



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
QUEZON CITY

SEVENTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

Case No. **SB-18-CRM-0527**
For: Violation of Article 218 of the Revised
Penal Code
(Failure of Accountable Officer to Render
Accounts)

-versus -

EMMANUEL HABER NOBLE,
Accused.

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PEOPLE OF THE PHILIPPINES,
Plaintiff,

Case No. **SB-18-CRM-0528**
For: Violation of Article 217 of the Revised
Penal Code
(Malversation of Public Funds)

-versus -

EMMANUEL HABER NOBLE,
Accused.

Present:

Gomez-Estoesta, *J.*, Chairperson
Trespeses, *J.* and
Hidalgo, *J.*

Promulgated:

January 24, 2019 *JG*

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DECISION

GOMEZ-ESTOESTA, J.:

For cash advances he did not liquidate, Sangguniang Panlalawigan Member Emmanuel Haber Noble ["accused"] was charged with the following *Informations*¹ which alleged, thus:

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¹ Record of Crim. Case No. SB-18-CRM-0527, pp. 1-3; Record of Crim. Case No. SB-18-CRM-0528, pp. 1-3

Criminal Case No. SB-18-CRM-0527

That on 31 December 2006, or sometime prior or subsequent thereto, in Pili, Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, **EMMANUEL HABER NOBLE**, a high ranking public official, committing the offense in relation to his office, having obtained cash advances in the total amount of **FOUR HUNDRED FORTY-FOUR THOUSAND FOUR HUNDRED SEVENTY-SEVEN PESOS and FIFTY CENTAVOS (P444,477.50)**, by reason of his office, for which he is duty-bound to liquidate the same within the period required under Commission on Audit Circular No. 97-002, did then and there, willfully, unlawfully and feloniously fail to liquidate **ONE HUNDRED SIXTY-NINE THOUSAND ONE HUNDRED ONE PESOS AND FIFTY CENTAVOS (P169,101.50)** of the said cas[h] advances despite demands.

CONTRARY TO LAW.

Criminal Case No. SB-18-CRM-0528

That on 24 October 2008, or sometime prior or subsequent thereto, in Pili, Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, **EMMANUEL HABER NOBLE**, a high ranking public official, being a member of the Sangguniang Panlalawigan of Camarines Sur, and as such is accountable for public funds received and/or entrusted to him by reason of his office, committing the offense in relation to his office, did then and there willfully, unlawfully and feloniously appropriate, embezzle and convert, or consent and/or through abandonment or negligence, allow or permit another person to take public funds in the total of **ONE HUNDRED SIXTY-NINE THOUSAND ONE HUNDRED ONE PESOS AND FIFTY CENTAVOS (P169,101.50)**, representing his unliquidated travel cash advances for September 2006, which amount was under accused's custody which he was accountable, by failing to account for the same despite demand, thereby resulting in the loss or misappropriation of the said funds, to the damage and prejudice of the government in the said amount.

CONTRARY TO LAW.

A warrant for accused's arrest was issued on October 16, 2018.² For his provisional liberty, accused posted bail on October 19, 2018 in the respective amounts of P6,000.00 in Criminal Case No. SB-18-CRM-0527 and P20,000.00 in Criminal Case No. SB-18-CRM-0528.³ The warrant of arrest issued was thus ordered set aside.⁴

Although a *Motion for Judicial Determination of Probable Cause*⁵ was filed at the outset, this was immediately withdrawn by accused's counsel during the hearing on November 16, 2018 for being a prohibited pleading under the Revised Guidelines on Continuous Trial in Criminal Cases. It is noted nonetheless that attached to said *Motion* are:

² Record, pp. 188-189

³ Under Official Receipts Nos. 5497559V and 5497558V

⁴ Record, p. 205

⁵ Id., pp. 218-227

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(i) a Certification dated September 6, 2016 of the Commission on Audit - Audit Group LGS-C-Camarines Sur stating that the unliquidated cash advances of Mr. Emmanuel H. Noble in the amount of ₱169,101.50 have been settled with the same amount on September 2, 2014 under JEV No. 100-01-14-2972; and

(ii) a Certification dated October 3, 2016 of the Office of the Provincial Accountant of Camarines Sur stating that the cash advance for foreign travel of Hon. Emmanuel H. Noble in the total amount of ₱444,477.50 has already been fully settled per JEV No. 100-01-08-12-5625 (₱275,376.00) and JEV No. 100-01-14-09-2972 (₱169,101.50).

With the apparent settlement made on his cash advances, the defense asked for time to explore the possibility of a plea bargaining agreement. Accused's arraignment was thus re-set to January 24, 2019.⁶

During the scheduled arraignment on January 24, 2019, the Prosecution manifested that accused's proposal to plea bargain was approved by Ombudsman Samuel R. Martires. Accused proposed to enter a plea of guilty for lesser offenses, as follows:

(i) In Criminal Case No. SB-18-CRM-0527, a plea of guilty to the lesser offense of a *Violation of Section 89 of Presidential Decree No. 1445*;⁷ and

(ii) In Criminal Case No. SB-18-CRM-0528, a plea of guilty to the lesser offense of *Failure of Accountable Officer to Render Accounts*.⁸

The prosecution and the defense are conceded that the offense of *Violation of Section 89 of Presidential Decree No. 1445* is an included offense in *Failure of Accountable Officer to Render Accounts* under Article 218 of the Revised Penal Code. In the same way, 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 Article 217 of the same Code.

⁶ Vide: Order dated November 16, 2018; Records, p. 242

⁷ Section 89. *Limitations on cash advance.* No cash advance shall be given unless for a legally authorized specific purpose. A cash advance shall be reported on and liquidated as soon as the purpose for which it was given has been served. No additional cash advance shall be allowed to any official or employee unless the previous cash advance given to him is first settled or a proper accounting thereof is made.

⁸ Art. 218. *Failure of accountable officer to render accounts.* — Any public officer, whether in the service or separated therefrom by resignation or any other cause, who is required by law or regulation to render account to the Insular Auditor, or to a provincial auditor and who fails to do so for a period of two months after such accounts should be rendered, shall be punished by prison correccional in its minimum period, or by a fine ranging from 200 to 6,000 pesos, or both.

Proceeding to arraignment without necessarily amending the Informations, accused was read of the two (2) Informations in English, a language he knows and understands. He entered pleas of *guilty to the lesser offenses*.⁹

Accused was fully apprised of the consequences of his intended pleas. In clear terms, he stated in the affirmative that he understood the nature of his pleas; that even if he pleaded guilty to the lesser offenses, he is deemed to have admitted all the material allegations stated in the *Informations* to which a consequent penalty may be imposed under the law.

The Court is satisfied that the accused has fully understood the nature and consequence of his pleas.

Let a plea of *guilty to the lesser offenses* be entered into the record of these cases.

While the express conformity of the private complainant has to be obtained pursuant to Section 2, Rule 116 of the Revised Rules of Criminal Procedure,¹⁰ this has been aptly satisfied with the presentation of the Certification dated September 6, 2016 of the Commission on Audit - Audit Group LGS-C-Camarines Sur and the Certification dated October 3, 2016 of the Office of the Provincial Accountant of Camarines Sur, which documents were stipulated by the Prosecution as to their existence and due execution.

Every person criminally liable for a felony is also civilly liable.¹¹ Considering the full settlement of accused's accountability on the cash advances, no civil liability would be imposed against him at this instance

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

WHEREFORE, in *Criminal Case No. SB-18-CRM-0527*, judgment is hereby rendered finding accused **EMMANUEL HABER NOBLE** *guilty* beyond reasonable doubt of the lesser offense of *Violation of Section 89 of Presidential Decree No. 1445*.¹² Having appreciated in his favor the

⁹ Records, p. 184

¹⁰ 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.


¹¹ Article 100 of the Revised Penal Code

¹² Section 128. *Penal provision*. Any violation of the provisions of Sections 67, 68, 89, 106, and 108 of this Code or any regulation issued by the Commission implementing these sections, shall be punished by a fine

mitigating circumstance of the plea of *guilty*, accused is imposed the penalty of **FINE of ONE THOUSAND PESOS (₱1,000.00)** with subsidiary imprisonment in case of insolvency.

Likewise, in *Criminal Case No. SB-18-CRM-0528*, judgment is hereby rendered finding accused **EMMANUEL HABER NOBLE** *guilty* beyond reasonable doubt of the lesser offense of *Failure of Accountable Officer to Render Accounts* defined and penalized under Article 218 of the Revised Penal Code.¹³ Having appreciated in his favor the mitigating circumstance of the plea of *guilty*, accused is imposed the penalty of **FINE of TWO THOUSAND PESOS (₱2,000.00)** with subsidiary imprisonment in case of insolvency.¹⁴

SO ORDERED.


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


WE CONCUR:


ZALDY V. TRESPESES
Associate Justice


GEORGINA D. HIDALGO
Associate Justice

ATTESTATION

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


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

not exceeding one thousand pesos or by imprisonment not exceeding six (6) months, or both such fine and imprisonment in the discretion of the court.

¹³ Art. 218. *Failure of accountable officer to render accounts.* — Any public officer, whether in the service or separated therefrom by resignation or any other cause, who is required by law or regulation to render account to the Insular Auditor, or to a provincial auditor and who fails to do so for a period of two months after such accounts should be rendered, shall be punished by *prision correccional* in its minimum period, or by a fine ranging from 200 to 6,000 pesos, or both.

¹⁴ The provisions of R.A. 10951 will only be given retroactive effect if favorable to the accused. At this instance, the amended provision on the penalty imposable under Article 218 provided for a higher penalty of *prision correccional* in its minimum period or by a fine ranging from Forty thousand pesos (₱40,000) to One million two hundred thousand pesos (₱1,200,000), or both, and hence, not favorable to the accused which cannot thus be applied at this instance.

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 cases were assigned to the writer of the opinion of the Court's Division.


AMPARO M. CABOTAJE-TANG
Presiding Justice

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