

REPUBLIC OF THE PHILIPPINES  
SANDIGANBAYAN  
Quezon City

Special Fifth Division

PEOPLE OF THE  
PHILIPPINES,

*Plaintiff-Appellee,*

CASE NO. SB-18-A/R-0013

**FOR: Violation of Art. 217 of the  
Revised Penal Code, as amended,  
(Malversation of Public Funds)**

- versus -

*Present:*

**LAGOS, J., Chairperson,  
MENDOZA-ARCEGA, and  
MORENO\*, JJ.**

*Promulgated:*

March 08, 2019 *Jed*

**LILIBETH CASIÑO,**

*Accused-Appellant.*

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**DECISION**

**LAGOS, J.:**

This is an appeal from the Decision<sup>1</sup> dated April 18, 2018 of the Regional Trial Court (RTC) of Pasig City, Branch 155, National Capital Judicial Region, in **Criminal Case No. 125157**, finding appellant guilty of the crime of Malversation of Public Funds punishable under Article 217 of the Revised Penal Code (RPC), as amended, based on the following Information:

That, on or about May 6, 2000 or sometime prior or subsequent thereto, in Pasig City, Philippines, and within the jurisdiction of this Honorable Court, accused **Lilibeth Casino**[,] an accountable public officer being then the Barangay Treasurer of Barangay Malinao, Pasig City, taking advantage of her official position and acting in conspiracy

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\*As Special Member under Administrative Order No. 081-2019 dated March 4, 2019, in lieu of Hon. Maryann E. Corpus-Mañalac, who inhibited herself in the above-entitled case.

<sup>1</sup> Records, pp. 15-39

with Rolando Felipe, Romeo S.B. Marcelo, Teresita Villanueva, Christopher John Gamboa, Leonardo Santos, Jr., Cecil Panganiban, Ma. Carmen Dumigpi, and Nilda Cahilid (sic)[,] **all officials also of the said barangay**, did then and there wilfully, unlawfully and feloniously malverse, misappropriate, embezzle and convert to their own personal use and benefit barangay funds amounting to Eighty Thousand Pesos (P80,000.00), to the damage and prejudice of the government in the amount aforestated.<sup>2</sup> (Emphasis supplied.)

CONTRARY TO LAW.

Briefly, the records show that **Criminal Case No. 125157**, for malversation under Art. 217 of the RPC, as amended, and a companion Criminal Case No. 125158 for falsification of public document under Art. 171 of the RPC – both involving appellant and eight (8) other accused officials of Barangay Malinao, Pasig City, were filed in the Pasig City RTC on February 7, 2003 and raffled to its Branch 68 on February 13, 2003.<sup>3</sup> Early on, all the accused posted their respective bail bonds in both cases,<sup>4</sup> purportedly to “**avoid embarrassment that may be brought by their impending arrest.**”<sup>5</sup> On April 1, 2003, the accused, including appellant, filed with the court an Ex-Parte Motion for Reinvestigation,<sup>6</sup> seeking “that an Order be issued directing the Office of the Ombudsman and/or the Office of the City Prosecutor to conduct a reinvestigation of the charges” in both Criminal Case Nos. 125157 and 125158. The motion was denied by the Court on May 8, 2003.<sup>7</sup> All the accused, except one, were arraigned and pleaded not guilty on June 24, 2003.<sup>8</sup> Initial pre-trial was set for August 12, 2003. After that initial date, other incidents or events occurred which necessitated several pre-trial resetting. Among others things, the prosecution filed a Motion to Suspend Accused Pendente Lite,<sup>9</sup> and as a result of which, appellant, *inter alia*, was ordered suspended *pendent lite* per the court’s Resolution<sup>10</sup> dated October 16, 2003. Accused’s motion for reconsideration was denied by the court *a quo* on November 12, 2003.<sup>11</sup> As a result, a petition for *certiorari* was filed by the accused assailing the foregoing resolution and order, docketed as CA-G.R. SP No. 80864, which the CA dismissed on March 9, 2004 for being filed out of time and due to incomplete documentation.<sup>12</sup> Motion for reconsideration was denied by the CA on June 23, 2004.<sup>13</sup> Much later, on March 21, 2006, both the above-mentioned cases were re-raffled to **Branch 155** of the Pasig City RTC, since

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<sup>2</sup> Records, p.11

<sup>3</sup> Records of Crim. Case No. 125157-58, Vol. I, p. 1

<sup>4</sup> *Id.*, p. 235, as to appellant Casiño’s bail bond.

<sup>5</sup> *Id.*, p. 385

<sup>6</sup> *Id.*, p. 384

<sup>7</sup> *Id.*, p. 457

<sup>8</sup> *Id.*, p. 458 & 459; accused Dumigpi was arraigned and pleaded not guilty on August 12, 2003 at p. 463.

<sup>9</sup> *Id.*, p. 466

<sup>10</sup> *Id.*, p. 487

<sup>11</sup> *Id.*, 514

<sup>12</sup> *Id.*, p.577

<sup>13</sup> By copy of the Resolution in CA-G.R. No. SP No. 80864. (Records in Crim. Case No. 125157-58, Annex “F”, p. 656

Branch 68 was designated by the Supreme Court to be a drug court.<sup>14</sup> Pre-trial commenced anew before Branch 155 starting on August 4, 2006.<sup>15</sup> Finally, on September 7, 2007, the prosecution and defense stipulated “that the Court acquired jurisdiction over this case and that the accused herein are the same accused charged in the information,” and pre-trial was considered terminated.<sup>16</sup>

Criminal Case No. 125157 then was tried jointly with Criminal Case No. 125158 before Branch 155. Intrinsically, Crim. Case No. 125517 for malversation involved the **cash advance received** by appellant as Barangay Treasurer for use in what was dubbed as “Barangay Team Building Seminar Workshop” – sponsored by the Barangay Council of Malinao, Pasig City and held on May 6-7, 2000 at Zanzibar Hotel & Restaurant, in Olongapo City (Exhibits AA and BB), attended by the “Barangay Officials, Barangay Health Workers and Security Force” of Barangay Malinao, Pasig City. (See Exhibit QQ, par. 1) Appellant as Barangay Treasurer appears as principal accused, although not first-named defendant in Crim. Case No. 125157, captioned as “*People of the Philippines vs. Rolando L. Felipe, et al.*”<sup>17</sup> On the other hand, Crim. Case No. 125158 for falsification involved the various documents given to the Commission of Audit (COA) in order to liquidate the said cash advance – which documents upon audit were determined as spurious by the COA, with accused Barangay Chairman Rolando Felipe as principal accused. Ultimately, appellant was adjudged not guilty in Crim. Case No. 125158, but convicted in the other case for malversation. The dispositive portion of the Decision, as to the appellant in Criminal Case No. 125157, reads:

**WHEREFORE**, premises considered, judgment is hereby rendered as follows:

1. In **Criminal Case No. 125157**, accused **LILIBETH CASIÑO** and **ROLANDO FELIPE** are hereby found **GUILTY beyond-reasonable doubt** of the crime of **Malversation of Public Funds** defined and penalized under Article 217 of the Revised Penal Code, as amended by Republic Act No. 10951, and is hereby sentenced to suffer the indeterminate penalty of Two (2) years, Four (4) months, and one (1) day of prision correctional as minimum, to Six (6) years and One (1) day of prision mayor as maximum.

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<sup>14</sup> *Id.*, p. 714

<sup>15</sup> *Id.*, p. 717

<sup>16</sup> Records, Crim. Case No. 125157-58 Vol. II, p. 45 (also marked as p. 702), Minutes of the session held on September 7, 2007 in Criminal Case No. 125157, RTC Branch 155.

<sup>17</sup> Criminal Case No. 125157 is entitled *People of the Philippines vs. Rolando Felipe, Barangay Captain, et al.*

**SO ORDERED.**<sup>18</sup> (Emphasis in the original; underscoring ours.)

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Quoted in full below is the narration of facts found by the Court *a quo*, although much of it involves mostly aspects of the falsification in Crim. Case No. 125158, to wit:

#### **The Court's Findings of Fact**

The Court observes that none of the witnesses presented by the prosecution directly saw any of the accused in the act of performing the overt acts for which they were charged in this case. In other words, the prosecution's evidence are circumstantial in nature.

Assessing the evidence in these cases, the Court finds the following circumstances to have been firmly established.

Based on the Disbursement Voucher no. B-101-2005-263 signed by accused Lilibeth R. Casiño and approved by accused Rolando L. Felipe, as cash advance in the amount of Php 80,000.00 was released from the funds of Barangay Malinao for the Seminar, Team-Building activity held on May 6 to 7, 2000. Notably, none of the other accused signed the voucher and certified to the correctness of the amount stated therein.

On May 6-7, 2000, the Barangay officials, including all of the accused herein, and other employees of Barangay Malinao went to the Zanzibar Beach Resort for the team-building event. However, no speakers attended the event. Although accused Rolando Felipe prepared and signed a List of Speakers who were allegedly scheduled to attend the seminar for a fee of Php 3,000.00 each (Exhibit "M"), said list proved to be untruthful. Two of the persons stated in said list, namely, Ferdinand Avis and Elvira Limpin categorically asserted that they were not engaged as speakers in and never attended the team-building held on May 6 to 7, 2000 at the Zanzibar Beach Resort, Olongapo City, Zambales.

Moreover, another list prepared by accused Felipe, showed that four Tamaraw FX vehicles were used for the Seminar (Exhibit "N"). However, it was attested to by prosecution witness, Rowena Morales that one vehicle listed therein, to wit, the one with Plate No. PWW 699 referred to a Nissan Sentra for hire. With regard then to such vehicle, the list (Exhibit "N") was untruthful. There was no evidence, however, showing that the entry anent the other three vehicles in the list were false or incorrect. Although the prosecution witness Inoviso claimed that what was used for the event was a coaster van, he failed to substantiate such claim.

Witness Inoviso further asserted that some of the names appearing on the list of participants in the seminar (Exhibit "Z") were fake. He claimed that Antonio Arota, Lupe Grate, Franciso Corporal and

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<sup>18</sup> *Supra*, Note 1, p. 39

Beinvenido Literato, whose names appeared on the list, did not attend the seminar. However, of these four identified by Inviso (sic), only Franciso Corporal testified that he did not attend the seminar. Neither Inoviso nor Corporal saw nor identified who it was who actually forged the signatures of the persons stated in the List. Thus, based on the evidence, the list of attendees appear to be false only with respect to the attendance of Corporal. Although such list bore the respective signature of the accused, it appears that they signed the same as mere participants of the team-building event, and not as officers responsible for the preparation of such list.

Furthermore, accused Christopher John Gamboa admitted that he signed the price quotation for the Subic International Hotel (Exhibit "E")[,] while accused Romeo S.B. Marcelo admitted that he signed the price quotation for the Zanzibar Hotel (Exhibit "F"). Accused Gamboa and Marcelo also testified that although they signed their respective price quotation[,] they were not the ones who personally performed the actual canvass of the venue as they believed it was done by someone else under the direction of the Barangay Captain.

Due to the irregularities attending the transactions related to the team-building event, Dahlia Dequito and Salvador Cordial, both State Auditors of the Commission on Audit, issued a Credit Notice dated April 17, 2001 (Exhibit "Q") to accused Casiño on the ground that the price quotations from at least three (3) seminar-workshop venues were not submitted in violation of COA Circular no. 92-836; four (4) transport vehicles were hired without (sic) the required serive/rental contract, and not (sic) receipts were issued therefor; and the payments to the resource speakers were not duly acknowledged. Later, City Auditor Chito Al Ramirez issued a Credit Notice (or Notice of Disallowance No. B10-2002-001-101 (OO) requesting for refund of the PhP 80,000.00 for failure of the persons liable to submit satisfactory explanation or comply with the requirements pertaining to the noted deficiencies. In the List of Persons Liable (Exhibit "Q-1") attache to said Credit Notice, the following accused were alleged to be liable for the PhP 80,000.00: Casiño, Felipe, Marcelo, Gamboa, Villanueva, Santos, Jr., Panganiban, Dumigpi. Significantly, Gamboa and Marcelo, were eventually excluded from liability for the amount of PhP 80,000.00 under the Notice of Disallowance dated April 15, 2001, as per COA Adjudication and Settlement Board Decision dated November 21, 2005 (Exhibit "1").

Appellant now posits:

*~Assignment of Error~*

The lower court committed a reversible error when it ruled that the accused-appellant was guilty of malversation of public funds on the basis that she failed to justify or explain how the PhP80,000.00 was expended.<sup>19</sup>

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<sup>19</sup> Records, Vol. 1, p. 64

According to the appellant, the issue in this appeal is “whether or not accused is guilty of the crime malversation of public funds as penalized under Article 217 of the Revised Penal Code,”<sup>20</sup> and contends that :

- a. The elements of the crime as charged must be present to sustain conviction. There is no malice on the part of the accused-appellant.
- b. The elements of the crime as charged must be present to sustain conviction. There is no negligence on the part of accused-appellant.<sup>21</sup>

Contrarywise, plaintiff-appellee submits:

ARGUMENT AGAINST THE APPEAL

THE TRIAL COURT WAS CORRECT IN GIVING CREDENCE TO THE TESTIMONIES OF THE PROSECUTION WITNESSES WHICH WERE SUPPORTED BY DOCUMENTARY EVIDENCE ON RECORD AND IN FINDING ACCUSED-APPELLANT CASIÑO GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF MALVERSATION OF PUBLIC FUNDS.<sup>22</sup>

Plaintiff-appellee’s view is that accused-appellant “is guilty of the crime of Malversation of Public Funds since she failed to justify or explain how the Php80,000.00 was expended and she neglected her duties when she permitted accused Felipe to take the Php80,000.00 from her.”<sup>23</sup>

After due consideration, the Court finds appellant’s arguments untenable and the appeal assailing the guilty verdict of the court *a quo* without merit.

As discussed by the court *a quo*, to be convicted of Malversation of Public Funds under Article 217 of the RPC, the following elements must concur: “1. that the offender is a public officer; 2. that he [or she] had the custody or control of funds or property by reason of the duties of his [or her] office; 3. that those funds or property were public funds for which he [or she] was accountable; and 4. that he [or she] appropriated, took, misappropriated or consented or, through abandonment or negligence, permitted another person to take them.”<sup>24</sup>

In appellant’s brief, she concedes that “[t]here no question as to the existence of the first three (3) elements.”<sup>25</sup> She, however, takes exception

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<sup>20</sup> *Id.*, p. 65

<sup>21</sup> *Id.*, pp. 66 and 69

<sup>22</sup> *Id.*, p. Item III, p. 84

<sup>23</sup> *Id.*, p.

<sup>24</sup> *Supra*, Note 1, Decision, p. 33; underscoring supplied.

<sup>25</sup> Appellant’s Brief, Records, Vol. 1, pars. 25 & 67

that “[w]ith respect to the **fourth element**,...the same is wanting under the facts of this case.”<sup>26</sup> As claimed by the appellant:

Facts will readily provide that the amount of Php80,000.00 was processed and released because of the Barangay Resolution **prepared and signed by the Punong Barangay and the Barangay Council**. Without this barangay resolution, the City Accountant can outrightly deny any claim of the barangay.<sup>27</sup> (emphasis supplied)

Insofar as relevant to this appeal, the Decision of the court *a quo* gives the following disquisition:

### FINDINGS AND DISCUSSIONS

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#### Criminal Case No. 125157 for Malversation of Public Funds

The Information in Criminal Case No. 125157 charged accused with malversation of the funds of Barangay Malinao amounting to Php 80,000.00 and converting the same to their own personal use and benefit.

To be convicted of Malversation of Public Funds under Article 217 of the RPC, the following elements must concur:

1. that the offender is 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 them. (*Ocampo III v. People*, G.R. Nos. 156547, February 4, 2008)

In this case, all the elements of the crime are present with respect to accused Casiño. First, it is undisputed that accused Casiño was the Barangay treasurer at the time material to this case. Second, it is the inherent function of Casiño, being the Barangay Treasurer, to take custody of and exercise proper management of the funds of Barangay Malinao. Third, it is not disputed that the cash advance of PhP 80,000.00 was taken from the funds of Barangay Malinao, and thus were public funds for which accused Casiño, being Barangay Treasurer, was accountable.

As for the **fourth element**, it was shown that accused Casiño failed to properly account for the amount of PhP 80,000.00 that she withdrew (sic). When COA discovered that the withdrawal of said amount was not justified by the supporting papers submitted by her for the liquidation thereof, she failed to justify or explain how such amount was expended.

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<sup>26</sup> *Ibid.*

<sup>27</sup> *Ibid.*, par. 27

She even went on to testify that after withdrawing said amount of Php 80,000.00, she gave the same to Barangay Captain Rolando Felipe (TSN dated July 26, 2017, page 7 and page 12). It turned out, however, that accused Felipe signed untruthful statements – such as the List of names of three (3) resource speakers who allegedly received an honorarium of Php3,000.00 each (Exhibit “M”); and the certification relative to the four (4) Tamaraw FX vehicles allegedly used for the seminar (Exhibit “N”) – in order to make it appear that he cash advance of Php 80,000.00 was entirely expended for the seminar.

However, even assuming that said amount was indeed given by her to the Barangay Captain, who used a portion thereof for his personal benefit, this in itself would not exculpate the Barangay Treasurer from liability. To the contrary, such admission proved that accused Casiño, by neglecting her duties, permitted another person, accused Felipe, to take the subject amount, thus making both of them liable for such malversation.

On the other hand, the evidence against the rest of the accused failed to establish their culpability for the crime of malversation...[A]mong the said accused, it was only accused Casiño who was shown to have had custody and control of barangay funds of the Barangay Malinao by virtue of her position as Barangay Treasurer thereof. It was not sufficiently established nor argued that the rest of the accused had custody and control of the said barangay funds. Neither were the accused, except for Casiño accountable for such funds by virtue of their respective positions.

Under the allegations in the Information, the other accused were implicated in the instant charge for allegedly having acted in conspiracy with accused Barangay Treasurer and Barangay Captain. However, the evidence, failed to support those allegation of conspiracy among these other accused.

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In sum, the evidence in Criminal Case No. 125158 (sic) establish beyond reasonable doubt that accused Lilibeth Casiño and accused Rolando Felipe are guilty of malversation of the funds of Barangay Malinao in the amount of Php 80,000.00.<sup>28</sup>

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Obviously, reference to “Crim. Case No. 125158” above can be considered a harmless typographical error, when it should have been “Crim. Case No. 125157” on malversation, as underscored at the start of the discussion.

Appellant cannot bank on the “Barangay Resolution prepared and signed by the Punong Barangay and the Barangay Council” to exonerate her

<sup>28</sup> Records, Vol. 1, pp. 31-36



from liability for misappropriation. There is no cavil or shadow of doubt that the alleged “barangay resolution” merely gave appellant authority to avail of the cash advance, a.k.a. “appropriation,” for the planned barangay-sponsored activity, in accord with the fundamental principle under the Local Government Code that, “No money shall be paid out of the local treasury except in pursuance of an appropriations ordinance or law.”<sup>29</sup> An ‘appropriation’, as defined in the Code, “refers to an authorization made by ordinance, directing payment of goods and services from local government funds under specified conditions or for specific purposes.”<sup>30</sup> It was not *carte blanche* to hold appellant ‘free and harmless’ from any responsibility for the use and, in particular, liability for the misuse of the subject barangay funds, either by herself or through another. The said barangay resolution cannot be used by appellant to shield herself from the misappropriation or the guilty verdict of the court *a quo* for malversation. It is sad and regrettable, but that’s the price to pay for the sheer neglect of duty which she had exhibited.

On the appellant’s insistence on “**lack of malice**” and that there was “**no negligence on the part of accused-appellant**” above-referred to, the Decision of the court *a quo* remarkably has clearly and directly addressed the issue. To repeat, per the decision of the court *a quo*, “...even assuming that the said amount was indeed given by her [appellant] to the Barangay Captain, who used a portion thereof for his personal benefit, this in itself would not exculpate the Barangay Treasurer [i.e., appellant] from liability. To the contrary, such an admission proved that accused Casiño, by neglecting her duties, permitted another person, accused Felipe, to take the subject amount, thus making both of them liable for such malversation.”<sup>31</sup>

Citing *US vs. Ah Chong*, G.R. No. L-5272 (March 19, 1910), appellant, with Latin flourish, asserts, “There can be no crime, large or small, without an evil mind. Ordinarily, evil intent must unite with an unlawful act for there to be a crime. ‘*Actus no facit reum, nisi mens sit rea.*’ There can be no crime when the criminal mind is wanting.”<sup>32</sup>

Appellant obviously side-stepped the High Court’s explicit pronouncement in *Ah Chong* in that:

...[T]he definitions of crimes and offenses as set out in the Penal Code rarely contain provisions expressly declaring that malice or criminal intent is an essential ingredient of the crime, nevertheless, the general provisions of article 1 of the [Penal] code clearly indicate that malice, or criminal intent in some form, is an essential requisite of all crimes and offenses therein defined, in the absence of express provisions modifying the general rule such as those touching on liability resulting from acts negligently or improvidently committed, and acts done by one

<sup>29</sup> Local Government Code of 1991, Sec. 305, par. (a)

<sup>30</sup> *Id.*, Sec. 306, (b)

<sup>31</sup> *Supra*, Note 1, p. 33

<sup>32</sup> Appellant’s Brief, Records, p. 69, par. 35

voluntarily committing a crime or misdemeanor, where the act committed is different from that which he intended to commit.xxx

For sure, Article 217 of the Revised Penal Code has such “express provisions modifying the general rule”, viz.:

Art. 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 misappropriation or shall otherwise be guilty of the misappropriation or malversation of such funds shall suffer....”

As held by the Supreme Court in *Torres v. People*, G.R. No. 175074 (August 31, 2011), “Malversation may be committed through positive act of misappropriation of public funds or property, or passively through negligence. To sustain a charge of malversation, there must *either* be criminal intent or criminal negligence, and while the prevailing facts of a case may not show deceit attended the commission of the offense, it will not preclude the reception of evidence to prove the existence of negligence because *both are equally punishable* under Article 217 of the Revised Penal Code.”<sup>33</sup> (italics in the original) Appropos, “x x x [E]ven on the putative assumption that the evidence against petitioner yielded a case of malversation by negligence, but the information was for intentional malversation, under the circumstances of this case, his conviction under the first mode of misappropriation would still be in order. Malversation is committed either intentionally or by negligence. The *dolo* or the *culpa* present in the offense is only a modality in the perpetration of the felony. Even if the mode charged differs from the mode proved, the same offense of malversation is involved and conviction thereof is proper. x x x”<sup>34</sup> To note, the Information in Crim. Case No. 125157 was for intentional malversation. As held in *People v. Jose Ting Lan Uy, Jr.*, G.R. No. 157399, November 17, 2009, “More pointedly, the felony involves breach of public trust, and whether it is committed through deceit or negligence, the law makes it punishable and prescribes a uniform penalty therefor. *Even when the information charges willful malversation, conviction for malversation through negligence may still be adjudged if the evidence ultimately proves that mode of commission of the offense.*”<sup>35</sup>

Clearly, the decision of the court *a quo* is in accord with the law and jurisprudence, and this Court finds no reversible error committed by the trial judge. This Court notes, however, that the voucher for the request for cash advance was never offered in evidence by the prosecution. The transcript of

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<sup>33</sup> Citing *People v. Ting Lan Uy, Jr.*, 511 Phil. 682, 691 (2005).

<sup>34</sup> *Id.*, citing *Caballo v. Sandiganbayan*, 274 Phil. 369 (1991); italics in the original; underscoring supplied.

<sup>35</sup> Citing *Diaz v. Sandiganbayan*, 361 Phil. 789, 802-803 [1999]; italics in the original; underscoring supplied.

stenographic notes (TSN) during the testimony of COA State Auditor III, Dahlia A. Dequito, at the hearing on November 9, 2007, reveals:

Q You mentioned that you conducted an audit examination on the negotiation of the cash advance granted to Lilibeth Casino, what procedure did you follow in the conduct of your examination?

A First and foremost, we gathered all the documents like the disbursement voucher pertaining to the cash advance that was granted[,] as well as the liquidation report when the cash advances were liquidated. The original cash advance is under **D-101-2005-81** granted last May 2000 and the liquidation of the disbursement voucher was Voucher No. 201(sic)-2005-263

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ATTY. SANCHEZ

Your honor, this D-101-205-263 had been previously marked as **Exhibit "A"** for the prosecution.

Q Madam Witness, you mentioned that there is another disbursement voucher, do you have with you the said voucher that you mentioned?

A Yes. This is the original disbursement voucher of the cash advance that was granted to Lilibeth Casino.

Q Will you please show it to the Honorable Court

Q This is the disbursement voucher pertaining to the cash advance that was granted to Lilibeth Casino

ATTY. SANCHEZ

Your Honor please, may I respectfully move that the disbursement voucher presented to the Court by the witness **D-101-2005-81** be marked as **Exhibit "PP"**

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**Exhibit "PP"** was never formally offered by the prosecution. With respect to **Exhibit "A"**, it specifically states, "To liquidate the Cash Advance for the Seminar of Malinao Barangay Council & Employees held at Zanzibar Hotel, Olongapo City last May 6-7, 2000, as per supporting papers

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<sup>36</sup> Records, Criminal Case No. 125157-58, Vol. 3-TSNs, pp. 8-10; emphasis supplied.

hereto attached” (underscoring supplied), but was offered by the prosecution “[t]o prove that: 1. A cash advance in the amount of P80,000.00 was released from the barangay funds; 2. Accused Rolando L. Felipe and Lilibeth R. Casino, approved and allowed the release of the said amount....”<sup>37</sup> Clearly, there were two (2) distinct vouchers involved in this case, i.e., one for the request for cash advance and the other for liquidation the said cash advance. The court *a quo* was not exactly on point when it said that, “Based on the Disbursement Voucher no. B-101-2005-263 signed by accused Lilibeth R. Casiño and approved by accused Rolando L. Felipe, as cash advance in the amount of Php 80,000.00 was released from the funds of Barangay Malinao for the Seminar, Team-Building activity held on May 6-7, 2000. Notably, none of the other accused signed the voucher and certified to the correctness of the amount stated therein.” However, there is no detracting from the fact that, as admitted by appellant herself, she received, as treasurer of Barangay Malinao, Pasig City, the cash advance subject matter of this case, and beyond reasonable doubt, she failed to justifiably liquidate. When asked how she got the cash advance, she testified, **“I withdrew the amount because it’s a cash advance, I made a check and withdrew the Php 80,000.00 from the bank.”**<sup>38</sup>

As for the appropriate penalty, since the amount involved is more than Forty thousand pesos (P40,000) but does not exceed One million two hundred thousand pesos (P1,200,000), the imposable penalty under Article 217 of the Revised Penal Code, as amended by Rep. Act No. 10951 is *prision mayor* in its minimum and medium periods, ranging from six (6) years and one (1) day to ten (10) years.<sup>39</sup> The court *a quo* imposed an indeterminate sentence of two (2) years, four (4) months and one (1) day of *prision correccional*, as minimum, to six (6) years and one (1) day of *prision mayor*, as maximum. As earlier mentioned, appellant had voluntarily surrendered, which under Art. 13, par. 7, of the RPC is a mitigating factor that lowers the imposable penalty one degree<sup>40</sup> to *prision correccional* in its medium and maximum periods. The maximum period imposed by the court *a quo* of six (6) years and one (1) is still *prision mayor*. At one degree lower, the maximum penalty imposable should be *prision correccional* maximum, which ranges from four (4) years, two (2) months and one (1) day to six (6) years only. Accordingly, appellant’s sentence should be the indeterminate penalty of two (2) years, four (4) months and one (1) day, as minimum, to six (6) years of *prision correccional*, as maximum.

**WHEREFORE**, in view of all the foregoing, the appealed Decision dated April 18, 2018 of the Regional Trial Court (RTC) of Pasig City, Branch 155, National Capital Judicial Region, in **Criminal Case No.**

<sup>37</sup> Records, Crim. Case No. 125157-58, Vol. II, p. 234/891


<sup>38</sup> *Id.*, Vol. 3, pp. 869, 875, TSN dated 7/26/17, p. 7; emphasis supplied.

<sup>39</sup> Aquino and Griño-Aquino, *The Revised Penal Code* (2008 ed.), Vol. I, Table Showing the Duration of Divisible Penalties and the Time Included in Each of their Period, p. 724.

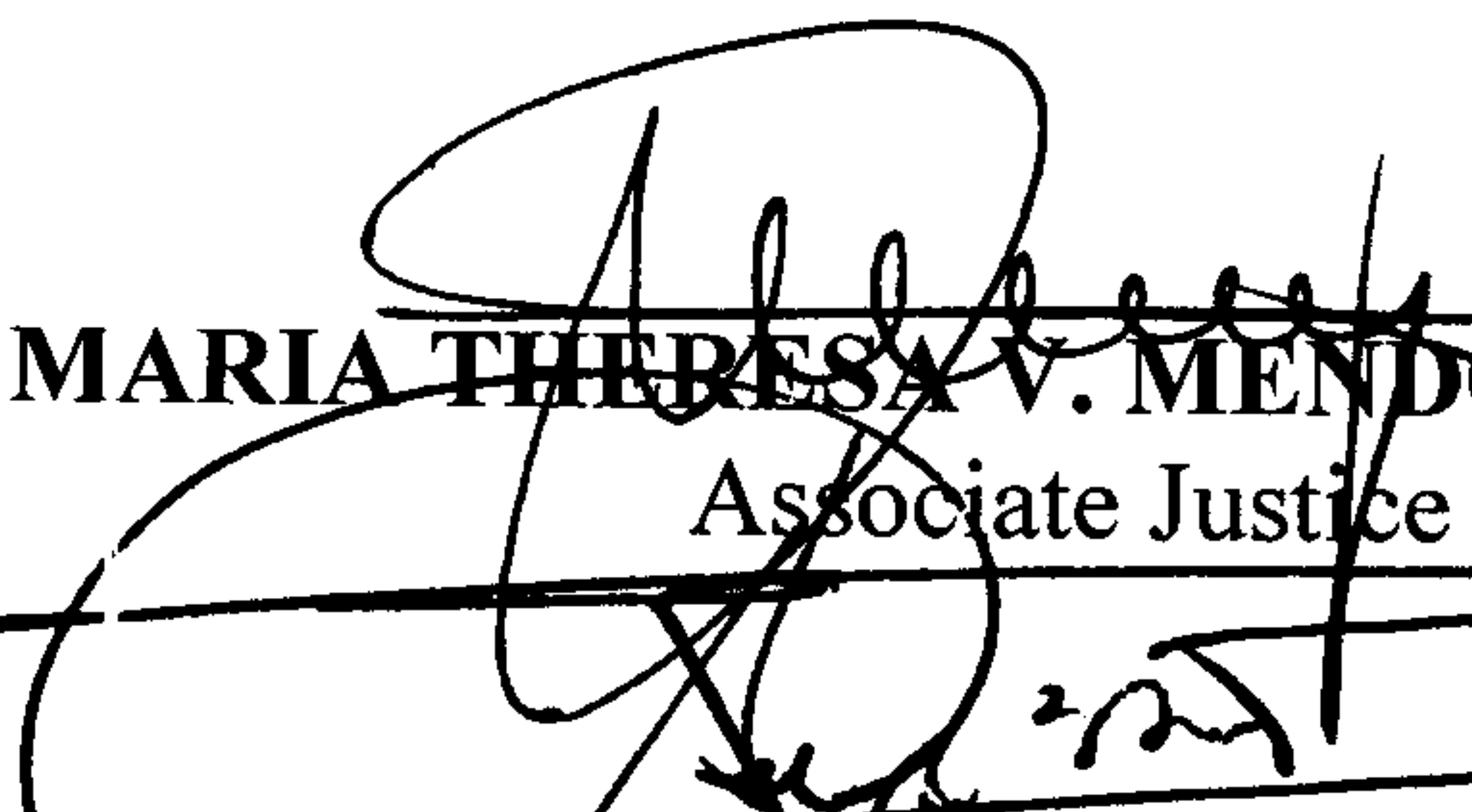
<sup>40</sup> *Id.*, p. 235

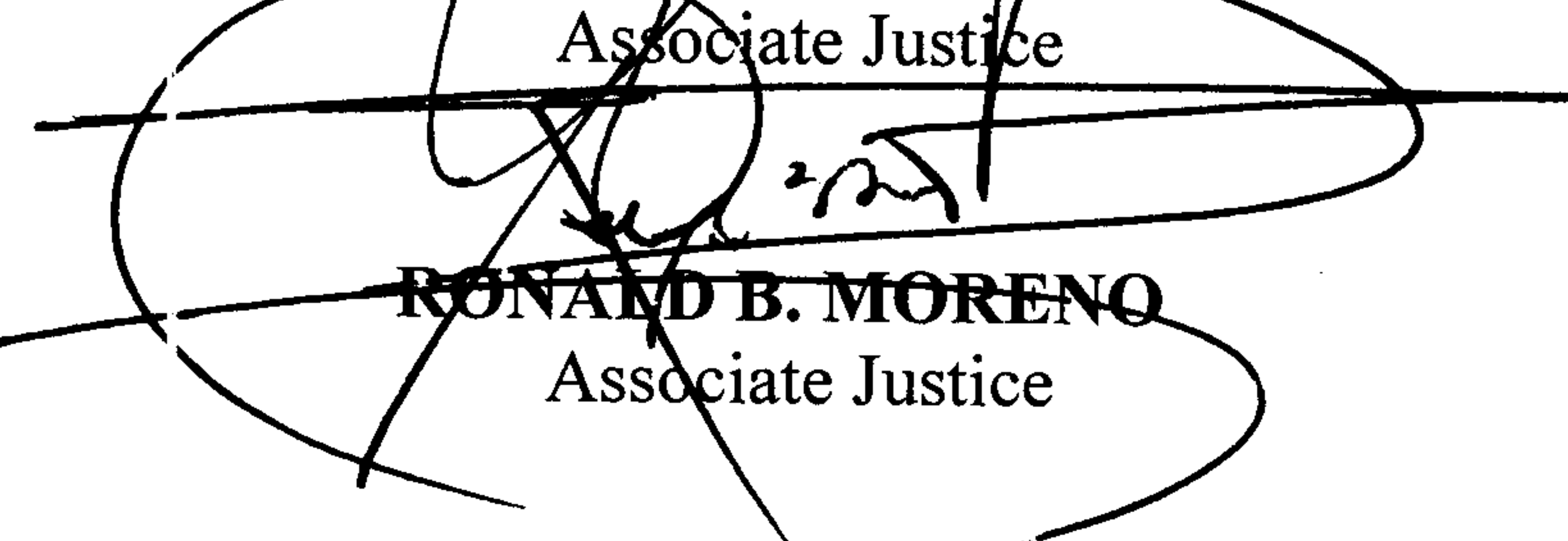
**125157**, finding appellant guilty of the crime of Malversation of Public Funds, punishable under Article 217 of the Revised Penal Code (RPC), is **AFFIRMED** with the **MODIFICATION** of her sentence to an indeterminate penalty of two (2) years, four (4) months and one (1) day of *prision correccional*, as minimum, to six (6) years of *prision correccional*, as maximum.

**SO ORDERED.**

  
**RAFAEL R. LAGOS**  
Associate Justice  
Chairperson

**WE CONCUR:**

  
**MARIA THERESA V. MENDOZA-ARCEGA**  
Associate Justice

  
**RONALD B. MORENO**  
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.

  
**RAFAEL R. LAGOS**  
Chairperson, Fifth Division

**CERTIFICATION**

Pursuant to article VIII, section 13 of the Constitution and the Division Chairperson's Attestation, it is 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