

Republic of the Philippines  
*Sandiganbayan*  
Quezon City

Third Division

**PEOPLE OF THE PHILIPPINES,** Crim. Case No. **22199**  
Plaintiff,

For: MALVERSATION OF PUBLIC  
PROPERTY

- versus -

**Present:**

**PANFILO A. AMOREN,**  
Accused.

LEGASPI, J. Chairman;  
DE LA CRUZ, J. and  
GERALDEZ, J.

Promulgated November 10, 2005

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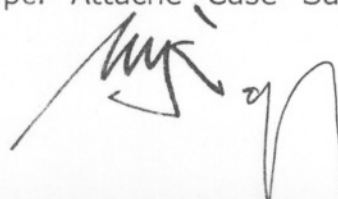
**DECISION**

**LEGASPI, J.:**

PANFILO AMOREN, y ABERILLA, former mayor of San Vicente, Davao stands charged with the crime of Malversation of Public Property defined and penalized under Article 217 of the Revised Penal Code, allegedly committed as follows:

"That on about and within the period comprised between 1980 to 1983 or sometime subsequent thereto, in the Municipality of San Vicente, Davao, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, a public officer, being then the Municipal Mayor of San Vicente, Davao and as such is responsible and accountable for the following equipment/properties which were issued and receipted for his official use while in the performance of his duties, to wit:

1. Ford Fierra with accessories;
2. One (1) pc. Metrication Handbook;
3. One (1) set Lettering Set (Leroy);
4. One (1) set Volleyball (Net & Ball);
5. One (1) pc. Attache Case Samsonite w/ combination;



6. One (1) unit Manual Standard Typewriter Elite Type 13" carriage;
7. One (1) pc. Official Dry Seal - Office of the Mayor

With grave abuse of confidence, did then and there willfully, unlawfully and feloniously take, misappropriate, embezzle and convert to his own personal use and benefit the said equipment/properties to the damage and prejudice of the Municipality of San Vicente, Davao in the amount of FIFTY THOUSAND EIGHT HUNDRED FORTY THREE PESOS (P50,843.00), Philippine Currency.

CONTRARY TO LAW."<sup>1</sup>

Upon arraignment on January 13, 1998, assisted by his counsel Atty. Arthur Velasco, accused Amoren entered a plea of "not guilty".<sup>2</sup>

The Pre-trial ensued on April 13, 1998 during which the parties agreed on the following:

1. That during the incumbency of the accused, certain pieces of equipment which are enumerated in the Information were delivered to him and received by him.<sup>3</sup>

#### **VERSION OF THE PROSECUTION**

The prosecution presented witnesses SPO2 Domingo Z. Mansueto and former Municipal Bookkeeper Cesario P. Timonio and formally offered the following exhibits that were admitted by the Court in a Minute Resolution<sup>4</sup> on February 4, 2000, to viz:

Exhibit "A"

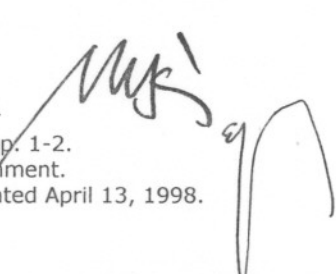
Certification of Silvino B.

<sup>1</sup> Information, Records, Volume I, pp. 1-2.

<sup>2</sup> Ibid. p. 25. - Certificate of Arraignment.

<sup>3</sup> Ibid. p. 50-53 - Pre-Trial Order dated April 13, 1998.

<sup>4</sup> Ibid. p. 224.



Matobato, Municipal Treasurer  
of San Vicente, Davao dated  
September 2 1991;

Exhibit "A-1" Signature of Silvino B. Matobato  
on Exhibit A;

Exhibit "B" Photocopy of letter dated  
January January 24, 1992 OF  
Panfilo Amoren to Ms. Erlinda R.  
Monarca;

Exhibit "C" Letter by OIC Municipal  
Treasurer to Atty. Cesar E.  
Nitorreda dated January 31,  
1992;

Exhibit "C-1" Signature above typewritten  
name Erlinda R. Monarca;

Exhibit "D" Memorandum receipt for  
Equipment, Semi-Expendable  
and Non-Expendable property  
dated October 20, 1982 for Ford  
Fierra, etc.

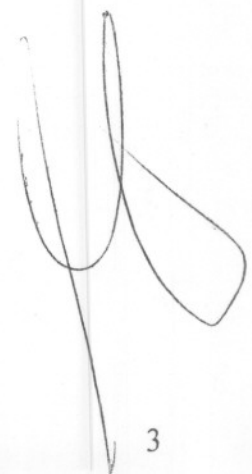
Exhibit "D-1" Memorandum receipt for  
Equipment, Semi-Expendable  
and Non-Expendable property  
dated October 26, 1983 for one  
(1) pc. Metrication Handbook;

Exhibit "D-2" Memorandum receipt for  
Equipment, Semi-Expendable  
and Non-Expendable property  
dated April 8, 1983 for One (1)  
Lettering Set and One (1) set  
Volleyball;

Exhibit "D-3" Memorandum receipt for  
Equipment, Semi-Expendable  
and Non-Expendable property  
dated May 5, 1980 for one (1)  
Attache Case Samsonite with  
combination;

Exhibit "D-4" Memorandum receipt for  
Equipment, Semi-Expendable  
and Non-Expendable property  
dated March 16, 1982 for one  
(1) Olivetti Typewriter;

Exhibit "D-5" Memorandum receipt for  
Equipment, Semi-Expendable  
and Non-Expendable property



dated January 4, 1980 for one  
(1) Manual Standard Typewriter  
Elite Type 13" Carriage;

- Exhibit "D-6" Memorandum Receipt for  
Equipment, Semi-Expendable  
and Non-Expendable property  
dated February 18, 1980 for  
one (1) Official Dry Seal;
- Exhibit "E" List of All Government Supplies  
and materials Equipment issued  
to Former Mayor Panfilo A.  
Amoren by Municipal Treasurer  
F.G.Ramoran dated July 1,  
1987;
- Exhibit "F" Letter of Cesario P. Timonio,  
OIC Municipal Treasurer to  
Panfilo A. Amoren dated June  
18, 1990;
- Exhibit "G" Letter of Cesario P. Timonio,  
OIC Municipal Treasurer to  
Panfilo A. Amoren dated  
November 26, 1990;
- Exhibit "H" Letter of Mayor Reynaldo B.  
Navarro to Panfilo A. Amoren  
dated December 11, 1990;
- Exhibit "I" Certification issued by Erlinda  
M. Matobato dated July 26,  
1994.<sup>5</sup>

**DOMINGO Z. MANSUETO**<sup>6</sup> testified that from 1979 to 1981, he was assigned in the Laak Police Station. From 1981 to 1990, he was transferred to Kapatagan Detachment. In 1990 he was re-assigned at Laak Police Station. Mayor Panfilo Amoren was the mayor of Laak from 1980 to 1986. Mayor Patricio took over in 1986 under the revolutionary government of President Aquino. When Patricio was the Mayor, he was assigned in Laak Police Station and the typewriter – one of the subject matter in this case was in his custody at Laak Police Station. He again saw the typewriter when they were called to attend the turnover ceremony between Mayor Amoren and incoming Mayor Patricio. When he came back to Laak in 1990 as OIC Chief of Police, the typewriter was no longer in Laak Police Station. On January 30, 1992, upon order of

<sup>5</sup> Ibid. pp. 161-167.

<sup>6</sup> Transcript of Stenographic Notes dated March 15, 1999.

then Mayor Reynaldo Navarro, he issued a Certification as OIC Chief of Police, to the effect that no typewriter was under his custody.

**CESARIO P. TIMONIO<sup>7</sup>**, former Municipal Bookkeeper, testified that he came across Memorandum Receipts showing that Mayor Amoren received various properties and equipment on different dates. His then supervisor Municipal Treasurer Francisco Ramoran, issued a list of all government supplies and materials. He was OIC Municipal Treasurer of Laak from 1989 to 1990. He wrote a letter to accused Amoren requesting him to have a proper turn over of the Ford Fierra Jeep to the municipality. He received no response from the mayor, so he again wrote a letter in the same tenor, requesting further that he be furnished with a copy of pertinent papers relative to the turn over if the said vehicle was already turned over to Ex-Mayor Rene Patricio. Again, there was no response from the accused. In the same year, then Mayor Reynaldo Navarro demanded the accused to facilitate a formal turn over of the questioned items with a warning that failure on his part will give Mayor Navarro a reason to seek legal remedies to recover such properties. In the year 1991, then Municipal Treasurer Silvino Matobato issued a Certification regarding the properties and equipment which have not yet been turned over by Mayor Panfilo Amoren based on his physical inventory of records. His successor, Erlinda R. Monarca - Matobato wrote a letter to Atty. Cesar E. Nitorreda, Deputy Ombudsman for Mindanao and reported the findings and action she took with regard to the questioned properties. Then in 1994, Mrs. Matobato again issued a Certification to the effect that Mayor Amoren has not turned over or accounted for all properties which were under his responsibility during his incumbency.

#### VERSION OF THE DEFENSE

Due to financial constraint, accused Panfilo Amoren applied for conditional examination of witnesses, which the Court granted in a Resolution dated July 2, 2004.<sup>8</sup> Through Hon. Judge Oscar G. Tirol, the depositions of witnesses were taken in Branch 1, Regional Trial Court of Tagum City, Davao Del Monte Ave. Norte.

<sup>7</sup> Transcript of Stenographic Notes dated June 7, 1999 and June 8, 1999.

<sup>8</sup> Records, Volume II, pp. 32-34.

For his defense, accused Amoren offered his testimony and that of (Ret.) Lt. Col. Hernanito P. Perez, Jesus Baria, former Councilor Antonio Gumunit, and Charlie Oyao, which testimonies were all taken through depositions. Subsequently, the accused formally offered the following exhibits that were admitted by the Court on August 16, 2005<sup>9</sup>, to wit:

- |             |                                                                                                                                                            |
|-------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Exhibit "1" | Picture of the Ford Fierra identified by the accused and his witness Charlie Oyao as the Ford Fierra subject of this case;                                 |
| Exhibit "2" | Certification dated April 18, 1986 issued by Charlie Oyao, Actg. S.B. Secretary of the Municipality of San Vicente, Province of Davao;                     |
| Exhibit "3" | Certificate of Clearance dated April 15, 1986 issued by Francisco G. Ramoran, Municipal Treasurer;                                                         |
| Exhibit "4" | Certification dated April 16, 1986 issued by OIC Rene A. Patricio that outgoing mayor Panfilo Amoren had turned over to him various properties;            |
| Exhibit "5" | Sworn Statement of Lt. Col. Hernandito P. Perez dated March 25, 2004;                                                                                      |
| Exhibit "6" | Unsworn Affidavit of Jesus Baria;                                                                                                                          |
| Exhibit "7" | Affidavit of Charlie Oyao defense witness dated February 23, 2005;                                                                                         |
| Exhibit "8" | Picture showing the outgoing Mayor Panfilo Amoren, incoming Mayor Rene A. Patricio, Charlie Oyao, the master of ceremony, and Treasurer Francisco Ramoran; |

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<sup>9</sup> Ibid. p.357.

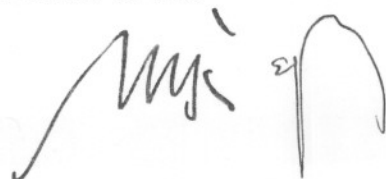
Handwritten signatures and a scribble at the bottom right of the page. One signature appears to be 'Amoren' and another is a large, stylized scribble.

- Exhibit "8-a"      The person of witness Charlie Oyao standing and holding a microphone appearing in Exhibit "8";
- Exhibit "8-b"      The person of OIC Mayor Rene Patricio;
- Exhibit "8-c"      The person of outgoing mayor Panfilo Amoren;
- Exhibit "8-d"      The person behind and almost covered by Charlie Oyao;
- Exhibit "9"        Affidavit of accused Panfilo A. Amoren dated November 25, 2004;

Attached to Exhibit "9" are the following annexes:

- a. Certificate of Clearance of the Municipal Treasurer, Francisco Ramoran dated April 15, 1986 and his rectification of the previous certification he issued regarding the returned properties through Certification dated July 14, 1987;
- b. Certification of OIC Mayor Rene Patricio dated April 16, 1986;
- c. Certification of Charlie Oyao, the Municipal Secretary dated April 18, 1986;
- d. Certification of the District property Custodian Paterno Tedosio dated August 1, 1995 regarding the Olivetti Typewriter;
- e. Affidavit of Ulrica Javellana School Principal of Laak Elementary School, San Vicente dated August 22, 1995;
- f. Certification of Mario T. Abellanida, Resident Ombudsman, Municipality of Laak, Province of Compostela Valley dated July 8, 2003;
- g. Resolution Office of the Ombudsman Mindanao dated November 22, 1991 with the finding that Malversation does not lie;
- h. Order dated September 12, 1997 of the Office of the Ombudsman Mindanao which ordered the case closed and terminated.

Exhibit "10"      Order of the Office of the



Ombudsman, Mindanao at  
Davao City dated September  
12, 1997.<sup>10</sup>

**LT. COL. HERNANITO PEREZ**<sup>11</sup>, formerly assigned as Station Commander of the Police Station of San Vicente, Davao Del Norte (Now Laak, Compostela Valley) under the incumbency of then Mayor Panfilo Amoren from March 1984 to November 1987, testified that he was present during the turn over ceremony of the duties, responsibilities and properties of the outgoing mayor, Panfilo Amoren to incoming OIC Rene Patricio held on April 15, 1986. The same according to him was conducted in front of the municipal building of Laak, near the flag pole of the building. It was attended to by the two mayors, Secretary Charlie Oyao, the barangay captains, members of the Sangguniang Bayan of Laak, other officials of the municipality like the Municipal Treasurer, Municipal Assessor, and others. He recalled that during the turn over, properties like the Standard Elite 13" Carriage, tables, chairs cabinets were turned over and checked the said properties in his office outright after the formal turn over. He also accompanied Mayor Rene Patricio in checking the other turned over equipment in different offices where said equipment were assigned and located.

Another witness for the accused, **JESUS BARIA**<sup>12</sup>, a former barangay captain of Mabuhay, San Vicente, Davao Del Norte (now Laak, Compestela Valley), corroborated the testimony of other witnesses. He added, among other things that the subject service vehicle of the municipality was one of those properties turned over and announced in the public during the ceremony. He further added that the same had not been serviceable since 1984 and it was just parked near the municipal building, just about seven (7) meters away from the office of the mayor, which he later on identified in the picture taken thereof, marked as Exhibit "1".

**ANTONIO GUMUNIT**<sup>13</sup> testified that he was also present during the turn over ceremony between the outgoing Mayor Panfilo A. Amoren and incoming OIC Mayor Rene Patricio, of the duties, functions, properties and responsibilities of the mayor. He also confirmed that the formal turn over of the properties was made through the issuance of certification of former Municipal Treasurer

<sup>10</sup> Ibid. pp. 318-323.

<sup>11</sup> Ibid. pp. 52-62 - Deposition dated September 24, 2004.

<sup>12</sup> Ibid. pp. 63-75 - Deposition dated September 24, 2004.

<sup>13</sup> Transcript of Stenographic Notes dated November 13, 2003.



Francisco Ramoran and then Acting Municipal Secretary Charlie Oyao and even the incoming mayor, OIC Rene Patricio, clearing Mayor Panfilo Amoren of all properties and financial accountabilities. The said Certification included the subject items subject matter in this case such as the ford fierra, two (2) typewriters, lettering set, official dry seal, handbooks and others.

The accused filed a Second Application for Conditional Examination of Witnesses.<sup>14</sup> Without objection from the prosecution, the same was granted by the Court.

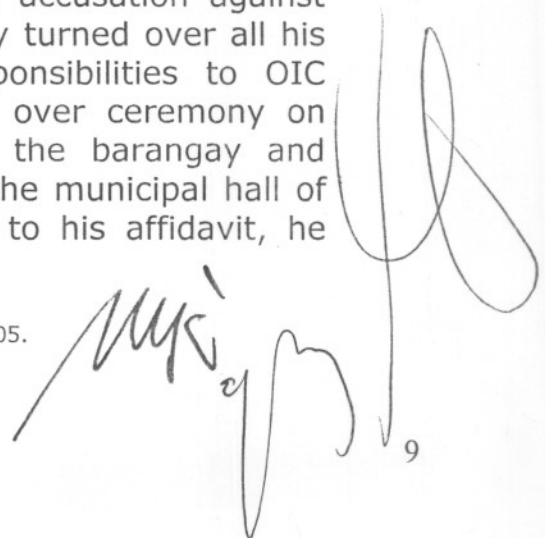
**CHARLIE OYAO**<sup>15</sup>, former Sangguniang Bayan Secretary of Laak, Compostela Valley testified that he was the Master of Ceremony during the turn over ceremony held on April 15, 1986. Although he admitted that the custody of properties was not one of his official functions as secretary, he said that right after the ceremony he was asked by OIC Mayor Rene Patricio to check, by accompanying him to different offices, if there were other properties not included in the Certification he issued to Mayor Amoren. As directed, he conducted an inventory of the properties of Laak including the properties in the Office of the Municipal Treasurer such as the attaché case, tools in the tool box, jack, and others, Typewriter 13" carriage in the office of the PNP, and Olivetti typewriter in the District Office of Laak. After the inventory, he reported to Mayor Patricio and advised him to issue a Certification or clearance to Mayor Amoren according to his findings, which he did. He further said that there was no complaint filed by OIC Mayor Rene Patricio against Mayor Panfilo Amoren regarding the properties subject matter of the certification and that it was of public knowledge that the case filed by Mayor Reynaldo Navarro was politically motivated because Mayor Amoren was his strong political opponent.

Accused **PANFILO A. AMOREN**<sup>16</sup> took the witness stand and he vehemently denied the accusation against him for the reason that he had already turned over all his accountabilities, obligations and responsibilities to OIC Mayor Rene Patricio during the turn over ceremony on April 15, 1986, in the presence of the barangay and municipal and national employees at the municipal hall of San Vicente (Laak). That in addition to his affidavit, he

<sup>14</sup> Records, Volume II, pp. 109-111.

<sup>15</sup> Records, Volume II, pp. 176-194 - Deposition dated March 2, 2005.

<sup>16</sup> Ibid. pp. 194-212.

A large, stylized handwritten signature in black ink, likely belonging to Panfilo A. Amoren, is written over the bottom right portion of the text. The signature is highly cursive and difficult to decipher, but it appears to contain the initials 'PA' and the number '9' at the end.

attached a Certification of Clearance showing that he was already cleared by the concerned officials and offices of the Municipality of Laak.

On cross examination, he acknowledged having received a letter from OIC Municipal Treasurer Cesar Timonio, requiring him to make the proper turn over of the listed properties, as well as those letter from Mayor Reynaldo Navarro. Nevertheless, he had already explained in response to the first letter of OIC Timonio that said properties were already turned over to then mayor, Rene Patricio.

Finally, he averred that the complainant Mayor Reynaldo Navarro had a very strong motive in filing the instant case in order to destroy his career. Further, being then the mayor, Navarro could easily influence Cesario Timonio, Silvino Matobato and Erlinda Monarca-Matobato and made the Certification that the items subject matter of this case could not be found.

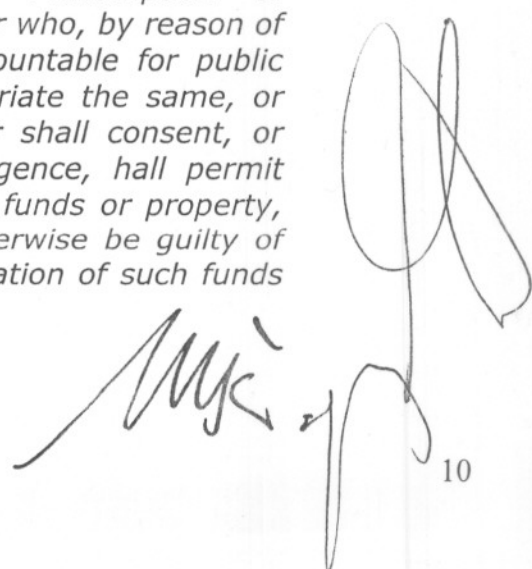
Both parties were given thirty (30) days within which to file their respective memoranda. Yet, no memorandum was filed, hence, the case was declared submitted for decision.<sup>17</sup>

### DISCUSSION

Accused Panfilo A. Amoren, former municipal mayor of Laak, Compostela Valley is charged with Malversation of Public Property defined and penalized under Article 217 of the Revised Penal Code, which states:

**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 person to take such public funds or property, wholly or partially, or shall otherwise be guilty of the misappropriation of Malversation of such funds or property, shall suffer:*

<sup>17</sup> Records. Volume II, p. 341.

A large, stylized handwritten signature or scribble in black ink, located in the bottom right corner of the page. It appears to be a signature, possibly of the judge or clerk, with a large loop at the top and a long, sweeping tail.

X X X X

*4. The penalty of reclusion temporal in its medium and maximum periods, if the amount involved is more than 12,000 pesos but is less than 22,000 pesos. If the amount exceeds the latter, the penalty shall be reclusion temporal in its maximum period to reclusion perpetua.*

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

*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. (As amended by Republic Act No. 1060)*

Under the said provision, the following are the elements of Malversation, to wit:

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

There is no dispute about the presence of the first three elements above-enumerated, that the accused is a public officer, had custody of the properties subject matter hereof and the accountable person for the same. What was left to be determined is whether or not the accused appropriated, took, misappropriated or consented or

through abandonment or negligence, permitted another person to take, the public properties subject matter hereof.

Evidence considered, the Court finds the prosecution failed to prove that the accused disposed of or appropriated for his personal use the equipment and properties subject matter hereof. The Certification<sup>18</sup> dated July 14, 1987 issued by the Municipal Treasurer Francisco Ramoran shows that the said items enumerated in the List<sup>19</sup> dated July 1, 1987 and subject matter in this case were turned over by the accused to Mayor Rene Patricio. In fact, earlier on April 15, 1986, Municipal Treasurer Francisco G. Ramoran issued a Certification of Clearance showing that accused Panfilo A. Amoren has been cleared of his money and property accountabilities.<sup>20</sup> Even the prosecution witness, Domingo Mansueto stated that the typewriter- one of the items allegedly not yet returned was there in their office (the police station of Laak) and was never lost during the incumbency of Mayor Amoren. He just discovered that the said item was missing when he came back in Laak, when Amoren was no longer the mayor.<sup>21</sup>

Another witness for the accused, Sangguniang Bayan Secretary Charlie Oyao also attested the fact that there was a turn over of the said equipment and properties, witnessed by several people and attended to by other municipal officials and employees. He himself, upon order of then incoming mayor, Rene Patricio conducted a physical inventory of the same<sup>22</sup> and even issued a Certification of Clearance to that effect based on his findings<sup>23</sup>. Finally, Mayor Rene Patricio acknowledged that the said items were turned over to him by Mayor Panfilo A. Amoren and issued a Certification clearing accused Amoren from all properties and financial responsibilities.<sup>24</sup>

<sup>18</sup> Annex A-1 of Exhibit "9" - Affidavit of Panfilo Amoren.

<sup>19</sup> Exhibit "E" - List of Government Supplies and Materials, Equipment issued to Panfilo Amoren dated July 1, 1987.

<sup>20</sup> Exhibit 3.

<sup>21</sup> Transcript of Stenographic Notes dated March 15, 1999.

<sup>22</sup> Records, Volume II, pp. 176-194 - Deposition dated March 2, 2005.

<sup>23</sup> Annex "C" of Exhibit "9" - Certification dated April 18, 1986.

<sup>24</sup> Annex "B" of Exhibit "9" - Certification dated April 16, 1986 issued by Rene A. Patricio.

**PREMISES CONSIDERED**, judgment is hereby rendered in this case **acquitting** accused Panfilo A. Amoren of the charge of Malversation of Public property for insufficiency of evidence.

The property bond posted by the accused for his provisional liberty is ordered cancelled and returned to him. The Hold Departure Order issued by this Court in this case against herein accused is hereby lifted and set aside. The Bureau of Immigration is ordered to cancel the name of herein accused from the Bureau's Hold Departure List. Let a copy of this decision be furnished the Commissioner of the Bureau of Immigration for his information and guidance.

SO ORDERED.



**GODOFREDO L. LEGASPI**  
Chairman  
Associate Justice

*We concur:*



**EFREN N. DE LA CRUZ**  
Associate Justice



**NORBERTO Y. GERALDEZ**  
Associate Justice

**ATTESTATION**

I attest that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**GODOFREDO L. LEGASPI**  
Chairman  
Associate Justice

**CERTIFICATION**

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

  
**TERESITA J. LEONARDO DE CASTRO**  
Presiding Justice



GLL/smc