

REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
Quezon City

Seventh Division

PEOPLE OF THE PHILIPPINES,
Plaintiff,

Case No. **SB-16-CRM-0739**

-versus -

Present:

Gomez-Estoesta, J., Chairperson
Trespeses, J. and
Jacinto, J.

CARL ELIAS CENTENO
LADEMORA,

Accused.

Promulgated:

September 15, 2017 *ijr*

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D E C I S I O N

GOMEZ-ESTOESTA, J.:

For cash advances he did not liquidate, former Municipal Mayor Carl Elias Centeno Lademora ["accused"] was charged with *Malversation of Public Funds* under Article 217 of the Revised Penal Code. The *Information* alleged, as follows:

That in July 2009, or sometime prior or subsequent thereto, in San Francisco, Agusan del Sur, Philippines, and within the jurisdiction of this Honorable Court, accused Mayor CARL ELIAS CENTENO LADEMORA of the Municipality of San Francisco, Agusan del Sur and an accountable public officer, committing the offense in relation to his office, did then and there willfully, unlawfully and feloniously take, misappropriate, embezzle and convert for his own personal use and benefit the amount of FIFTY THOUSAND SIX HUNDRED TWENTY PESOS (Php50,620.00), a public fund, for which he is accountable by reason of his office, representing his cash advance to cover his travel and registration expenses for the 4th Strategic Management for Development Managers course at the Asian Institute of Management in Makati City from July 27-31, 2009, which he did not attend, and despite several demands, he failed to liquidate or return promptly the said

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cash advance, to the damage and prejudice of the government in the aforesaid amount.

CONTRARY TO LAW.

On April 3, 2017, accused, upon arraignment, entered a plea of *not guilty*.¹

During the preliminary conference on June 1, 2017, the accused opened the possibility that he will enter into a plea bargaining agreement with the prosecution.² On July 31, 2017, accused's counsel, Atty. Valeriano Pasquil, confirmed that the amount of ₱50,620.00 charged in the Information was already paid in full by the accused and that accused was willing to plead guilty to the lesser offense of *Failure of Accountable Officer to Render Accounts* defined and penalized under Article 218 of the Revised Penal Code.

The case was thus set for hearing today to consider the plea bargaining made.

At the outset, accused manifested his intention to change his plea from "*not guilty*" to "*guilty*." While accused was willing to plead guilty to the lesser offense of *Failure of Accountable Officer to Render Accounts*, the express conformity of the private complainant had to be ascertained.

In this regard, Director Leni Bajo-Padaca manifested in open Court that nominal complainant Field Investigation Unit (FIU) of the Office of the Ombudsman – Mindanao interposed no objection to the plea bargaining made, as shown in the *Memorandum* dated September 4, 2017 submitted by AGIO III Cecile Jacqueline P. Larena. Likewise, she stated that the Office of the Municipal Mayor of the Municipality of San Francisco, Agusan del Sur has endorsed to the Office of the Ombudsman a facsimile copy of Resolution No. 221 Series of 2017 of the Sangguniang Bayan of San Francisco, Agusan del Sur, entitled "*Resolution Interposing No Objection to the Plea Bargaining Offer of Former Mayor Carl Elias C. Lademora Accused for Malversation of Public Funds under Article 218 of the Revised Penal Code, Docketed as SB-16-CRM-0739, Pending before the Sandiganbayan (Seventh Division).*"

¹ Records, p. 184

² *Ibid.*, p. 193

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Every person criminally liable for a felony, however, is also civilly liable.³

Insofar as the civil liability of the accused, accused showed his LGU Clearance which cleared him from all property and money accountabilities. This was substantiated by a photocopy of Official Receipt No. 5698150 dated October 29, 2014 in the amount of ₱50,620.00 shown by Director Padaca which she herself verified from the municipality.

In view of such full payment, no civil liability shall be imposed.

For the criminal aspect of the charge, accused was fully apprised of the consequences of his intended plea. In clear terms, he stated in the affirmative that he understood the nature of the change of his plea; that if he pleaded guilty to the charge, he is deemed to have admitted all the accusations alleged in the Information to which a consequent penalty of *prision correccional in its minimum period, or a fine ranging from 200 to 6,000 pesos, or both* may be imposed pursuant to Article 218 of the Revised Penal Code.

Accused understood the same and persisted in his change of plea. The Court has satisfied itself that the accused has fully understood the nature and consequence of his change of plea.

The prosecution and the defense are conceded that the crime of *Failure of Accountable Officer to Render Accounts* defined and penalized under Article 218 of the Revised Penal Code is an offense necessarily included in the charge of *Malversation* defined and penalized under the same Code, as the following elements show:

Malversation	Failure of Accountable Officer to Render Accounts
(a) the offender is a public officer;	(a) the offender is a public officer;
(b) he has custody or control of the funds or property by reason of the duties of his office;	(b) the offender must be an accountable officer for public funds or property;
(c) the funds or property are public funds or property for which he is accountable, and, most importantly;	

(d) he has appropriated, taken, misappropriated or consented, or, through abandonment or negligence, permitted another person to take them.	(c) the offender is required by law or regulation to render accounts to the COA or to a provincial auditor; and, (d) the offender fails to render an account for a period of two months after such accounts should be rendered.
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Pursuant to Section 2 of Rule 116⁴ of the Revised Rules on Criminal Procedure, no amendment of the *Information* is necessary.

The motion of the accused to withdraw his earlier plea of *not guilty* is **GRANTED**.

Upon re-arraignment of the *Information* for the lesser offense of *Failure of Accountable Officer to Render Accounts* in English, a language known and understood by the accused, accused entered a plea of **guilty**. Accused was assisted by counsel *de parte*, Atty. Valeriano F. Pasquil.

Let a plea of **guilty** be entered into the records of the case.

The mitigating circumstance of the plea of *guilty* would be appreciated in favor of the accused as the change of plea was made prior to the presentation of evidence by the prosecution.

WHEREFORE, judgment is hereby rendered finding accused **CARL ELIAS CENTENO LADEMORA** **guilty** beyond reasonable doubt of the crime of *Failure of Accountable Officer to Render Accounts* defined and penalized under Article 218 of the Revised Penal Code.

Having appreciated in his favor the mitigating circumstance of the plea of *guilty*, accused is imposed the penalty of **FINE** of **SIX THOUSAND PESOS (P6,000.00)**.

SO ORDERED.

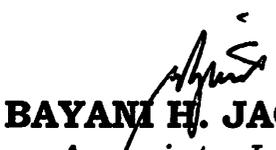

MA. THERESA DOLORES C. GOMEZ-ESTOESTA
Associate Justice, Chairperson

⁴ Sec. 2. Plea of guilty to a lesser offense. – At arraignment, the accused, with the consent of the offended party and prosecutor, may be allowed by the trial court to plead guilty to a lesser offense which is necessarily included in the offense charged. After arraignment but before trial, the accused may still be allowed to plead guilty to said lesser offense after withdrawing his plea of not guilty. No amendment of the complaint or information is necessary.

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WE CONCUR:


ZALDY V. TRESPESES
Associate Justice


BAYANI H. JACINTO
Associate Justice

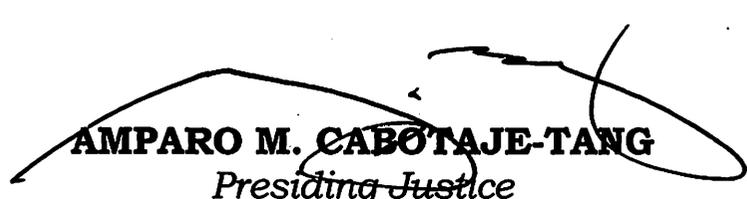
ATTESTATION

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.


MA. THERESA DOLORES C. GOMEZ-ESTOESTA
Associate Justice, Chairperson

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.


AMPARO M. CABOTAJE-TANG
Presiding Justice