



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

FOURTH DIVISION

PEOPLE OF THE PHILIPPINES, SB-16-CRM-0789 to 0792

Plaintiff,

For: Violation of Sec. 3(e) of
R.A. No. 3019

- versus -

**GODOFREDO VICMUDO y
LOBO,**

Accused.

X-----X

PEOPLE OF THE PHILIPPINES, SB-16-CRM-0793 to 0796

Plaintiff,

For: Malversation under Art. 217
of the Revised Penal Code

- versus -

Present:

Quiroz, J., *Chairperson*
Cruz, J.
Jacinto, J.

**GODOFREDO VICMUDO y
LOBO,**

Accused.

Promulgated:

NOV 23 2018 *[Signature]*

X-----X

DECISION

JACINTO, J:

This resolves the complaints for four counts of Violation of Section 3(e) of Republic Act (R.A.) No. 3019¹ and another four counts of Malversation, as defined and penalized under Article 217 of the Revised Penal Code (RPC) filed against Godofredo L. Vicmudo (accused), then General Manager of the Cordon Water District (CWD).

The *Information* for Violation of Sec. 3(e) in SB-16-CRM-0789 against accused contains the following accusatory allegations:

That in or about July 2009, or sometime prior or subsequent thereto, in Cordon, Isabela, Philippines and within this Honorable Court's jurisdiction, accused public officer **GODOFREDO VICMUDO y**

¹ Anti-Graft and Corrupt Practices Act.

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LOBO, then a high ranking public officer, while in the performance of his administrative and/or official functions as General Manager of the Cordon Water District (CWD), a government-owned and controlled corporation based in Cordon, Isabela, with intent to gain and acting with manifest partiality, evident bad faith and/or gross inexcusable negligence, did then and there willfully, unlawfully and criminally take public funds, for which he is accountable, amounting to **FIVE THOUSAND and EIGHTY THREE PESOS (PHP5,083.00)**, drawn from CWD funds over which he exercised control and the disbursement of which he approved in Disbursement Voucher No. 2009-206, in the form of travel expenses incurred by him on his supposed trip to and from the Local Water Utilities Administrations (sic) Head Office in Quezon City when, in fact, said trip was unauthorized by CWD's Board of Directors and for which he was not legally entitled to reimbursement for travel expenses incurred, thereby taking advantage of his office through his receipt of said sum as an unwarranted benefit and, at the same time, causing undue injury to the Government of the Republic of the Philippines.

CONTRARY TO LAW.

The *Informations* in SB-16-CRM-0790 to 0792 are similarly worded with that of SB-16-CRM-789, varying only in the dates of commission, the corresponding Disbursement Vouchers (D.V.), and the amount disbursed, *to wit*:

Case No.	Date Committed	D.V. No.	Amount (Php)
SB-16-CRM-790	June 2010	2010-175	4,000.00
SB-16-CRM-791	July to August 2010	2010-252	4,433.00
SB-16-CRM-792	October 2010	2010-323	4,526.00

The *Information* for Malversation in SB-16-CRM-0793, on the other hand, alleges as follows:

That in or about July 2009, or sometime prior or subsequent thereto, in Cordon, Isabela, Philippines and within this Honorable Court's jurisdiction, accused public officer **GODOFREDO VICMUDO y LOBO**, then a high ranking public officer, while in the performance of his administrative and/or official functions as General Manager of the Cordon Water District (CWD), a government-owned and controlled corporation based in Cordon, Isabela, with intent to gain, did then and there willfully, unlawfully and feloniously take, misappropriate, embezzle and convert to his own personal use and benefit the public funds, for which he is accountable, amounting to **FIVE THOUSAND and EIGHTY THREE PESOS (PHP5,083.00)**; drawn from CWD funds over which he exercised control and the disbursement of which he approved in Disbursement Voucher No. 2009-206, in the form of travel expenses incurred by him on his supposed trip to and from the Local Water Utilities Administrations (sic) Head Office in Quezon City when, in fact, said trip was unauthorized

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by CWD's Board of Directors and for which he was not legally entitled to reimbursement for travel expenses incurred, thereby taking advantage of his office and unjustly enriching himself at the expense and to the prejudice of the Filipino people and the Republic of the Philippines.

CONTRARY TO LAW.

The *Informations* in SB-16-CRM-0794 to 0796 are similarly worded with that of SB-16-CRM-793, varying only in the dates of commission, the corresponding D.V.'s, and the amount disbursed, *to wit*:

Case No.	Date Committed	D.V. No.	Amount (PhP)
SB-16-CRM-794	June 2010	2010-175	4,000.00
SB-16-CRM-795	July to August 2010	2010-252	4,433.00
SB-16-CRM-796	October 2010	2010-323	4,526.00

PROCEEDINGS BEFORE THE COURT

Accused was arraigned on 20 October 2017 and entered pleas of "Not Guilty" for all charges.² Pre-Trial Conference thereafter proceeded, with the parties submitting a *Joint Stipulations*,³ stating as follows:

I. Stipulated Facts

1. That at the time material and relevant to these cases, accused Godofredo Lobo Vicmudo is (sic) a public officer, being then the General Manager of the Cordon Water District (CWD).



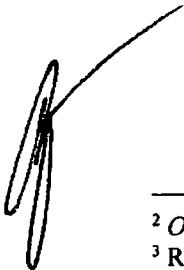
2. That whenever referred to orally or in writing by the Honorable Court and the prosecution and/or its witnesses, Accused Godofredo Lobo Vicmudo admits that he is the same Godofredo Lobo Vicmudo the accused in these cases.

3. That accused Vicmudo applied for and received the following amounts as reimbursements for his travel expenses as covered by the pertinent Disbursement Vouchers:

<i>Disbursement Voucher No.</i>	<i>Amount</i>
D.V. No. 2009-206	Php 5,083.00
D.V. No. 2010-175	Php 4,000.00
D.V. No. 2010-252	Php 4,433.00

² Order dated 20 October 2017; Records, p. 206.

³ Records, pp. 227-233.



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D.V. No. 2010-323	Php 4,526.00
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4. That accused Vicmudo received the said reimbursements for his trips outside Cordon, Isabela, as follows:

<i>Date</i>	<i>Destination/Purpose</i>
July 3, 2009	Local Water Utilities Administration (LWUA) in Quezon City for conference/meeting with LWUA officials.
May 31, 2010	LWUA in Quezon City for conference/meeting with LWUA officials.
July 21, 2010	LWUA in Quezon City for conference/meeting with officials of LWUA and Equity Construction.
October 5, 2010	LWUA in Quezon City for conference/meeting with LWUA officials.

5. That accused Vicmudo himself applied for and granted his own travels as he was both the requesting employee and the approving authority on the liquidation documents he submitted for reimbursements.

6. That a certain Ted F. Corpuz is the current General Manager of CWD who replaced the accused.

II. Stipulated Documents

<i>Prosecution Exhibits</i>	<i>Description</i>
A	Disbursement Voucher No. 2009-206 in the amount of Php 5,083.00
B	LBP Check No. 55846 dated July 6, 2009
C	Request for Authority to Travel dated July 3, 2009
D	Itinerary of Travel
E	Disbursement Voucher No. 2010-175 in the amount of Php 4,000.00
F	LBP Check No. 613654 dated May 31, 2010
G	Request for Authority to Travel dated May 31, 2010
H	Itinerary of Travel
I	Disbursement Voucher No. 2010-252 in the amount of Php 4,433.00
J	LBP Check No. 638631 dated August 7, 2010
K	Request for Authority to Travel dated July 31, 2010

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L	Itinerary of Travel
M	Disbursement Voucher No. 2010-323 in the amount of Php 4,526.00
N	LBP Check No. 638702 dated October 12, 2010
O	Request for Authority to Travel dated October 5, 2010
P	Itinerary of Travel
Q	Cordon Water District Board Resolution No. 50, Series of 2011
R	Service Record of accused Godofredo Lobo Vicmudo

<i>Defense Exhibits</i>	<i>Description</i>
1	Excerpts from the minutes of regular meeting of the Board of Directors of Cordon Water District held on 3 rd day of May, 2016 at its office, Magsaysay, Cordon, Isabela.
2	Affidavit of Ted F. Corpuz sworn and subscribed on May 10, 2016 before Notary Public Francisa P. Yasay and entered in her notarial register as Doc. No. 144, Page No. 30, Book No. 08, Series of 2016.
3	Pictures of one of the meetings held at the Local Water Utilities Administration in Quezon City attended by accused Godofredo Lobo Vicmudo during one of his travels outside of Cordon, Isabela.
4	Audit Observation Memorandum (AOM) No. 10-001, dated June 21, 2010 rendered by the Commission on Audit (COA), Region 2, Province of Isabela.
5	AOM No. 10-002, dated June 22, 2010, rendered by the COA, Region 2, Province of Isabela.
6	AOM No. 10-003, dated June 22, 2010, rendered by the Commission on Audit (COA), Region 2, Province of Isabela.
7	AOM No. 10-004, dated June 22, 2010, rendered by the COA, Region 2, Province of Isabela.
8	Comments dated June 25, 2010 made and signed by the accused and Maricel M. Sajor on AOM Nos. 10-001, 10-002, 10-003, & 10-004.

III. Joint Narration of Facts

1. On July 6, 2009, accused Godforedo (sic) Vicmudo, in the performance of his functions as the General Manager of the Cordon Water District, a government owned and/or controlled corporation, received reimbursement in the amount of Five Thousand and Eighty-Three Pesos (Php 5,083.00) pertinent to his travel to the Local Water Utilities Administration (LWUA) for a conference with the latter's Administrator and Chairman Prospero Pichay.

2. On May 31, 2010, accused Vicmudo received reimbursement in the amount of Four Thousand Pesos (Php 4,000.00) pertinent to his travel to the Local Water Utilities Authority.

3. On August 7, 2010, accused Vicmudo again received reimbursement in the amount of Four Thousand Four Hundred Thirty-Three Pesos (Php 4,433.00) for his travel to LWUA to meet and confer with the representative of Equity Construction regarding the mutual termination of contract.

4. On October 12, 2010, accused Vicmudo likewise received reimbursement in the amount of Four Thousand Five Hundred Twenty-Six Pesos (Php 4,526.00) for his travel to LWUA for an urgent meeting with LWUA officials and contractor.

5. In all the above-mentioned travels, accused Vicmudo requested for authority to travel and it was he himself who approved such authority.



6. That in its Resolution No. 50, Series of 2011 dated July 5, 2011, the Board of Directors of CWD pointed out accused Vicmudo's lack of authorization and approval from the Board for the said travels.

IV. Stipulated Issue

Whether or not the accused is guilty of the crimes of Malversation and violation of Section 3(e) of Republic Act (RA) No. 3019, as amended, for claiming, receiving, and taking reimbursements in the sums mentioned in the Informations for his travels outside of Cordon, Isabela on the dates therein mentioned.

On 11 July 2018 the parties agreed to rephrase the issue as follows: "*whether the trip subject matter of this case is authorized or not which will give rise to a criminal liability insofar as the accused is concerned in all the Informations.*"⁴ The parties thereafter agreed to dispense with the presentation of witnesses and prayed for 10 days within which to file their respective formal offer of exhibits.

⁴ Order dated 11 July 2018; Records, p. 264. 9



On 25 July 2018, the prosecution filed its *Formal Offer of Exhibits*,⁵ while accused filed his on 4 September 2018.⁶ On 10 September 2018⁷ the Court admitted the parties' respective evidence and were thereafter given 30 days to file their respective Memoranda.

In its *Memorandum*⁸ dated 17 October 2018, the prosecution submits that it was able to prove accused's guilt beyond reasonable doubt for violation of Sec. 3(e), R.A. No. 3019 since he acted with manifest partiality, evident bad faith, and/or gross inexcusable negligence when he claimed for reimbursements for his unauthorized travel expenses. It argues that accused's acts "exhibit his sinister design and dishonest purpose to defraud the government so as to generate for himself personal gain," and that the Government suffered undue injury by reason thereof.

The prosecution also submits that the same acts make accused liable for Malversation, since there is no question that he is an accountable officer, and that he had custody and control over the funds of the CWD, having signed the corresponding D.V.s and checks relating to the disbursements.

In his *Memorandum*,⁹ accused claims that the trips were duly-authorized, which entitled him to claim for reimbursement, and that under Secs. 17, 18, and 23 of Presidential Decree (P.D.) No. 198,¹⁰ as amended, as General Manager, he did not have to obtain the acquiescence of the CWD Board to travel for conferences with officials of the LWUA. He states that it is clear that -

x x x (t)he general manager x x x shall have full supervision and control of the maintenance and operation of water district facilities" and carrying out such function of "executive, administrative or ministerial power" necessarily includes trips or travels to the offices of the Local Water Utilities Administration (LWUA) without prior authority from the BOD. Such trips or travels to LWUA are necessarily in-aid (sic) of the GM's executive, administrative, or ministerial power" and "full supervision and control of the maintenance and operation of water district facilities". To require the GM to obtain prior authorization or permission every trip or travel to the offices of the LWUA is to constrict, if not defeat, his executive, administrative or ministerial power in carrying out "full supervision and control of the maintenance and operation of water district facilities".

⁵ Dated 23 July 2018; Records, pp. 275-282.

⁶ Dated 1 August 2018; Records, pp. 316-323.

⁷ Order dated 10 September 2018, p. 324-A.

⁸ Records, pp. 325-336.

⁹ Dated 24 October 2018; Records, pp. 341-361.

¹⁰ Provincial Water Utilities Act of 1973.

It is similarly clear that the function of the Board of Directors of any local water district is “x x x to establish policy” and “x x x shall not engage in the detailed management of the district”. Undoubtedly, the act of giving authority or permission to travel outside of the geographical area or coverage of a local water district is far from policy making but rather it is an executive or administrative function delegated to the GM being the highest executive officer. It is an act of detailed management which the BOD shall not engage in but rather a function properly belonging to the GM or his equivalent. (italics and underscoring in the original)

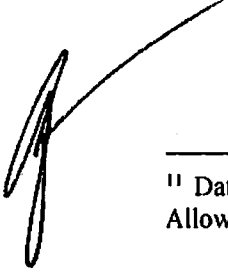
He then points to the Affidavit dated 1 May 2016 of Ted F. Corpuz (Exh. “2”), the initial complainant, admitting that there is no such policy or requirement of prior authorization from the CWD Board for the General Manager to visit the LWUA Office in Quezon City, or for attending processional matters outside Cordon, Isabela.

Accused also points out that Sec. 5 of Executive Order (E.O.) No. 248¹¹ states that the head of office approves official travel, as in these cases. Considering that proper authorization was in fact conferred to him, and that the documentation for his travels are complete, his claims for reimbursements are legal. In this connection, he further points out that the reimbursements for his travel expenses have not been questioned or disallowed in four COA-Region 2 Audit Observation Memoranda (AOM) (Exhs. “4” to “7”).



Thus, accused claims that the prosecution failed to prove the illegality of the disbursements, or that he was not entitled thereto, and that there is no evidence of partiality, bad faith, or negligence attributable to him, or that the Government suffered injury.

He then adds that, as to the cases for Malversation, the funds were in fact private funds, in that they served to compensate expenses already incurred in the course of official business and that he is not an accountable officer, stating that –

a public officer must be a cashier, treasurer, collector, property officer or any other officer or employee who is tasked with the taking of money or property from the public which they are duty-bound to keep temporarily until such money or property are properly deposited in official depository banks or similar entities; or until they shall have endorsed such money or property to other accountable officers or concerned offices. x x x



¹¹ Dated 26 May 1995, entitled “Prescribing Rules and Regulations and New Rates of Allowances for Allowances for Official Local and Foreign Travels of Government Personnel.”

RULING

I.
Violation of Sec. 3(e) of R.A. No. 3019
(SB-16-CRM-0789 to 0792)

Sec. 3(e) of R.A. No. 3019 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:

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.




The essential elements of the said crime are as follows:

1. The accused must be a public officer discharging administrative, judicial, or official functions;
2. He must have acted with manifest partiality, evident bad faith, or inexcusable negligence; and,
3. That his action caused any undue injury to any party, including the government, or giving any private party unwarranted benefits, advantage or preference in the discharge of his functions.¹²

First Element

The fact that accused is a public officer, being the General Manager of CWD during the period complained of and that he was exercising administrative and official functions in line with the same, is admitted, and thus requires no further discussion.

¹² *Consigna v. People*, G.R. No. 175750-51, 2 April 2014; *Cabrera v. Sandiganbayan*, G.R. Nos. 162314-17, 25 October 2004, citing *Jacinto v. Sandiganbayan*, G.R. No. 84571, 2 October 1989.



Second Element

Sec. 3(e) of R.A. No. 3019 may be committed in three ways – through manifest partiality, evident bad faith, or inexcusable negligence - which have been defined as follows:¹³

"**Partiality**" is synonymous with "bias" which "excites a disposition to see and report matters as they are wished for rather than as they are." "**Bad faith** does not simply connote bad judgment or negligence; it imputes a dishonest purpose or some moral obliquity and conscious doing of a wrong; a breach of sworn duty through some motive or intent or ill will; it partakes of the nature of fraud." "**Gross negligence** has been so defined as negligence characterized by the want of even slight care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but wilfully and intentionally with a conscious indifference to consequences in so far as other persons may be affected. It is the omission of that care which even inattentive and thoughtless men never fail to take on their own property." (citations omitted; emphasis added)

As alleged in the *Informations* and as agreed upon during Pre-Trial, the constitutive acts in these cases are the reimbursements made by accused for the expenses he incurred in travelling to Quezon City, which he engaged in without authority from the CWD Board, for conferences with LWUA officials.




In this regard, it is incumbent upon the prosecution to prove in the first place that said travels required prior approval from the CWD Board. This is in accordance with the principle that every accused is presumed innocent and, to justify a conviction, his or her culpability must be established by proof beyond reasonable doubt. Thus, *Caunan v. People*¹⁴ instructs that -

x x x [t]he court, in ascertaining the guilt of an accused, must, after having marshaled the facts and circumstances, reach a moral certainty as to the accused's guilt. Moral certainty is that degree of proof which produces conviction in an unprejudiced mind. Otherwise, where there is reasonable doubt, the accused must be acquitted. (citations omitted)

A review of its evidence would readily reveal that the prosecution failed to discharge such burden. Its Exhibits "A" to "Q" only prove that reimbursements were made for accused's travels to the LWUA Office in Quezon City. The main import of the CWD Board's Resolution No. 50,

¹³ *Sison v. People*, G.R. Nos. 170339, 170398-403, 9 March 2010.

¹⁴ G.R. Nos. 181999 & 182001-04 and 182020-24, 2 September 2009.



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Series of 2011 (Exh. "Q") is the authority conferred to Ted F. Corpuz to cause the filing of administrative and criminal cases against accused. And, while paragraph eight thereof states: "Whereas, per (sic) records also reveal that GM Vicmudo, has not and never asked authorization and approval from the Board of Directors when and every time he made travels to Manila allegedly on official business x x x," it does not prove that accused's travels were irregular or unauthorized, as alleged in the *Informations*, or that as General Manager of the CWD he first had to obtain authority from the CWD Board to travel.

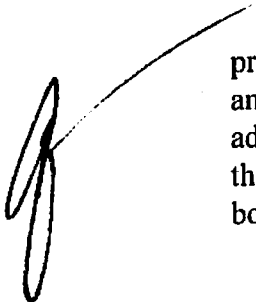
The inadequacy of the prosecution's evidence is further emphasized by accused's evidence. Indeed, the Affidavit executed by Ted Corpuz (Exh. "2") states that there was no standing policy that required that accused secure authority for his travels to the LWUA Office, and that the travels subject of these cases were found to be properly substantiated and confirmed by the relevant officers within the CWD:

Moreover, the fact that no notice of disallowance was issued by the COA in connection with said travels serves to show that there was no actionable error pertaining to the disbursements made to accused.


In all, while the prosecution alleges that accused went beyond the scope of his powers by failing to secure the CWD Board's authority to travel to Quezon City to go to the LWUA office, it failed to present evidence that such authority was required in the first place. It bears highlighting that the prosecution makes no issue as to whether the travels were for official business, with the legal issue being narrowed down to accused's right to claim reimbursements *sans* the conformity of the Board for him to travel to the LWUA. There is likewise no evidence that would tend to prove that accused, in going to the LWUA office, necessarily executed functions solely within the scope of the CWD Board's discretion - and thus outside of his administrative and executive functions - necessitating its conformity just to execute his official duties.

On this note, it is important to point out that Secs. 17 to 19, and 23 to 24 of P.D. No. 198, the law which govern the functions of water districts, provide as follows:

SECTION 17. *Performance of District Powers.* — All powers, privileges, and duties of the district shall be exercised and performed by and through the board: *Provided, however,* That any executive, administrative or ministerial power shall be delegated and redelegated by the board to officers or agents designated for such purpose by the board.



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SECTION 18. *Functions Limited to Policy-Making.* — The function of the board shall be to establish policy. The Board shall not engage in the detailed management of the district.

SECTION 19. *By-Laws.* — At its first meeting, the board shall adopt, and may thereafter from time to time amend by-laws for the operation of business and affairs of the board and the district. By-laws may not be amended without 30 days public notice to that effect, and a public hearing held.

x x x x

SEC. 23. The General Manager. -At the first meeting of the Board, or as soon thereafter as practicable, the Board shall appoint, by a majority vote, a general manager and shall define his duties and fix his compensation. Said officer shall not be removed from office, except for cause and after due process. (As amended by Sec. 9, PD 768; R. A. 9286)

SEC. 24. Duties. - The duties of the General Manager and other officers shall be determined and specified from time to time by the board. The general manager, who shall not be a director, shall have full supervision and control of the maintenance and operation of water district facilities, with power and authority to appoint all personnel of the district: Provided, That the appointment of personnel in the supervisory level shall be subject to approval by the board. (As amended by Sec. 10, PD 768)

Thus, the Board exercises policy-making functions, including certain specific actions that require its approval, namely: (i) acquisition of waterworks;¹⁵ (ii) sale of water;¹⁶ (iii) sewerage;¹⁷ (iv) rights of way;¹⁸ (v) contracts;¹⁹ (vi) protection of waters and facilities;²⁰ and (iv) fire protection capacity.²¹ Executive, administrative, or ministerial functions, on the other hand, belong to the General Manager.

Sec. 24, as quoted above, provides that the duties of the General Manager and other officers shall be determined and specified from time to time by the Board, and that the General Manager shall have “full supervision and control of the maintenance and operation of water district facilities, with power and authority to appoint all personnel of the district.” Attending meetings or conferences at the LWUA head office would ordinarily fall under the functions of a General Manager, unless such is specifically given to the Board. However, in these cases, CWD’s by-laws, or any existing

¹⁵ Sec. 26, P.D. No. 198, as amended by Sec. 5, P.D. No. 1479.

¹⁶ Sec. 27, P.D. No. 198, as amended by Sec. 5, P.D. No. 1479.

¹⁷ Sec. 28, P.D. No. 198, as amended by Sec. 5, P.D. No. 1479.

¹⁸ Sec. 29, P.D. No. 198, as amended by Sec. 5, P.D. No. 1479.

¹⁹ Sec. 30, P.D. No. 198, as amended by Sec. 11, P.D. No. 768; Sec. 5, PD 1479.

²⁰ Sec. 31, P.D. No. 198, as amended by Sec. 6, P.D. No. 1479 and Sec. 12, PD 768.

²¹ Sec. 32, P.D. No. 198, as amended by Sec. 7, P.D. No. 1479.

board resolution clearly defining accused's functions as General Manager was not introduced in evidence.²²

Thus, absent any proof that accused required the CWD Board's authority; that the purpose of his travel concerned functions outside of his usual duties or are unrelated to official business; and that his approval of his travels and the reimbursements thereof violated any law or public policy, the Court cannot arrive at the conclusion that he committed any actionable criminal act, or that he exercised manifest partiality, evident bad faith, or gross inexcusable negligence.

Third Element

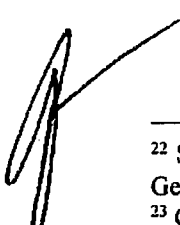
There are two modes of violating Sec. 3(e) of R.A. No. 3019: (1) by causing undue injury to a private individual or the Government, or (2) by giving unwarranted benefits to another.²³ The prosecution submits that the accused committed both modes.


As discussed above, the prosecution failed to prove that accused violated any law or internal policy of the CWD in obtaining the subject reimbursements. Given that the presumption of regularity obtains, it cannot be said that any party suffered injury or that any unwarranted benefits were conferred to accused or any other persons by way of the said disbursements.


II. **Malversation of Public Funds Under Art. 217 of** **the Revised Penal Code** **(SB-16-CRM-0793 to 0796)**

Art. 217 of the Revised Penal Code 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


²² Sec. 23 of P.D. No. 198, as amended, provides that the Board can define the duties and authority of the General Manager.

²³ G.R. Nos. 162314-17, 25 October 2004. 



The elements common to all acts of Malversation under Art. 217 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;
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.²⁴

The first element is not contested by accused, and as such needs no further exposition.


As for the second and third elements, the Court finds that accused is an accountable officer who effectively had control and custody over the funds subject of these cases. There is no question that he was the final approving authority for the disbursements, and the signatory of the checks therein. Thus, without his conformity and approval, no public funds can be released.

Nevertheless, in view of the discussions above that the prosecution failed to prove that accused was not entitled to have his travel expenses reimbursed, the Court does not have any basis for finding that he misappropriated public funds or committed actionable conduct relating to the same. In other words, the prosecution failed to prove the existence of the fourth element of the crime in order to hold accused liable.

In sum, the Court finds that the prosecution failed to discharge the burden of proving the accused's guilt beyond reasonable doubt of the crimes charged.



²⁴ *Cantos v. People*, G.R. No. 184908, 3 July 2013. ✓ 



WHEREFORE, in view of the foregoing, judgment is hereby rendered as follows:

1. In Criminal Case Nos. SB-16-CRM-0789 to 0792 for Violation of Section 3(e) of R.A. No. 3019, accused **GODOFREDO LOBO VICMUDO** is hereby **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt.

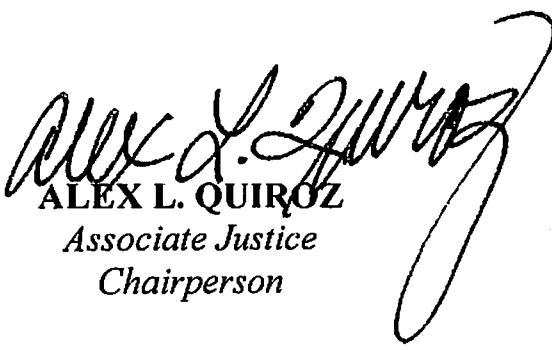
2. In Criminal Case Nos. SB-16-CRM-0793 to 0796 for Malversation of Public Funds as defined in Art. 217 of the RPC, accused **GODOFREDO LOBO VICMUDO** is hereby **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt.

The cash bond posted by the accused for his provisional liberty is ordered **RELEASED**, subject to the usual accounting and auditing procedures, and the Hold Departure Order issued against him is hereby **LIFTED**.

SO ORDERED.


BAYANI H. JACINTO
Associate Justice

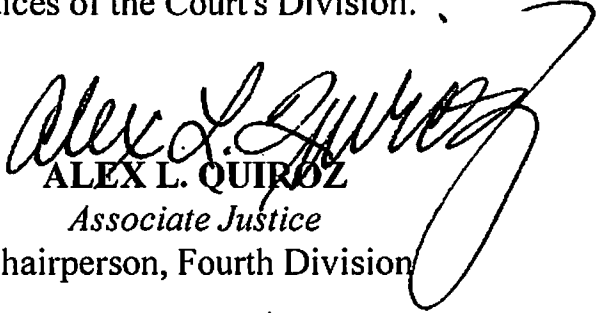
WE CONCUR:


ALEX L. QUIROZ
Associate Justice
Chairperson


REYNALDO P. CRUZ
Associate Justice

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