINTO, J:

Accused **BLAS ALMAZAN CANLAS** is charged with Malversation of Public Funds punishable under Article 217 of the Revised Penal Code (RPC), for acts committed as follows:

That in or about January to December 2006, or sometime prior or subsequent thereto, in the Municipality of Laur, Nueva Ecija, and within the jurisdiction of this Honorable Court, accused **BLAS ALMAZAN CANLAS**, a public officer, being then the Municipal Mayor of the said Municipality, committing the offense in relation to his office, did then and there willfully, unlawfully, and feloniously misappropriate, embezzle, and convert to his own personal use and benefit public funds for which he is accountable, amounting to THREE MILLION FIVE HUNDRED EIGHT THOUSAND AND THREE HUNDRED FORTY TWO PESOS AND NINETY SIX CENTAVOS (Php 3,508,342.96), which amount was placed under his custody and control as cash advances by reason of the duties of his office, and which he failed to liquidate upon demand, to the damage and prejudice of the government.

CONTRARY TO LAW.¹

¹ Information dated 7 October 2015, Records, pp. 1-3.

On 14 January 2015, he entered a “Not Guilty” plea upon arraignment.² Thereafter, the prosecution presented its case, built on the testimonies of five witnesses: (1) **Remedios Cruz Bactol**,³ State Auditor IV, Commission on Audit (COA); (2) **Ronalyn Galindez Bayro**,⁴ Municipal Accountant, Municipality of Laur; (3) **Marina Reyes Mercado Padilla**,⁵ Officer-in-Charge (OIC) Municipal Accountant of the Municipality of Laur from 2007 to 2010; (4) **Alvaro Gahutan Daus**,⁶ Municipal Mayor of Laur from July 2007 to June 2016; and, (5) **Amipola Ingalla Obina Manal**,⁷ State Auditor III, COA. Their testimonies may be summarized as follows:

A comprehensive audit of all the financial transactions of the Municipality of Laur, Nueva Ecija for the year ending 31 December 2006⁸ was conducted by a COA Audit Team headed by Remedios Cruz Bactol. The audit uncovered several unliquidated cash advances made by accused Canlas and Municipal Treasurer Aqueda I. Santos amounting to P5,506,641.02 as of 31 December 2006.⁹

Auditor Bactol thereafter had separate dialogues with accused and Juanita Padilla, the OIC-Municipal Accountant, to discuss the COA findings. Demand was made for accused to settle his outstanding cash advances. On the other hand, Ms. Padilla was instructed, among others, to demand the immediate settlement thereof. Thereafter, the findings of the COA Audit Team were formalized in the Annual Audit Report (Exh. “AA”) for the Municipality of Laur for the year 2006.¹⁰

In the meantime, despite his earlier assurances, accused failed to liquidate his cash advances.¹¹

When Alvaro Gahutan Daus took over as Municipal Mayor of Laur in 2007, he was informed that accused Canlas had various unliquidated cash advances due the Municipality. He thus instructed the then OIC-Municipal Accountant, Marina Reyes Mercado Padilla, to demand the liquidation of the said sums.¹² Pursuant to Daus’ directive, Padilla prepared and delivered a

² Records, p. 85.

³ TSN, 7 September 2016.

⁴ TSN, 7 September 2016 and 26 October 2016.

⁵ TSN, 26 October 2016.

⁶ TSN, 16 January 2017.

⁷ TSN, 17 January 2017.

⁸ TSN, 7 September 2016, pp. 07-12.

⁹ EXH. “AA.”

¹⁰ TSN, 07 September 2016, pp. 45-46.

¹¹ *Id.*, p. 48.

¹² TSN, 16 January 2017, pp. 06-09

Demand Letter dated 27 September 2007 (Exh. "DD") to accused Canlas¹³ and a second Demand Letter dated 02 April 2009 (Exh "D").¹⁴

Given accused Canlas's lack of response to the demand letters, Daus requested the Sangguniang Bayan (SB) of Laur for authority to file a case against him. Such authority was given to Daus through SB Resolution No. 019, Series of 2010 (Exh. "B").¹⁵ He thereafter executed and filed an Affidavit Complaint (Exh. "A"), formally accusing Canlas of Malversation of Public Funds before the Office of the Ombudsman (OMB).¹⁶

On 20 February 2012, the prosecution rested its case with the filing of its *Formal Offer of Documentary Exhibits*.¹⁷ In a *Resolution* dated 5 April 2017,¹⁸ the Court admitted the prosecution's exhibits as offered.

At the 24 April 2017 hearing set for the initial presentation of his evidence, accused, through counsel, manifested that he had yet to receive a copy of the Court's 5 April 2015 *Resolution* and asked for time to file his Motion for Leave of Court to File Demurrer to Evidence. He manifested as follows:¹⁹

ATTY. CANLAS

Yes, Your Honors. Your Honors, because we have not received that Order of the Honorable Court upon receipt or even this afternoon, we will be asking the Honorable Court to give us at least ten (10) days to file our Motion for Leave of Court to File Demurrer to Evidence, Your Honors.

CHAIRPERSON

Well, the (sic) counting of (sic) that reglementary period on your official receipt of the Order.

Accused thereafter filed a *Motion to Dismiss Based on Demurrer to Evidence (With Prior Leave of Court)* dated 04 May 2017,²⁰ which was duly opposed by the prosecution.²¹

¹³ TSN, 26 October 2017, pp. 29-35.

¹⁴ TSN, 26 October 2017, pp. 37-43.

¹⁵ TSN, 16 January 2017, pp. 11-13.

¹⁶ *Id.*, pp. 13-15.

¹⁷ Records, pp. 646-652.

¹⁸ *Id.*, pp. 798-799.

¹⁹ TSN, 24 April 2017, p. 5.

²⁰ Records, pp. 806-813.

²¹ Comment and/or Opposition dated 9 May 2017, *id.*, pp. 817-820.

In a *Resolution* dated 20 July 2017²² the Court denied accused's *Motion* and considered the case submitted for decision since the *Demurrer* was filed without prior leave of Court. The dispositive portion of the Court's *Resolution* reads:

WHEREFORE, premises considered, accused Blas A. Canlas' Motion to Dismiss based on Demurrer to Evidence (with Prior Leave of Court) dated 04 May 2017 is hereby DENIED for lack of merit.

Considering that accused Canlas' demurrer to evidence was filed without leave of court, he is deemed to have WAIVED his right to present his evidence, and the case is now SUBMITTED for decision.

SO ORDERED.

Accused filed a *Motion for Reconsideration*,²³ but the same was denied by the Court in its 25 September 2017 *Resolution*.²⁴ Thereafter, he filed a *Memorandum in Lieu of the Oral Testimony of the Accused* dated 2 November 2017,²⁵ which was expunged, upon motion of the prosecution, through the Court's 3 April 2018 *Resolution*.²⁶ Hence, this case was submitted for decision based only on the prosecution's evidence.

RULING OF THE COURT

Art. 217 of the RPC provides:

ARTICLE 217. Malversation of Public Funds or Property — Presumption of Malversation. — Any public officer who, by reason of the duties of his office, is accountable for public funds or property, shall appropriate the same, or shall take or misappropriate or shall consent, or through abandonment or negligence, shall permit any other person to take such public funds or property, wholly or partially, or shall otherwise be guilty of the misappropriation or malversation of such funds or property, shall suffer: x x x x

The elements of said crime are as follows:

1. the offender is a public officer;
2. he had the custody or control of funds or property by reason of the duties of his office;

²² Records, pp. 827-832.

²³ *Motion for Reconsideration of Resolution* dated July 20, 2017, Records, pp. 836-838.

²⁴ Records, pp. 854-858.

²⁵ *Id.*, pp. 867-879.

²⁶ *Id.*, pp. 893-894.

3. those funds or property were public funds or property for which he was accountable; and
4. he appropriated, took, misappropriated or consented or, through abandonment or negligence, permitted another person to take them.²⁷

There is no dispute as to the first three elements. Accused Canlas was a public officer, being the Municipal Mayor of Laur, Nueva Ecija during the period complained of. In such capacity, he received money or property belonging to the Municipality for which he was bound to account. In *People v. Pantaleon*,²⁸ the Supreme Court explained, as follows:

As a required standard procedure, the signatures of the mayor and the treasurer are needed before any disbursement of public funds can be made. No checks can be prepared and no payment can be effected without their signatures on a disbursement voucher and the corresponding check. In other words, any disbursement and release of public funds require their approval. The appellants, therefore, in their capacities as mayor and treasurer, had control and responsibility over the funds of the Municipality of Castillejos.

The appellants were accountable for public funds

The funds for which malversation the appellants stand charged were sourced from the development fund of the municipality. They were funds belonging to the municipality, for use by the municipality, and were under the collective custody of the municipality's officials who had to act together to disburse the funds for their intended municipal use. The funds were therefore public funds for which the appellants as mayor and municipal treasurer were accountable.

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XXXX

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Pantaleon, as municipal mayor, was also accountable for the public funds by virtue of Section 340 of the Local Government, which reads:

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

²⁷ *Cantos v. People*, G.R. No. 184908, 3 July 2013.

²⁸ G.R. Nos. 158694-96, 13 March 1999.

government funds through their participation in the use or application thereof.

In addition, municipal mayors, pursuant to the Local Government Code, are chief executives of their respective municipalities. Under Section 102 of the Government Auditing Code of the Philippines, he is responsible for all government funds pertaining to the municipality:

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.**

In this case, cross-referencing the prosecution's documentary evidence with the underlying testimonies of its witnesses, accused's cash advances may be summarized accordingly:

Journal Entry No.	Date	Check No.	DV. No.	Particulars	Amount (PhP)
101 ²⁹	26 Jan. 2006	15578212 ³⁰	Unnumbered ³¹	Unspecified	34,695.66
26 ³²	26 Jan. 2006	20934227 ³³	101-0601-26 ³⁴	Intelligence Expense ³⁵	25,000.00
27 ³⁶	26 Jan. 2006	20934228 ³⁷	101-0601-27 ³⁸	Training/Workshop, Baguio City	8,000.00
76 ³⁹	17 Mar. 2006	20934267 ⁴⁰	101-0603-76 ⁴¹	Telephone Bill	69,500.00
116 ⁴²	12 May 2006	20934324 ⁴³	Unnumbered ⁴⁴	Investment & Trade Expo, Hong Kong	219,298.00
147 ⁴⁵	01 Jun. 2006	20934343 ⁴⁶	101-0606-164 ⁴⁷	Telephone Bills	94,855.53
n/a	05 Jun. 2006	20934346 ⁴⁸	unnumbered ⁴⁹	Unspecified	118,270.00
141 ⁵⁰	13 Jun. 2006	20934350 ⁵¹	Unnumbered ⁵²	World Forum, Canada	189,400.00

²⁹ Exhibit "G."

³⁰ Exhibit "V-1."

³¹ Exhibit "G-1."

³² Exhibit "H."

³³ Exhibits "H-1" and "V-2."

³⁴ Exhibit "H-4."

³⁵ Obligation Slip Indicating Expense (Exh. "H-2").

³⁶ Exhibit "I."

³⁷ Exhibits "I-1." and "V-3."

³⁸ Exhibit "I-2."

³⁹ Exhibit "J."

⁴⁰ Exhibit "V-4."

⁴¹ Exhibit "J-1."

⁴² Exhibit "K."

⁴³ Exhibits "K-1" and "V-5."

⁴⁴ Exhibit "K-2."

⁴⁵ Exhibit "L."

⁴⁶ Exhibits "L-1," and "V-6."

⁴⁷ Exhibit "L-2."

⁴⁸ Exhibits "M-3," and "V-7."

⁴⁹ Exhibit "M."

⁵⁰ Exhibit "N."

⁵¹ Exhibits "N-1" and "V-8."

⁵² Exhibit "N-2."

DECISION

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242 ⁵³	23 Oct. 2006	22397049 ⁵⁴	Unnumbered ⁵⁵	Manila Hotel, Annual Assembly, League of Municipalities	25,000.00
301 ⁵⁶	17 Nov. 2006	22397055 ⁵⁷	Unnumbered ⁵⁸	Unspecified	700,000.00
251 ⁵⁹	13 Nov. 2006	22397060 ⁶⁰	Unnumbered ⁶¹	Unspecified	29,824.50
256 ⁶²	17 Nov. 2006	22397066 ⁶³	Unnumbered ⁶⁴	Unspecified	1,000,000.00
284 ⁶⁵	22 Dec. 2006	22397096 ⁶⁶	101-0612-369 ⁶⁷	Unspecified	1,000,000.00
				TOTAL	PhP 3,513,843.69

The prosecution's evidence shows that accused, together with the OIC-Treasurer, disbursed the said cash advances in his favor. Some of these cash advances had indicated purposes, while some were for unspecified purposes. Regardless of the propriety of the stated purpose for the disbursements, or the presence or absence of a proven public purpose, these checks were released to him and which he encashed. Despite the receipt of the same, however, accused failed to liquidate the said cash advances.

In this regard, Art. 217 of the RPC provides that the failure of a public officer to be duly forthcoming of public funds upon which he is chargeable gives rise to a *prima facie* presumption that such funds were used for personal purposes.⁶⁸ In other words, all that is needed for conviction is sufficient proof that the accountable officer received public funds, that he did not have them in his possession when demand therefor was made, and that he could not satisfactorily explain his failure to do so. Direct evidence of personal misappropriation by the accused is hardly necessary as long as he cannot explain satisfactorily the shortage in his accounts.⁶⁹

In this case, despite two demands made by the Municipality of Laur and notices from the COA for the liquidation of his cash advances for the year 2006, accused failed to do so. Thus, absent any evidence that the funds

⁵³ Exhibit "O."

⁵⁴ Exhibits "O-1" and "V-9."

⁵⁵ Exhibit "O-2."

⁵⁶ Exhibit "P."

⁵⁷ Exhibit "V-10."

⁵⁸ Exhibit "P-1."

⁵⁹ Exhibit "Q."

⁶⁰ Exhibits "Q-1," and "V-11."

⁶¹ Exhibit "Q-3."

⁶² Exhibit "R."

⁶³ Exhibits "R-1" and "V-12."

⁶⁴ Exhibit "R-2."

⁶⁵ Exhibit "S."

⁶⁶ Exhibit "S-1."

⁶⁷ Exhibit "S-2."

⁶⁸ The said paragraph reads as follows: "The failure of a public officer to have duly forthcoming any public funds or property with which he is chargeable, upon demand by any duly authorized officer, shall be *prima facie* evidence that he has put such missing funds or property to personal uses."

⁶⁹ *Davalos, Sr. v. People*, G.R. No. 145229, 20 April 2006.

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were used for a legitimate public purpose, there is sufficient proof that accused Canlas is culpable for the felony of Malversation of Public Funds.

Imposable Penalty

Republic Act (R.A.) No. 10951,⁷⁰ which was enacted during the pendency of this case, amended the imposable penalties for violation of Art. 217 of the RPC. The applicable provision which covers the amount involved in this case provides:

SECTION 40. Article 217 of the same Act, as amended by Republic Act No. 1060, is hereby further amended to read as follows:

xxx xxxx xxxx

"4. The penalty of *reclusion temporal*, in its medium and maximum periods, if the amount involved is more than Two million four hundred thousand pesos (P2,400,000) but does not exceed Four million four hundred thousand pesos (P4,400,000).

"In all cases, persons guilty of malversation shall also suffer the penalty of perpetual special disqualification and a fine equal to the amount of the funds malversed or equal to the total value of the property embezzled."

Art. 22 of the RPC and Art. 100 of R.A. No. 10951 both provide for the law's retroactive application if doing so would be favorable to the accused. Since R.A. No. 10951 provides for a lower penalty, the same should thus be applied.

As stated above, the penalty imposable for the felony of Malversation if the amount involved is more than P2,400,000.00 but does not exceed P4,000,000.00 is *reclusion temporal* in its medium and maximum periods. It is from this range that the impossible maximum term of the indeterminate sentence can be derived.

Applying the Indeterminate Sentence Law (ISL), the minimum imposable penalty should be "within the range of the penalty next lower" – which is *prision mayor* in its maximum period to *reclusion temporal* in its minimum period. The maximum penalty, on the other hand, in the absence

⁷⁰ Entitled: "An Act Adjusting the Amount or the Value of Property and Damage on Which a Penalty is Based, and the Fines Imposed Under the Revised Penal Code, Amending for the Purpose Act No. 3815, otherwise known as 'The Revised Penal Code,' as Amended."

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of any mitigating or aggravating circumstance, shall be taken from the medium period of *reclusion temporal* which ranges from 16 years, five months, and 11 days, to 18 years, two months, and 20 days.

As for the fine imposable by the Court, although the prosecution's evidence shows that the unliquidated cash advances of accused amounts to Php 3,513,843.69, he can only be held liable for the amount of Php 3,508,342.96 as alleged in the *Information*, in line with his Constitutional right to be informed of the nature and cause of the accusation against him.⁷¹

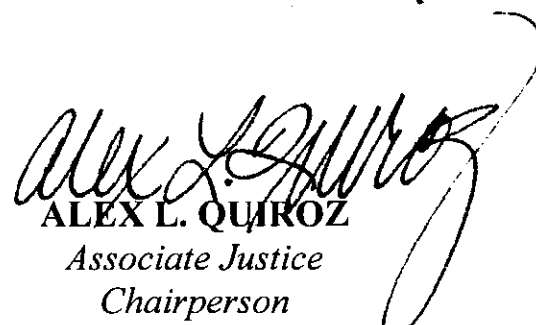
WHEREFORE, in view of the foregoing, judgment is hereby rendered finding accused **BLAS ALMAZAN CANLAS GUILTY** beyond reasonable doubt of the crime of Malversation of Public Funds, punishable under Art. 217 of the Revised Penal Code, and is hereby sentenced to suffer the indeterminate penalty of ten (10) years and one (1) day of *prision mayor*, as minimum, to sixteen (16) years, five (5) months, and eleven (11) days of *Reclusion Temporal* as maximum.

He is likewise sentenced to suffer the penalty of perpetual special disqualification to hold public office and is ordered to indemnify the Municipality of Laur, Nueva Ecija, the sum of Php 3,508,342.96, with subsidiary imprisonment in case of insolvency.

SO ORDERED.


BAYANI H. JACINTO
Associate Justice

WE CONCUR:

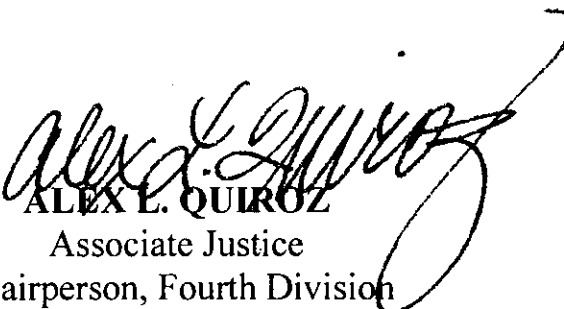

ALEX L. QUIROZ
Associate Justice
Chairperson


REYNALDO P. CRUZ
Associate Justice

⁷¹ See *David v. People*, G.R. No. 208320, 19 August 2015.

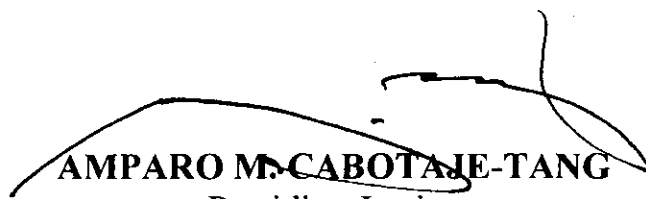
ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation with the Justices of the Court's Division.


ALEX L. QUIROZ
Associate Justice
Chairperson, Fourth Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the 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. CABOTAJE-TANG
Presiding Justice