



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
Quezon City

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

Crim. Case No.
SB-16-CRM-0237
For: Violation of Sec. 3(e),
R.A. No. 3019, as amended

ALVIN S. SANDOVAL, ANTONIO
Y. ORTIZ, MARIA ROSALINDA M.
LACSAMANA, MARIVIC V. JOVER,
CONSUELO LILIAN R. ESPIRITU,
PETRONILA A. BALMACEDA,
FERNANDO BALMACEDA,
Accused.

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PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

Crim. Case No.
SB-16-CRM-0240
For: Malversation (Art.
217 of the RPC)

ALVIN S. SANDOVAL, ANTONIO
Y. ORTIZ, MARIA ROSALINDA M.
LACSAMANA, MARIVIC V. JOVER,
CONSUELO LILIAN R. ESPIRITU,
PETRONILA A. BALMACEDA,
FERNANDO BALMACEDA,
Accused.

Present:
DE LA CRUZ, J., Chairperson
ECONG, J. and
MANALO-SAN GASPAR, J.

PROMULGATED:

27 February 2024 *gm*

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DECISION

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Econg, J.:

Before this Court are the Informations filed by the Office of the Ombudsman against accused Petronila A. Balmaceda ("*Accused Petronila*") and Fernando Balmaceda ("*Accused Fernando*"), and their co-accused Alvin S. Sandoval ("*Accused Sandoval*"), Antonio Y. Ortiz ("*Accused Ortiz*"), Maria Rosalinda M. Lacsamana ("*Accused Lacsamana*"), Marivic V. Jover ("*Accused Jover*"), and Consuelo Lilian R. Espiritu ("*Accused Espiritu*").

The Information docketed as Criminal Case No. SB-16-CRM-0237 charges the aforesaid accused with Violation of Section 3(e) of Republic Act No. 3019, as amended, ("*R.A. No. 3019*") while the Information docketed as Criminal Case No. SB-16-CRM-0240 accuses them of Malversation under Article 217 of the Revised Penal Code ("*RPC*").

Said criminal cases stem from the alleged anomalous release and allocation of the Priority Development Assistance Fund ("*PDAF*") of accused Sandoval to the Technology and Livelihood Resource Center ("*TLRC*") or Technology Resource Center ("*TRC*") and its project partner-implementor Pangkabuhayan Foundation, Inc. ("*PFI*"). The alleged anomalous PDAF allocation amounts to P5,000,000.00 and is covered by SARO-D-08-03248.

Significantly, this Decision is limited to the criminal and civil liabilities of accused Petronila and Fernando. The present cases had only been revived after being previously archived by this Court pursuant to its Resolution dated January 17, 2019.¹ It is to note that, in its Joint Decision dated September 6, 2019 ("*Joint Decision*"),² this Court acquitted accused Sandoval, Lacsamana, Jover and Espiritu in both Criminal Case No. SB-16-CRM-0237 and Criminal Case No. SB-16-CRM-0240 for failure of the prosecution to establish beyond reasonable doubt their respective culpability. However, said accused were found to be civilly liable and were jointly and severally ordered to pay the amount of P4,500,000.00.

¹ Records, Vol. XVI, p. 439.

² Records, Vol. XX, pp. 23-151.

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The Facts

The pertinent facts and antecedents of the present criminal cases, as borne by the records, are as follows:

During the time material to the present cases, accused Sandoval was the Congressman of the lone District of Malabon and Navotas. Accused Ortiz, on the other hand, was the Director General of TRC while accused Lacsamana served as Group Manager. Accused Jover and accused Espiritu, during the same period, were the TRC Chief Accountant and Budget Officer IV, respectively. Meanwhile, accused Petronila and Fernando, both private individuals, were included herein as officers of the PFI. Accused Petronila was then president of PFI while accused Fernando acted as its secretary.

On April 14, 2008, the Department of Budget Management ("DBM"), represented by then Secretary Rolando G. Andaya, Jr. ("*Secretary Andaya*"), issued to the TRC Special Allotment Release Order (SARO) No. D-08-03248 in the amount of P5,000,000.00. The purpose of the SARO as indicated therein was for the "release of NG subsidy to cover the implementation of livelihood trainings and projects in the District of Malabon City-Navotas City."³ Specifically, the allocation was meant to serve the needs of the small-scale entrepreneurs in the said district by way of technical and financial assistance.

Accordingly, the DBM issued Notice of Cash Allocation ("NCA") NCA-BMB-D-08-0002240, representing said amount.⁴ An Advice of SARO Issued dated April 14, 2008 was also sent by Secretary Andaya to the Bureau of Treasury.⁵ In a letter dated April 14, 2008, Secretary Andaya wrote accused Ortiz informing the latter of the issuance of the SARO and NCA.⁶ A check dated April 18, 2008 was thereafter issued by the Bureau of Treasury to the TLRC in the amount of P5,000,000.00 as evinced by Official Receipt ("OR") dated April 25, 2008.⁷

³ Exhibits B-123, D-2, J.

⁴ Exhibit J-2.

⁵ Exhibits D-3, J-1.

⁶ Exhibits D-4, J-3.

⁷ Exhibits B-191, D-5.

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In a letter dated April 29, 2008, accused Sandoval wrote accused Ortiz endorsing PFI as project partner-implementor to facilitate the subject livelihood projects in his district. Accused Sandoval also requested the TRC to release the full amount covered by SARO No. D-08-03248 and NCA No. BMD-D-08-0002240 to the PFI.⁸

In a Memorandum dated April 29, 2008, accused Lacsamana recommended to accused Ortiz the release of the P5,000,000.00 allocation.⁹

Disbursement Voucher ("DV") No. 012008041128¹⁰ was subsequently issued by TRC to PFI. It has the signature of Lacsamana in Box A certifying that the expenses are necessary, lawful, and incurred under her direct supervision. Box B, in turn, shows that on April 30, 2008, accused Espiritu certified that the allocation is within the budget. It also indicates the certification of accused Jover that adequate funds are available in the amount of P4,000,000.00, that the expenditure is properly certified and supported by documents per the checklist with proper account codes, and that the previous cash advance, if any, has been liquidated. Box C contains the signature of approval of accused Ortiz. On the bottom part of the DV, a signature of a certain representative of PFI was affixed therein indicating that the check was received by it.

Accused Sandoval, Ortiz and Petronila then executed and signed a Memorandum of Agreement dated May 2, 2008.¹¹ Accused Jover, in the same instrument, certified the availability of funds.¹² On the same date, a check was issued to PFI in the amount of P4,000,000.00.¹³ PFI, as represented by accused Petronila, issued an OR as proof of receipt of said sum.¹⁴

An undated Project Proposal¹⁵ allegedly signed and submitted by accused Petronila also confirms the capacities of accused Sandoval as project proponent, TRC as project partner, and PFI as implementor of

⁸ Exhibits B-193, D-13.

⁹ Exhibit D-12.

¹⁰ Exhibits B-202, D-11.

¹¹ Exhibits B-194 to B-197, D-14 to D-17, 2-Lacsamana.

¹² Exhibits B-198, D-18.

¹³ Exhibits B-199 to B-200, D-6.

¹⁴ Exhibits B-201, D-10.

¹⁵ Exhibit D-19.

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the subject PDAF allocation. Said proposal contains the signature of approval of accused Sandoval. An undated Work and Financial Plan¹⁶ signed and submitted by accused Petronila also bears the signature of approval of accused Sandoval.

The PFI also submitted a List of Beneficiaries¹⁷ containing the names, signatures, addresses, and amounts respectively received by the alleged beneficiaries of the livelihood program it conducted from May 2 to 15, 2008.¹⁸ Pictures of the training programs were also submitted as proof of its project implementation.

Accused Petronila and accused Sandoval thereafter signed an undated Project Final Report stating that the livelihood and development projects were duly implemented by PFI.¹⁹

Consequently, accused Sandoval issued a Certification dated May 15, 2008²⁰ stating that the PFI had fully completed its livelihood programs and projects. Said certification was issued as a requirement for the release of the 10% Retention Fee in the sum of P500,000.00 to the PFI.

In this connection and after a review of the accounting records, Alberto D. Bernardo issued a Report of an Independent Certified Public Accountant²¹ certifying that PFI had received the P4,000,000.00 project cost, and that said amount had been utilized and disbursed by said non-government organization ("NGO"). A Liquidation and Disbursement Report was likewise signed by accused Petronila and accused Sandoval.²² A Report of Disbursement prepared by accused Fernando was also signed by accused Petronila and Sandoval.²³

As the records show, PFI allocated and spent the following amounts to its suppliers: (1) P75,000.00 for the venue, (2) P1,100,000.00 for the material, supplies and consultancy services for the seminar and training, (3) P475,000.00 for food, (4) P350,000.00 for transportation cost,

¹⁶ Exhibits B-192, D-21.

¹⁷ Exhibits D-54 to D-55.

¹⁸ Exhibits D-51 to D-53.

¹⁹ Exhibits B-207, D-31.

²⁰ Exhibits B-362, D-32.

²¹ Exhibits B-208 to B-209, D-33 to D-34.

²² Exhibit D-35.

²³ Exhibit D-36.

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and (5) P500,000.00 for mobilization expenses. Also, PFI allegedly distributed financial assistance to the beneficiaries amounting to P1,500,000.00.²⁴

With the conformity of accused Sandoval, accused Petronila sent a letter dated November 17, 2008 to accused Ortiz requesting the release of the retention fee.²⁵ In a Memorandum dated November 18, 2008 addressed to accused Ortiz, accused Lacsamana recommended the release of the Php500,000.00 retention fee.²⁶

In consequence, DV No. 012008122708²⁷ was issued containing the signature of accused Lacsamana in Box A certifying that the expenses are necessary, lawful, and incurred under her direct supervision. Box B contains the certification of accused Espiritu that it is within the budget. In the same box, accused Jover certifies that adequate funds are available in the amount of Php500,000.00, that the expenditure is properly certified, supported by documents per the checklist, with proper account codes and that the previous cash advance, if any, has been liquidated. Box C bears the signature of approval of accused Ortiz. The bottom part of the DV did not contain any signature of the representative of PFI, but the details of the check and OR were handwritten therein.

A check in the amount of P500,000.00 was issued on December 2, 2008 in favor of PFI.²⁸ As proof of receipt, PFI issued an OR dated December 5, 2008.²⁹

For the implementation of the subject PDAF-funded project, PFI issued DVs to its purported suppliers, namely Horizon Research Company ("*Horizon Research*"), WWD General Merchandise ("*WWD Merchandise*"), MAB Restaurant and Catering Services ("*MAB Restaurant*") and Padillo Transport Services ("*Padillo Transport*").³⁰ Allegedly, these DVs were prepared by accused Fernando and

²⁴ See Note 22.

²⁵ Exhibit D-30.

²⁶ Exhibit D-29.

²⁷ Exhibits B-206, D-28.

²⁸ Exhibits B-203, D-22.

²⁹ Exhibits B-205, D-27.

³⁰ Exhibits D-38, D-40, D-42, D-44, D-46, D-48, D-49 and D-50.

approved by accused Petronila. Corresponding ORs were issued by the suppliers to PFI.³¹

Acting on reports of alleged misuse of PDAF by members of Congress, government officials, and NGOs and pursuant to COA Office Order No. 2010-309 dated May 13, 2010 and subsequent issuances, the Commission on Audit-Special Audits Office ("COA-SAO") authorized the special audit of PDAF projects of various legislators involving several implementing agencies for calendar years 2007 to 2009. This was prompted by reports regarding alleged unliquidated fund transfers, undocumented transactions and other violations of rules and regulations in the allocation and utilization of the PDAF.

Accordingly, the COA Special Audit Team ("COA-SAT") conducted a special audit from June 15, 2010 to September 13, 2012. Included in the special audit are the PDAF-funded projects of accused Sandoval for said calendar years, particularly those covered by SARO-ROCS-07-07446, SARO-D-08-03248 and SARO-D-08-09694, which pertain to the projects implemented by the TRC, as implementing agency ("IA"), and PFI, Dr. Rodolfo A. Ignacio, Sr. Foundation, Inc. ("DRAISFI"), and Jacinto Castel Borja Foundation, Inc. ("JCBFI"), as its NGO-project partners.

As it is pertinent, the COA, during the special audit, sent several letters to the supposed suppliers of PFI, to wit:

1. In a letter dated May 16, 2011, COA Director Susan Garcia ("*COA Director Garcia*") asked for confirmation from Horizon Research of the authenticity of the ORs issued for consultancy services rendered.³²
2. In a letter dated May 17, 2011, COA Director Garcia asked for confirmation from Padillo Transport of the authenticity of the ORs issued for the transportation service rendered.³³

³¹ Exhibits B-216 to B-236.

³² Exhibit D-63.

³³ Exhibit D-67.

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3. In a letter also dated May 17, 2011, COA Director Susan Garcia asked for confirmation from MAB Restaurant of the authenticity of the ORs issued for the food and venue provided.³⁴
4. In a letter dated May 19, 2011, COA Director Susan Garcia asked for confirmation from WWD Merchandise of the authenticity of the ORs issued for the materials and supplies provided.³⁵

There is, however, no proof that said suppliers replied to these letters.

In a letter dated May 30, 2012, COA Director Susan Garcia asked for confirmation from PFI whether it received the total amount of P396,727,500.00 relative to the PDAF of several legislators including that of accused Sandoval. She also asked for the submission of pertinent documents for consideration in the audit report.³⁶

More, the COA was able to obtain certifications or attestations from different government offices stating that they have no records of the said suppliers in their respective offices, to wit:

1. The Business Permits and Licensing Office ("BPLO") of Malabon City sent a letter dated March 3, 2011 to COA Director Susan Garcia stating that MAB Restaurant has no record in its office.³⁷
2. The BPLO of Quezon City issued a Certification that Padillo Transport Service, Inc. and Horizon Research had not been issued any business permit.³⁸
3. The Quezon City Information Technology Development Office sent a letter dated November 21, 2011 to COA

³⁴ Exhibit D-71.

³⁵ Exhibit D-75.

³⁶ Exhibits D-56 to D-57.

³⁷ Exhibits B-244, D-74.

³⁸ Exhibits B-237, D-61.

Director Susan Garcia stating that its office has no record of WWD Merchandise.³⁹

After the conduct of the special audit, the findings of the COA-SAT, which were contained in its Special Audits Office Report No. 2012-03 ("*Special Audit Report*"), were submitted to the IAs involved, the Senate, the Congress, and the Office of the Ombudsman. Pertinently, the COA-SAT transmitted copies of the Special Audit Report to accused Sandoval, DBM and TRC. The COA-SAT then prepared three (3) Notices of Disallowance ("*NDs*") covering the now disputed SAROs.

Based on the Special Audit Report and by virtue of Office Order No. 46, Series of 2014, the Field Investigation Office ("*FIO*") of the Office of the Ombudsman conducted its own investigation as to the alleged misuse of accused Sandoval's PDAF and consequently found irregularities therein.

Specifically, the FIO found that Padillo Transport, Horizon Research, and WWD Merchandise had all used business addresses located in Quezon City. However, said entities had no business permit to operate in said city. The Records and Statistics Division, BPLO of the Office of the Mayor of Quezon City issued a Certification dated April 1, 2014 stating that said suppliers, along with MAB and Teodoro Francisco, had not been granted any business permit.⁴⁰ This is also shown in the 1st Indorsement dated April 2, 2014 issued by the Novaliches District Center, BPLO of Quezon City.⁴¹

In addition, MAB Restaurant used a business address located in Malabon City, and yet, it also has no business permit to operate in the area. Moreover, all listed PFI suppliers did not have a mayor's permit or business license to conduct business in Malabon and Navotas, as shown in a Certification dated April 1, 2014 issued by the BPLO of Navotas⁴² and the Certification dated April 4, 2014 of the BPLO of Malabon.⁴³

³⁹ Exhibits B-241, D-79 to D-82.

⁴⁰ Exhibit B-242.

⁴¹ Exhibit B-243.

⁴² Exhibit B-246.

⁴³ Exhibit B-245.

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The FIO also found that Horizon Research, Padillo Transport, MAB Restaurant, WWD Merchandise and PFI had no existing business name registration on file with the Department of Trade and Industry ("DTI").⁴⁴ While the business name MAB Resto and Catering Service is existent, the same is supposed to be in San Mariano, Isabela, not on Acacia/Potrero Street, Malabon City as indicated in its OR. Also, there is no Acacia Street in Potrero, Malabon, as Acacia is a separate barangay from Potrero. More, Horizon Research and WWD Merchandise had used ORs printed in Pinamalayan/Calapan Oriental Mindoro, far remote from their places of business as indicated in the documents on record.

Moreover, the livelihood training was allegedly conducted from May 2, 2008 to May 15, 2008 for the benefit of 45 participants. 30 out of the 45 participants individually received P25,000.00 in cash while the remaining 15 received P50,000.00 each, in the total of P1,500,000.00. However, Barangay officials, mostly Barangay Chairmen, of the concerned barangays in Navotas and Malabon issued certifications that the listed beneficiaries are not *bona fide* residents in their respective barangays.⁴⁵

In sum, the FIO concluded that the confluence of circumstances and the material absence of documents are more consistent with the theory that the suppliers/payees are fictitious. This theory, the FIO opined, is aligned with the subsequent findings showing that the persons named as beneficiaries are non-residents in the respective barangays, and that nothing from the record could attest to the existence of the subject suppliers.

The FIO thereafter filed the instant Complaint dated August 4, 2014⁴⁶ against those involved in the subject SAROs, including herein accused, for violation of Sections 3(e) and 3(g) of R.A. No. 3019 and Malversation of Public Funds through Falsification under Article 217 in relation to Article 171 of the RPC. The FIO also prayed that the accused be held administratively liable for dishonesty, grave misconduct and conduct prejudicial to the best interest of the service.

⁴⁴ Exhibit 247.

⁴⁵ Exhibits B-250 to B-361.

⁴⁶ Exhibit B.

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After the submission of the Counter-Affidavits and other pleadings, the Office of the Ombudsman found probable cause to indict the accused for violation of Sections 3(e) of R.A. No. 3019 and Malversation of Public Funds under Article 217 of the RPC.

On April 18, 2016, six (6) Informations were filed before this Court, but only two (2) Informations pertained to accused Petronila and Fernando

As pertinent to the controversy at hand, the following Informations were filed against accused Petronila and Fernando, and their co-accused Sandoval, Ortiz, Lacsamana, Jover and Espiritu in relation to the PDAF-funded project covered by SARO No. D-08-03248, the accusatory portions of which read:

SB-16-CRM-0237

In April 2008, or sometime prior or subsequent thereto, in Quezon City, Philippines, and within this Honorable Court's jurisdiction; accused public officers **ALVIN S. SANDOVAL** (Sandoval), then Congressman of the lone District of Malabon and Navotas Cities, **ANTONIO Y. ORTIZ** (Ortiz), then Director General, **MARIA ROSALINDA M. LACSAMANA** (Lacsamana), then the Group Manager, **MARIVIC V. JOVER** (Jover), then Chief Accountant, and **CONSUELO LILIAN R. ESPIRITU** (Espiritu), then Budget Officer IV, all of the Technology Resource Center (TRC); all public officers and while in the performance of their administrative and/or official functions; conspiring and confederating with one another and with private individuals **PETRONILA A. BALMACEDA**, President, and **FERNANDO BALMACEDA**, Secretary, all of Pangkabuhayan Foundation, Inc. (PFI); acting with manifest partiality, evident bad faith and/or gross inexcusable negligence; did then and there willfully, unlawfully and criminally cause undue injury to the government and give unwarranted benefits and advantage to said private individual in the amount of **FIVE MILLION PESOS (Php5,000,000.00)**, more or less, through a scheme described as follows:

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- (a) **Sandoval** indorsed PFI, a non-government organization organized by the aforementioned private individuals, as "project partner" in the implementing livelihood projects for the constituents of Malabon and Navotas Cities, which were funded by Sandoval's Priority Development Assistance Fund (PDAF) in the total amount of FIVE MILLION PESOS (Php5,000,000.00) covered by **Special Allotment Release Order (SARO) No. D-08-03248**; in disregard of the appropriation law and its implementing rules, and/or without benefit of public bidding, as required under Republic Act No. 9184 and its implementing rules and regulations, and with PFI being unqualified to undertake the projects;
- (b) DBM facilitated the processing of the aforementioned SARO and the pertinent Notice of Cash Allocation resulting in the release of the subject PDAF to TRC, represented by **ORTIZ**, who entered into Memorandum of Agreement (MOA) with **Sandoval** and **Petronila Balmaceda**, and facilitated, processed, and approved the disbursement of the subject PDAF through **Disbursement Voucher (DV) Nos. 012008041128** and **012008122708** signed by **Ortiz, Lacsamana, Jover** and **Espiritu**, as well as the issuance of **Land Bank Check Nos. 885800** and **890017** to PFI signed by **Ortiz** and **Jover**, without conducting a due diligence audit and careful examination of the qualification of PFI and the transaction's supporting documents, thus allowing PFI to appropriate and/or misappropriate Cong. Sandoval's PDAF instead of implementing PDAF-funded projects which turned out to be non-existent, while **Petronila Balmaceda** and **Fernando Balmaceda** prepared and/or forged the acceptance and delivery receipts, disbursement reports, project proposals, and other liquidation documents.

CONTRARY TO LAW.

SB-16-CRM-0240

In April 2008, or sometime prior or subsequent thereto, in Quezon City, Philippines, and within this Honorable Court's jurisdiction; accused public officers **ALVIN S. SANDOVAL** (Sandoval), then Congressman of the lone District of Malabon and Navotas Cities, **ANTONIO Y. ORTIZ** (Ortiz), then Director General, **MARIA ROSALINDA M. LACSAMANA** (Lacsamana), then the Group Manager, **MARIVIC V. JOVER** (Jover), then Chief Accountant, and **CONSUELO LILIAN R. ESPIRITU** (Espiritu), then Budget Officer IV, all of the Technology Resource Center (TRC); conspiring and confederating with one another and with private individual **PETRONILA A. BALMACEDA**, President, and **FERNANDO BALMACEDA**, Secretary, all of Pangkabuhayan Foundation Inc. (PFI); did then and there willfully, unlawfully and feloniously appropriate, take, misappropriate, convert, or consent to the taking by another of Cong. Sandoval's allocation of Priority Development Assistance Fund in the amount of **FIVE MILLION PESOS (Php5,000,000.00)** which funds the aforementioned public officers received and controlled by reason of the duties of their office with the duty to account for and liquidate the same; by causing and facilitating its allocation to livelihood projects for the constituents of Malabon and Navotas Cities, through **Special Allotment Release Order No. D-08-03248**, and its transfer to TRC as Implementing Agency for the project when in truth and in fact, TRC merely served as a conduit to facilitate the disbursement of the said funds in favor of the PFI through **Disbursement Voucher (DV) Nos. 012008041128** and **012008122708**, and **Land Bank Check Nos. 885800** and **890017**; in order that the accused private individuals could cause the withdrawal of the same and convert them to their personal use and benefit, resulting in the failure to account for and/or return the said amount despite demand, to the damage and prejudice of the government and the public interest in the aforesaid sum.

CONTRARY TO LAW.

Parenthetically, in the Information docketed as Criminal Case No. SB-16-CRM-0236, accused Sandoval, Ortiz, Lacsamana, Jover and Espiritu, and their co-accused Dennis L. Cunanan ("*Accused Cunanan*") and Rolleo L. Ignacio ("*Accused Ignacio*") were accused of Violation of Section 3(e) of Republic Act No. 3019 ("*R.A. No. 3019*"), as amended. The same accused were charged with Malversation under Article 217 of the RPC in the Information docketed as Criminal Case No. SB-16-CRM-0239. These criminal cases were filed in relation to the alleged anomalous release and allocation of accused Sandoval's PDAF to the TLC and its project partner-implementor DRAISFI. The project cost of the disputed PDAF-funded project amounts to P5,000,000.00 and is covered by SARO No. ROCS-07-07446.

In the Information docketed as Criminal Case No. SB-16-CRM-0238, accused Sandoval, Ortiz, Lacsamana, Jover and Espiritu, and their co-accused Roberto B. Agana ("*Accused Agana*") were also indicted on the charge of Violation of Section 3(e) of Republic Act No. 3019 ("*R.A. No. 3019*"), as amended. Said accused were likewise charged with Malversation under Article 217 of the RPC in the Information docketed as Criminal Case No. SB-16-CRM-0241. Both cases relate to the alleged anomalous release and allocation of accused Sandoval's PDAF under SARO No. D-08-09694 to the TLC and its project partner-implementor JCBFI in the amount of P20,000,000.00.

Save for accused Ortiz,⁴⁷ Petronila and Fernando, who were at large during that time, all the accused indicted in the Informations before the Court entered a plea of not guilty.⁴⁸

Meanwhile, the Court issued an Alias Warrant of Arrest against accused Ortiz, Petronila and Fernando dated January 17, 2019.⁴⁹ In a Resolution dated January 17, 2019,⁵⁰ the cases against them were

⁴⁷ Accused Ortiz, as to date, remains at large and has a standing Alias Warrant of Arrest dated January 17, 2019 issued against him.

⁴⁸ Accused Ignacio was arraigned on May 19, 2016. Accused Agana was arraigned on May 26, 2016. Accused Sandoval was arraigned on May 30, 2016. Accused Cunanan, Lacsamana, Jover and Espiritu were all arraigned on June 2, 2016.

⁴⁹ Records, Vol. XVI, pp. 424-425.

⁵⁰ Id., p. 439.

ordered to be ARCHIVED pursuant to Item III (6) of the Revised Guidelines for Continuous Trial of Criminal Cases, in relation to the Guidelines in the Archiving of Cases under SC Administrative Circular No. 7-A-92, as restated in OCA Circular No. 89-2004.

Trial, in so far as accused Sandoval, Cunanan, Lacsamana, Jover and Espiritu and the other impleaded private individuals, ensued.

The prosecution presented forty-seven (47) witnesses to prove the participation and criminal culpability of the arraigned accused in the aforesaid Informations. The prosecution then filed its Formal Offer of Evidence on July 12, 2018.⁵¹ Particularly, the prosecution marked and offered in evidence Exhibits "A" to "K", "M", "O" to "U" and "X", together with their sub-markings. Accused Jover and Espiritu submitted their Comment/Objection thereto.

In a Resolution dated September 6, 2018,⁵² this Court resolved to deny the admission of Exhibits G, H, O, R, S and T, which were not submitted with the offer and not in the records of the case, and to admit the rest of the exhibits offered in the tenor that they were testified on or stipulated upon by the parties, over the objection of the accused. Moreover, Exhibits D-1, D-29, D-29-a and D-29-b submitted with the offer were disregarded, the same not having been offered.⁵³

On the other hand, accused Sandoval, Cunanan, Lacsamana, Jover, Espiritu and Ignacio offered their testimonies to support their respective defenses along with the testimonies of Ian V. Martinez and Atty. Abraham A. Agamata. Afterwards, accused Sandoval, Cunanan, Lacsamana, Jover and Espiritu filed their separate Formal Offers of Evidence on May 10, 2019, to which the prosecution filed its

⁵¹ Records, Vol. XI, pp. 297- 500 and Vols. XII, XIII, XIV, XV.

⁵² Records, Vol. XVI, p. 143.

⁵³ The Court also made the following observations as regards the offered exhibits:

1. Exhibit C-20-d is actually found in box C, not box B;
2. Exhibit C-24-b is found at the bottom left portion, not on the right portion of the document;
3. Exhibit C-26-a is a signature on the bottom right portion of the document, not above the name Rolleo L. Ignacio;
4. Exhibit C-31 is signed by Rolleo L. Ignacio, not Rolleo L. Ignacio Nicolas;
5. Exhibit C-35 is signed by Rolleo L. Ignacio and Andrea Y. Santos, not by Delia Magcayan;
6. Exhibit E-4 is dated December 3, 2008, not December 2, 2008;
7. Exhibit E-51-b is the signature found on the right front portion of Landbank Check No. 0000917033, not No. 000091733; and
8. Exhibit E-53-a is the signature in Official Receipt (O.R.) No. 0002 dated July 3, 2009, not OR No. 002 dated July 13, 2009.

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Consolidated Comment on May 20, 2019. Accused Ignacio filed his Formal Offer on May 24, 2019, to which the prosecution filed its Comment on June 3, 2019. Accused Sandoval filed a Reply on June 4, 2019.

To prove their respective defenses, the accused offered in evidence the following exhibits:

(a) For accused Sandoval – Exhibits “1” to “4” and “10” to “12”, as well as Prosecution Exhibits “I-2”, “D-2”, “E-8”, “B-390”, “I-7”, “I-5”, “I-6”, “D-32”, “D-30”, “A-33”, “C-8”, “D-14” and “E-16”;⁵⁴

(b) For accused Cunanan – Exhibits “1” to “6”;⁵⁵

(c) For accused Lacsamana – Exhibits “1” to “5”;⁵⁶

(d) For accused Jover – Exhibits “1”, “2” and “4”;⁵⁷

(e) For accused Espiritu – Exhibits “11”, “12”, “1”, “2”, “4” and “5”;⁵⁸

(f) For accused Ignacio – Exhibits “1” to “9”.⁵⁹

In its Resolution dated June 7, 2019,⁶⁰ the Court ruled on the admissibility of the documentary exhibits as offered by said accused. The Court took note of accused Agana’s failure to file his formal offer of evidence and thus considered him to have no exhibit to offer. Furthermore, the Court resolved the formal offers filed by the other accused, as follows:

⁵⁴ Records, Vol. XVI, p. 177; Formal Offer of Evidence [of accused Alvin S. Sandoval] dated May 10, 2019 filed on May 10, 2019.

⁵⁵ Id., p. 147; Formal Offer of Documentary Exhibits [of accused Dennis L. Cunanan] dated May 6, 2019 filed on May 10, 2019.

⁵⁶ Records, Vol. XVII, p. 21; Formal Offer of Evidence dated May 9, 2019 filed on May 10, 2019.

⁵⁷ Records, Vol. XVIII, p. 48; Formal Offer of Evidence (With Tender of Excluded Evidence) [of accused Marivic V. Jover and Consuelo Lilian R. Espiritu] dated May 9, 2019 filed on May 10, 2019.

⁵⁸ Id.

⁵⁹ Id., p. 477; Formal Offer of Documentary Evidence [of accused Rolleo L. Ignacio] dated May 24, 2019.

⁶⁰ Records, Vol. XIX, pp. 150-151.

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As to accused Sandoval's formal offer of evidence:

- To DENY ADMISSION of Exhibit 4, in view of the objection of the prosecution that the same was not marked, not testified on and, above all, there being no purpose stated for the offer of the exhibit.
- To ADMIT the rest of the exhibits he offered, over the objection of the prosecution.

The Court noted that accused Sandoval's Exhibits C-8 to C-12 and Exhibits E-16 to E-20 consist of five (5), not four (4) pages as stated in the offer.

As to accused Cunanan's formal offer of evidence:

- To ADMIT all the exhibits offered, only insofar as they were testified on, but not as independent evidence, considering the objection of the prosecution to the non-presentation of the originals thereof.

The Court noted that the sub-markings in the offer are not reflected in the actual markings of the documents. Exhibit 4 bears reference No. ODG-200712-081 erroneously stated in the offer as No. ODG-200712.

As to accused Lacsamana's formal offer of evidence:

- To ADMIT her Exhibits 1 to 3; and
- To ADMIT her Exhibits 4 and 5, only insofar as they were testified on, but not as independent evidence, in view of the objection of the prosecution to the non-presentation of the originals thereof.

As to accused Jover and Espiritu's formal offer of evidence:

- To ADMIT all the marked exhibits offered, but only insofar as they were testified on, in view of the objection of the prosecution

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to the non-presentation of the originals thereof and, contrary to the manifestation of the accused, there is nothing in the transcript of the preliminary conference on March 7, 2017 (when their documents were marked) that would indicate that the originals thereof were shown, much less stipulated upon by the parties; and

- To DENY ADMISSION of the Order offered in their Manifestation dated May 14, 2018 for not having been properly marked or identified, and there being no stated purpose for the offer.

As to accused Ignacio's formal offer of evidence:

- To ADMIT Exhibits 1 to 1-1 to 2-c (actually marked as Exhibit 1-Ignacio), 3, 4 to 4-g, 5 to 5-a, 6, 7 (actually marked as Exhibit 3-Ignacio);

- To ADMIT Exhibit 8 (part of Exhibit 3-Ignacio) and Exhibit 9 (marked as Exhibit 10-Ignacio) only insofar as they were testified on, but not as independent evidence, in view of the objection of the prosecution to the non-presentation of the originals thereof.

Lastly, the Court noted accused Jover and Espiritu's proffer of their exhibits, which were denied admission.

In its Joint Decision,⁶¹ this Court acquitted accused Sandoval, Lacsamana, Jover and Espiritu in Criminal Case No. SB-16-CRM-0237 for violation of Sec. 3(e), R.A. No. 3019, and Criminal Case No. SB-16-CRM-0240 for violation of Article 217 of the RPC. The acquittal of said accused is anchored on the failure of the prosecution to establish beyond reasonable doubt the guilt of said accused in relation to SARO No. D-08-03248. However, said accused are found to be civilly liable for the improper implementation of the PDAF-funded project under said SARO and are jointly and severally liable in the amount of P4,500,000.00.

In like manner, accused Sandoval, Lacsamana, Jover and Espiritu, and their co-accused Cunanan and Ignacio were acquitted in Criminal

⁶¹ Records, Vol. XX, pp. 23-151.

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Case No. SB-16-CRM-0236 and Criminal Case No. SB-16-CRM-0239 in relation to SARO No. ROCS. 07-07446. Said accused were likewise held civilly liable for the improper implementation of the PDAF-funded project under said SARO and were jointly and severally liable in the amount of P4,500,000.00.

Accused Sandoval, Lacsamana, Jover and Espiritu, and their co-accused Agana, in turn, were acquitted in Criminal Case No. SB-16-CRM-0238 and Criminal Case No. SB-16-CRM-0241 in relation to SARO No. D-08-09694. Similarly, said accused were held civilly liable for the improper implementation of the PDAF-funded project under the said SARO and were jointly and severally liable in the amount of P18,000,000.00.

The dispositive portion of the Joint Decision reads:

“WHEREFORE, in view of the foregoing discussion, the Court disposes these cases in the following manner:

a. In Criminal Case No. SB-16-CRM-0236 for violation of Sec. 3(e), R.A. No. 3019, accused ALVIN S. SANDOVAL, DENNIS L. CUNANAN, MARIA ROSALINDA M. LACSAMANA, MARIVIC V. JOVER, CONSUELO LILIAN R. ESPIRITU, ROLLEO L. IGNACIO are hereby ACQUITTED for failure of the prosecution to establish beyond reasonable doubt their respective culpability in relation to SARO No. ROCS. 07-07446;

b. In Criminal Case No. SB-16-CRM-0239 for violation of Article 217 of the Revised Penal Code, accused ALVIN S. SANDOVAL, DENNIS L. CUNANAN, MARIA ROSALINDA M. LACSAMANA, MARIVIC V. JOVER, CONSUELO LILIAN R. ESPIRITU, ROLLEO L. IGNACIO are hereby ACQUITTED for failure of the prosecution to establish beyond reasonable doubt their respective culpability in relation to SARO No. ROCS. 07-07446;

However, the abovementioned accused are found to be civilly liable for the improper implementation of the project funded by the PDAF released under SARO No. ROCS. 07-07446 and are jointly

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and severally liable in the amount of Four Million Five Hundred Thousand Pesos (Php4,500,000.00).

c. *In Criminal Case No. SB-16-CRM-0237 for violation of Sec. 3(e), R.A. No. 3019, accused ALVIN S. SANDOVAL, MARIA ROSALINDA M. LACSAMANA, MARIVIC V. JOVER, CONSUELO LILIAN R. ESPIRITU, are hereby ACQUITTED for failure of the prosecution to establish beyond reasonable doubt their respective culpability in relation to SARO No. D-08-03248;*

d. *In Criminal Case No. SB-16-CRM-0240 for violation of Article 217 of the Revised Penal Code, accused ALVIN S. SANDOVAL, MARIA ROSALINDA M. LACSAMANA, MARIVIC V. JOVER, CONSUELO LILIAN R. ESPIRITU, are hereby ACQUITTED for failure of the prosecution to establish beyond reasonable doubt their respective culpability in relation to SARO No. D-08-03248;*

However, the abovementioned accused are found to be civilly liable for the improper implementation of the project funded by the PDAF released under SARO No. D-08-03248 and are jointly and severally liable in the amount of Four Million Five Hundred Thousand Pesos (Php4,500,000.00).

e. *In Criminal Case No. SB-16-CRM-0238 for violation of Sec. 3(e), R.A. No. 3019, accused ALVIN S. SANDOVAL, MARIA ROSALINDA M. LACSAMANA, MARIVIC V. JOVER, CONSUELO LILIAN R. ESPIRITU, ROBERTO B. AGANA are hereby ACQUITTED for failure of the prosecution to establish beyond reasonable doubt their respective culpability in relation to SARO No. D-08-09694;*

f. *In Criminal Case No. SB-16-CRM-0241 for violation of Article 217 of the Revised Penal Code, accused ALVIN S. SANDOVAL, MARIA ROSALINDA M. LACSAMANA, MARIVIC V. JOVER, CONSUELO LILIAN R. ESPIRITU, ROBERTO B. AGANA are hereby ACQUITTED for failure of the prosecution to establish beyond reasonable doubt their respective culpability in relation to SARO No. D-08-09694;*

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However, the abovementioned accused are found to be civilly liable for the improper implementation of the project funded by the PDAF released under SARO No. D-08-09694 and are jointly and severally liable in the amount of Eighteen Million Pesos (Php18,000,000.00).

Since this Court did not acquire jurisdiction over the persons of accused Antonio Y. Ortiz, Petronila A. Balmaceda and Fernando Balmaceda who still remain at large, the cases against them are, in the meantime, archived as per Minutes of the Proceedings dated January 17, 2019.⁶² The cases against them will be revived upon their arrest.

SO ORDERED.”

Dissatisfied, accused Sandoval, Cunanan, Lacsamana, Jover, Espiritu and Agana filed their respective motions for partial reconsideration of the Joint Decision. After the filing of the prosecution’s Comment and/or Opposition and accused Sandoval and Cunanan’s separate replies thereto, the Court, in its Resolution dated November 13, 2019,⁶³ denied said motions for lack of merit.

Undaunted, accused Sandoval, Cunanan, Jover, Espiritu, Ignacio and Agana filed their separate Petitions for Review on Certiorari before the Supreme Court. As of to date, said petitions remain pending.

In the meantime, accused Petronila appeared before this Court and posted a surety bond. In its Minute Resolution dated January 16, 2023,⁶⁴ the Court approved the surety bond posted by accused Petronila and REVIVED the archived cases against her. The arrest warrant issued against said accused was thus lifted by the Court.

On February 6, 2023, accused Petronila was arraigned and pleaded not guilty to the charges against her.⁶⁵

⁶² Records, Vol. XVI, pp. 439.

⁶³ Records, Vol. XXI, pp. 237-261.

⁶⁴ Records, Vol. XXIII, p. 165.

⁶⁵ Id., p. 292.

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After the submission of the contending parties' pre-trial briefs, the pre-trial of the present cases, in so far as accused Petronila is concerned, was conducted.

A Pre-Trial Order dated April 4, 2023⁶⁶ was issued by the Court containing the stipulations and admissions made by the prosecution and accused Petronila, the issues submitted for resolution, the documentary and testimonial evidence that they intend to proffer and scheduled hearing dates.

In its Minute Resolution dated May 17, 2023,⁶⁷ the Court approved the surety bond posted by accused Fernando and REVIVED the archived cases against him. The Court also lifted the arrest warrant issued against said accused.

During his arraignment held on June 5, 2023, accused Fernando entered the plea of not guilty to the charges against him.⁶⁸

A Pre-Trial Order dated July 3, 2023⁶⁹ was also issued by the Court containing the stipulations and admissions between the prosecution and accused Fernando, the issues for resolution, the documentary and testimonial evidence that the parties intend to proffer and scheduled hearing dates.

Trial, this time as to accused Petronila and Fernando, ensued.

As stated in the Pre-Trial Orders dated April 4, 2023 and July 3, 2023, the prosecution adopted the testimonies of the twenty-seven (27) witnesses that it had previously presented,⁷⁰ to wit:

As stated in her Judicial Affidavit,⁷¹ witness **Lolita M. Soriano** ("*Witness Soriano*") was the Supervising Administrative Officer of the

⁶⁶ Id., pp. 425-497.

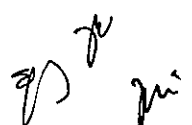
⁶⁷ Records, Vol. XXIV, p. 33.

⁶⁸ Id., p. 59.

⁶⁹ Id., pp. 337-409.

⁷⁰ While the prosecution, in their Memorandum dated December 15, 2023, included Wilfredo I. Picazo III and Alexander D. Manuel as witnesses, the Court will only consider the testimonies of the witnesses as adopted and enumerated in the Pre-trial Orders dated April 4, 2023 and July 3, 2023 pursuant to Section 7, Rule 18 of the 2019 Amendments to the Rules of Court.

⁷¹ Judicial Affidavit, subscribed and sworn to on September 18, 2017.



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COA-SAO during the time material to these cases. She confirmed that after receiving the subpoenas addressed to her, she had gathered and produced certified true copies of the SAO Report No. 2012-03, the other documents pertinent to the disputed SAROs, the Confirmation Letters and Reply of accused Sandoval and Analysis of ORs.⁷²

On cross-examination,⁷³ witness Soriano testified that the COA-SAT had turned over the subject voluminous documents with a list to her. Other documents not specified in the subpoenas were still in her stock room. Said documents, she recounted, had come from the IAs. When the document marked as Exhibit 6-Cunanan was shown to her, witness Soriano admitted that she could not remember the document since the papers involved in the cases were voluminous.⁷⁴

In his Judicial Affidavit,⁷⁵ witness **Miguel B. Geronimo, Jr.** ("*Witness Geronimo*") identified himself as Project Officer V of the Department of Science and Technology ("*DOST*") TRC Transition Team. His office received two (2) subpoenas from the prosecution directing the submission of the disputed SAROs and the documents pertaining to PFI and JCBFI. Upon checking, he found that the requested documents had already been transmitted by the Cash Division to the COA-SAO since the same had been attached to the DVs. Only the Transmittals of the DVs were found in his office. He then prepared the Compliance Letters and Certifications, which were reviewed and signed by Atty. Angely Alviar, the Head of DOST-TRC Transition Team.⁷⁶

During cross-examination,⁷⁷ witness Geronimo clarified that the TRC had been abolished effective October 31, 2015, and that the abolition was before the constitution of the DOST Transition Team. Taking custody of all the records of the TRC was included as one of the purposes of the team. While he certified the transmittal memo issued to COA, he was not the custodian of the TRC documents. He claimed that it was the DOST transition inventory team that handled most of the documents. The custody of the TRC documents was with Jhoven Litana, Records Officer of DOST. He was also not familiar with Exhibit

⁷² Id., pp. 3-4.

⁷³ Transcript of Stenographic Notes dated November 10, 2017.

⁷⁴ Id., pp. 16-19.

⁷⁵ Judicial Affidavit, subscribed and sworn to on September 19, 2017.

⁷⁶ Id., pp. 1-3.

⁷⁷ Transcript of Stenographic Notes dated November 10, 2017.

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6-Cunanan. He confirmed that after disbursements made by the TRC, related documents were transmitted to COA for post-audit. The transition team already turned over the documents to the DOST. He further admitted that he had not seen the transmittal to COA since it was the TRC Cash Division that did the same. He, however, could not verify whether all the documents pertaining to the PDAF disbursements were turned over to the DOST or COA.⁷⁸

Witness **Carmela S. Perez** ("*Witness Perez*") testified, by way of Judicial Affidavit,⁷⁹ that she served as Assistant Commissioner of the COA Special Services Sector in 2012. She allegedly sent a confirmation letter dated June 19, 2012 to accused Sandoval, who in turn sent a reply on July 5, 2012.⁸⁰ On cross-examination, witness Perez admitted that she did not personally know accused Sandoval. It was then stipulated that she did not see Sandoval sign Exhibit F-5.⁸¹

Witness **Mary Chile G. Nivera** ("*Witness Nivera*"), an Associate Graft Investigation Officer of the Office of the Ombudsman at the time of her testimony, claimed that she had executed the Complaint dated August 1, 2014. She was assigned to investigate the use of PDAF of accused Sandoval and another congressman, Douglas Cagas, under Office Order No. 46, Series of 2014. It was stipulated that she can identify the Complaint and its attachments. She then testified on how their team investigated the subject controversy. The team reduced all its findings in an Investigation Report and eventually in the present Complaint. She confirmed that they had issued legal processes to the BPLO of Quezon City, Malabon, Navotas, DTI, Securities and Exchange Commission ("*SEC*"), DBM and COA. They also interviewed the Barangay Chairmen, the listed beneficiaries, and the City Agriculturist of Malabon and Navotas. The team found that there were no trainings conducted, and no kits were distributed. The Investigation Report was submitted to the team leader, Acting Director, Assistant Ombudsman and the Ombudsman. The team found that (1) the selection of the NGOs had been based only on the endorsement of accused Sandoval, (2) that the projects are fictitious, and (3) that there had been an organized effort for the release and approval of the disputed PDAF. The team then recommended the filing of administrative and criminal charges.⁸²

⁷⁸ Id., pp. 25-38.

⁷⁹ Judicial Affidavit, subscribed and sworn to on September 28, 2017.

⁸⁰ Id., pp. 2-3.

⁸¹ Transcript of Stenographic Notes dated November 10, 2017, p. 44.

⁸² Id., p. 53-88.

During cross-examination,⁸³ witness Nivera testified that accused Sandoval had not been in possession of the funds given to the TRC. Accused Sandoval was not a signatory to the checks issued by TRC to the IAs. Accused Sandoval also did not receive any check from TRC. She admitted that the team did not find a witness to prove that accused Sandoval had received money from TRC. The team recommended the filing of the complaint because there was a misappropriation of funds. She further testified that even before the accreditation of the NGOs, accused Sandoval had already issued a letter directing TRC to transfer the funds to the NGOs. The team also found that TRC did not conduct public bidding or negotiated procurement in the selection of the NGOs. She added that TRC, not accused Sandoval, has the obligation to attach the bidding documents to the DVs. Based on the MOA, the TRC was tasked to monitor and ensure that the NGO was performing its job. Still, accused Sandoval had the duty to approve and sign the Certification that the project had been completed, and to warrant that the foundation is legitimate and *bonafide* with a good track record and capability. The TRC, in turn, had the duty to monitor the project and utilization of funds.⁸⁴

Continuing with her testimony, witness Nivera recounted that while the basis for the conduct of the fact-finding investigation had been the COA reports, she had conducted her own investigation. Admittedly, there is no document which shows that accused Lacsamana received any amount from accused Sandoval's PDAF. The recommendation for the filing of the charges against the latter was based on the existence of conspiracy. However, there is no evidence that the accused met for the purpose of defrauding the government and that they know each other personally.⁸⁵

Witness Nivera further recounted that the Investigation Report had been reviewed and approved by their team leader, Director, Supervising Director of PDAF cases and finally the Ombudsman. She cannot overturn the decision of her approving officers and the Ombudsman. She confirmed that accused Jover, Espiritu or any of the accused had not been invited during the fact-finding investigation. She admitted that they do not have proof that accused Jover had received

⁸³ Transcript of Stenographic Notes November 17, 2017, p.m.

⁸⁴ Id., pp. 49-68.

⁸⁵ Id., pp. 83-92.

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money from any of the accused, and that the latter, together with accused Espiritu, had conspired with any of the accused.⁸⁶

On re-direct examination, witness Nivera explained that accused Espiritu had been included in the complaint since the latter signed the DVs and affixed her signature thereon on April 30, 2008, prior to the notarization of the MOA on May 2, 2008. This, the witness claimed, is proof that there was an agreement to prepare the DVs even before the execution of the MOA. Accused Lacsamana, in turn, was charged because she knowingly recommended the release of the funds even though the NGOs was selected based solely on the endorsement of accused Sandoval and there was no proper selection process.⁸⁷

On re-cross examination, witness Nivera clarified that the release memorandum executed by accused Lacsamana came after the request for the release of the PDAF made by the legislator, after the recommendation of the Speaker of the House and the Chairman of the Appropriations Committee, after the issuance of the SAROs by the DBM and after the execution of the MOA by TRC for SARO No. D-08-09694. She said that the execution of the MOA is necessary for the DV while the SARO is necessary for the release of the budget. In the DV, the NCA was issued before the certification of Espiritu.⁸⁸

Witness **Marita Dela Paz Trinidad** ("*Witness Trinidad*") testified, by way of Judicial Affidavit,⁸⁹ that she was the Chief of the BPLO of Navotas City. She issued a Certification dated April 1, 2014 stating that PFI's suppliers had not been not issued any Mayor's Permit or Business License.⁹⁰ During her cross examination,⁹¹ witness Trinidad admitted that she has no political party, but she was a supporter of both the Mayor and Congressman of Navotas.⁹²

On January 12, 2018, the parties stipulated that witness **Ernani M. Dionisio** ("*Witness Dionisio*") will testify according to the tenor of his Judicial Affidavit⁹³ dated December 7, 2017.⁹⁴ Based on the Stipulation

⁸⁶ Id., pp. 97-112.

⁸⁷ Id., pp. 119-120.

⁸⁸ Id., pp. 134-138.

⁸⁹ Judicial Affidavit, subscribed and sworn to on September 13, 2017.

⁹⁰ Id., p. 6.

⁹¹ Transcript of Stenographic Notes dated November 17, 2017, p.m.

⁹² Id., pp. 14-15.

⁹³ Judicial Affidavit, subscribed and sworn to on December 7, 2017.

⁹⁴ Transcript of Stenographic Notes dated January 12, 2018.

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of Facts dated January 8, 2018, the following were stipulated: (a) witness Dionisio will be able to identify his judicial affidavit; (b) he will attest to the veracity and truthfulness of its contents; (c) he is the Assistant Director of the Philippine Accreditation Bureau of the DTI; (d) prior to his appointment, he was one of the Directors of DTI-NCR who handled the management of the Technical Committee-Business Registration System of the DTI; (e) as head of the Technical Committee, his main duties include supervising and convening the technical committee, policy making, issuance of certifications, among others; (f) he approved and signed certifications prepared by his committee; and (g) he can identify Exhibits B-247 to B-249.

In her Judicial Affidavit,⁹⁵ witness **Dolores De Lemios Nalica** ("*Witness Nalica*"), the Head of Malabon Agricultural Services Office from 1993 to 2011, verified that she had issued the Certification dated April 4, 2014 stating that there were no registered businesses under the names of PFI's suppliers.⁹⁶ The parties then stipulated on the following: (a) the Judicial Affidavit executed by witness Nalica on September 8, 2017 was duly executed and authentic and (b) witness Nalica will be able to identify Exhibits B-185, B-431, B-245, B-437 to B-440.⁹⁷

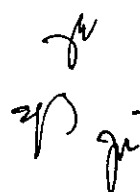
Witness **Atty. RJ A. Bernal** ("*Witness Bernal*") testified by way of his Judicial Affidavit.⁹⁸ As the Securities Counsel III assigned at the Company Registration and Monitoring Department (CRMD) of the SEC since August 23, 2017, he received a subpoena from the Office of the Special Prosecutor ("*OSP*") directing a representative from his office to appear at a case conference regarding the original and authenticated copies of the documents of PFI, DRAISFI and JCBFI. He verified that his office had already complied with the earlier subpoenas and the documents were already transmitted to the OSP. As to those documents which cannot be found, there were Certifications issued stating such fact. He also checked the database and found that all the submitted documents are in the database. He brought the documents during the case conference on November 28, 2017, and he confirmed that the transmitted documents were the same as the documents he printed from the database. He identified them and the signature of the OIC of CFRD. He also identified the transmittals produced

⁹⁵ Judicial Affidavit, subscribed and sworn to on September 13, 2017.

⁹⁶ *Id.*, pp. 5-6.

⁹⁷ Transcript of Stenographic Notes dated January 12, 2018.

⁹⁸ Judicial Affidavit, subscribed and sworn to on November 28, 2017.



electronically and those signed by CRMD Director and the Certification.⁹⁹

On January 12, 2018, the parties stipulated on the following: (a) the Judicial Affidavit dated November 28, 2017 was duly executed and authentic and (b) witness Bernal can identify Exhibits M to M-18, M-20 to M-21, M-23 to M-73, M-75 to M-117, M-119 to M-123, the Certifications marked as Exhibits M-124 and 128, Exhibits M-19, M-22, M-74, M-118 and M-125 to M-127, the signature of CRMD Director Ferdinand Sales in M-125 to 127, and Exhibits B-57 to B-77 to be the same as M to M-18 and M-20 to M-21.¹⁰⁰

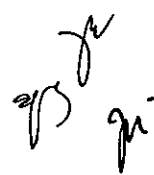
As regards the testimony of witness **Philip Daniel Matthews** ("*Witness Matthews*"), the prosecution submitted to the Court its Proposed Stipulation of Facts dated January 8, 2018,¹⁰¹ as follows: (a) witness Matthews is an Associate Graft Investigator II of the FIO of the Office of the Ombudsman; (b) pursuant to Office Order No. 46 Series of 2014 signed by the Ombudsman on January 14, 2014, he was designated as a member of the Special Team of Investigators that will conduct a fact-finding investigation on the issuance, utilization and liquidation of the PDAF of several lawmakers including Sandoval for the CYs 2007 to 2009 as well as the IAs and the NGOs involved; (c) other members of Special Team 3 were Team Leader Atty. Charlo Salcedo, Mary Chile Nivera, Fe Celbrado, Gia Lyn Yebron, Glenda Sercado, Romeo Igot, Jr. and Lean Gregorio; (d) records consisting of COA documents were indorsed to the Team Leader; (e) in the course of their investigation, the Team issued legal processes (subpoena) to concerned government agencies, interviewed beneficiaries, conducted field validation and ocular inspection; (f) the Team obtained sworn statements from alleged beneficiaries and local government officials who denied attending livelihood trainings and receiving kits, supplies, equipment or assistance; (g) the Team came up with its statement of facts, findings, conclusions and recommendations; and (h) the Team prepared a Complaint dated August 1, 2014 with annexes. The parties then stipulated that witness Matthews will testify according to the tenor and content of the said Stipulation of Facts dated January 8, 2018.¹⁰²

⁹⁹ Id., pp. 1-4.

¹⁰⁰ Transcript of Stenographic Notes dated January 12, 2018.

¹⁰¹ Records, Vol. VII, pp. 423-426.

¹⁰² Transcript of Stenographic Notes dated January 12, 2018.



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On cross-examination, witness Matthews recounted that during the investigation, he had discovered irregularities in the transactions by relying on the public records and testimonies of witnesses. He however admitted that there is no direct testimony which points to the culpability of accused Lacsamana, Espiritu and Jover. The team also did not conduct a lifestyle investigation and there is no direct evidence that said accused received any amount out of the PDAF transactions. The team did not interview the subject of the investigation because they are not allowed to do so in accordance with their non-contact policy.¹⁰³

As regards the testimony of witness **Myrna M. Reyes** ("*Witness Reyes*"), the parties stipulated on the authenticity and due execution of her Judicial Affidavit.¹⁰⁴ As Records Officer II of the BPLO, Records Section of Quezon City, she confirmed the issuance of the Certification dated March 4, 2011 stating that no business permit had been issued under the names of Padillo Transport, Horizon Research and other suppliers.¹⁰⁵ As additional direct testimony, witness Reyes identified the Certification and the signature of the Acting Chief, Vicky Ramos.¹⁰⁶

During cross-examination, witness Reyes clarified that another staff member was the one who personally verified the records in the database. After finding no record in the database, another staff member went through the manual records, or records entered manually. Another person then prepared and submitted the Certification to Vicky Ramos with an attached verification slip. She signed for Natividad Fetil who was not around at that time.¹⁰⁷

Witness **Marissa A. Santos** ("*Witness Santos*"), who testified through her Judicial Affidavit,¹⁰⁸ averred that she was then the Chief Administrative Officer of the Central Records Division of the DBM. After receiving the subpoena, she prepared a transmittal letter for the submission of the requested documents pertaining to the disputed SAROs and submitted it to the OSP. She then stated that the original copies of Exhibits I-2, I-4, J, J-1, K and K-1 are with the Bureau of Treasury while the originals of Exhibit J-3 are with the TLRC. The originals of Exhibits K-2, I-3 and J-2, in turn, are with the Landbank of

¹⁰³ Id., pp. 42-48.

¹⁰⁴ Judicial Affidavit, subscribed and sworn to on October 9, 2017.

¹⁰⁵ Id., pp. 1-5.

¹⁰⁶ Transcript of Stenographic Notes dated January 26, 2018.

¹⁰⁷ Id., pp. 54-59.

¹⁰⁸ Judicial Affidavit, subscribed and sworn to on October 13, 2017.

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the Philippines ("*Landbank*"). However, the originals of Exhibits I-5, I-6, K-4 and K-3 could no longer be found and what they have were machine copies on file. The originals of I-7 and J-4 were in her custody.¹⁰⁹

The parties admitted the stipulations enumerated in the stipulation of facts except for Exhibits I-5, I-6 and K-4, which are only certified copies of the machine copies.¹¹⁰

During cross-examination, witness Santos claimed that she has no personal knowledge as to how the other documents were lost.¹¹¹

At the time of his direct testimony, witness **Carlito A. Esguerra** ("*Witness Esguerra*") was the OIC of the BPLO, Novaliches District Center. In his testimony, by way of Judicial Affidavit,¹¹² he attested to the events leading to the issuance of the Indorsement to BPLO Quezon City regarding the business permits of the suppliers of PFI. It was found that said suppliers had no business permits on file. After stipulating on the due execution and authenticity of the Judicial Affidavit, the parties dispensed with further testimony.¹¹³

On cross-examination, witness Esquerra agreed that even though a business entity is not registered with the BPLO, it does not mean that it is not doing business since registration is merely a regulatory power. The Certification is based only on their record. She further acceded to the fact that there are businesses existing without permits.¹¹⁴

Witness **Elvie P. Dela Rosa** ("*Witness Dela Rosa*") declared in her Judicial Affidavit,¹¹⁵ that she was the Barangay Chairman of Barangay Navotas West since 2013 and a resident of the barangay for about 30 years. In compliance with the subpoena issued by the Office of the Ombudsman, she checked the old COMELEC List of Voters, and found that Onie Liban does not appear therein. She thus asked the barangay *tanod* and health workers to find said person, but the latter found no

¹⁰⁹ Id., pp. 1-9.

¹¹⁰ Transcript of Stenographic Notes dated February 2, 2018, p. 13.

¹¹¹ Id., pp. 21, 23.

¹¹² Judicial Affidavit, subscribed and sworn to on November 28, 2017.

¹¹³ Transcript of Stenographic Notes dated February 2, 2018.

¹¹⁴ Id., pp. 32-33.

¹¹⁵ Judicial Affidavit, subscribed and sworn to on January 9, 2018.

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resident with such name. She then issued the Certification dated March 24, 2014. She also identified the list shown to her.¹¹⁶ The parties stipulated on the due execution and authenticity of the Judicial Affidavit.¹¹⁷

On cross-examination, witness Dela Rosa clarified that it was her secretary who examined the COMELEC List of Voters. Admittedly, she asked the *tanod* and health workers to look for Onie Liban. She further admitted that she had not verified if Onie Liban was a minor at that time. She, however, declared that there was no such person in her barangay, and that if only she had found her, she would have brought her to court. She cannot ascertain the number of residents in her barangay since some residents left because of a fire and a new mapping will be conducted.¹¹⁸

In her Judicial Affidavit,¹¹⁹ witness **Marilou C. Gonzales** ("*Witness Gonzales*"), the Barangay Chairman of Barangay Bagumbayan North, Navotas City since 2013, testified that she had issued a Certification dated April 8, 2014 stating that Leonilo Manuzzo, Carmelo Rigunan and Marcelo Daet are not in the list of voters. She also did not know said persons. She has been a resident of her barangay since birth.¹²⁰ The parties stipulated on the due execution and authenticity of the Judicial Affidavit.¹²¹

On cross-examination, witness Gonzales attested that she had personally investigated the supposed beneficiaries by relying on the COMELEC list. Allegedly, she knows almost all the residents of her small barangay, which has less than 5,000 residents. She also asked the transients.¹²²

In his Judicial Affidavit,¹²³ witness **Roderick N. Fulgencio** ("*Witness Fulgencio*"), the Barangay Chairman of Barangay Niugan, Malabon City since 2007, verified the issuance of the Certification and reply-letter dated April 8, 2014, which show that the beneficiaries who

¹¹⁶ *Id.*, pp. 1-4.

¹¹⁷ Transcript of Stenographic Notes dated February 2, 2018.

¹¹⁸ *Id.*, pp. 40-45.

¹¹⁹ Judicial Affidavit, subscribed and sworn to on January 10, 2018.

¹²⁰ *Id.*, pp. 1-4.

¹²¹ Transcript of Stenographic Notes dated February 2, 2018.

¹²² *Id.*, pp. 52-53.

¹²³ Judicial Affidavit, subscribed and sworn to on January 15, 2018.

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were listed as residents of his barangay do not appear in the voters list. He has been a resident of Barangay Niugan since birth.¹²⁴ The parties stipulated on the due execution and authenticity of the Judicial Affidavit.¹²⁵

During his cross-examination, witness Fulgencio admitted that the barangay secretary and staff were the ones who conducted the verification. He then showed the voters list, which was the basis of the findings.¹²⁶

In his Judicial Affidavit,¹²⁷ witness **Julian B. Buenaventura** ("*Witness Buenaventura*") stated that he has been the Barangay Chairman of Barangay Tañong, Malabon City since 2007 and a resident therein since birth. After verification, he found that there was no Bonifacio Amador in the voters list. He also attested that there was no such person in his barangay. In this connection, he issued a Certification dated March 13, 2014.¹²⁸ The parties stipulated on the due execution and authenticity of the Judicial Affidavit.¹²⁹

On cross-examination, witness Buenaventura explained that the Certification had been based on the information given to him by the barangay *tanods* and barangay secretary. He further confirmed that based on the voters list, Bonifacio Amador was not a resident of his barangay.¹³⁰

According to his Judicial Affidavit,¹³¹ witness **Anthony C. Velasquez** ("*Witness Velasquez*") has been the Barangay Chairman of Barangay Hulong Duhat, Malabon City since 2010. He affirmed that he had executed a letter dated March 28, 2014 and a Certification stating that there was no Pedro Celeda in the voters list of his barangay, and that he had attached thereto a copy of the voters list for 2008-2011.¹³²

¹²⁴ Id., pp. 1-4.

¹²⁵ Transcript of Stenographic Notes dated February 9, 2018.

¹²⁶ Id., pp. 9-10.

¹²⁷ Judicial Affidavit, subscribed and sworn to on January 8, 2018.

¹²⁸ Id., pp. 1-4.

¹²⁹ Transcript of Stenographic Notes dated February 23, 2018.

¹³⁰ Id., p. 24-26.

¹³¹ Judicial Affidavit, subscribed and sworn to on January 30, 2018.

¹³² Id., pp. 1-4.

The parties stipulated on the due execution and authenticity of the Judicial Affidavit.¹³³

On cross-examination, witness Velasquez maintained that he had personally verified the name of Pedro Celeda from the voters list for 2008-2011. He made the Certification based on his findings and from information from his barangay *tanod*. According to the witness, there were around 12,000 to 14,000 residents in his barangay at that time. He grew up in the area and was thus familiar with the residents. He however admitted the possibility that there are persons in the voters list who are no longer residing in their barangay.¹³⁴

By way of his Judicial Affidavit,¹³⁵ witness **Jerome Jasper P. Manalastas** ("*Witness Manalastas*"), the Barangay Chairman of Santulan, Malabon City since 2013 and a resident therein since birth, testified that he had issued a Certification dated March 13, 2014, and submitted it to the Office of the Ombudsman. Upon his instructions, the former barangay secretary checked the voters list and asked the street leaders regarding the supposed beneficiaries of the PDAF project. After verification, it was revealed that the supposed beneficiaries were not in the list and that they were not known to the street leaders.¹³⁶ The parties stipulated on the due execution and authenticity of said Judicial Affidavit. During his additional direct examination, he identified his Judicial Affidavit except Questions 4, 5 and 6 therein.¹³⁷

On cross-examination, witness Manalastas admitted that the Judicial Affidavit had been prepared and typed by Pros. Darlene Vivas. It was already prepared when he arrived. Pros. Vivas asked the questions, and he signed it before Pros. Agunias. During the execution of the affidavit, he brought with him the voters list, which his secretary prepared. They personally went through the COMELEC list to verify. At the time of his testimony, he did not belong to the political group of accused Sandoval and was a supporter of Mayor Oreta.¹³⁸ He did not have personal knowledge of the subject matter of this case in 2007.¹³⁹

¹³³ Transcript of Stenographic Notes dated March 2, 2018.

¹³⁴ Id., pp. 13-17.

¹³⁵ Judicial Affidavit, subscribed and sworn to on January 15, 2018.

¹³⁶ Id., pp. 1-4.

¹³⁷ Transcript of Stenographic Notes dated March 2, 2018.

¹³⁸ Id., pp. 46-50.

¹³⁹ Id., p. 57.

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He also did not know if Exequiel de Mesa and Gonzalo Santiago were residents at that time since he was not yet the Barangay Captain then.¹⁴⁰

Taking the stand, witness **Carlito M. De Guzman, Sr.** ("*Witness De Guzman*"), by way of his Judicial Affidavit,¹⁴¹ testified that he has served as Barangay Chairman of Tanza, Navotas City since 2010. He received a letter from the Office of the Ombudsman seeking the verification of the names on the latter's list, particularly Marife Nagahay and Joey Manigod. After verification, it was found that there were no such names or persons in his barangay. He then prepared a letter dated March 27, 2014 with his *Sinumpaang Salaysay* in response to the Ombudsman's letter.¹⁴² The parties stipulated on the due execution and authenticity of the Judicial Affidavit.¹⁴³

On cross-examination,¹⁴⁴ witness De Guzman admitted that in issuing his Certification, he had relied on the information given by his *purok* leader and the COMELEC voters list. He did not personally investigate or look for the persons named in the subpoena. He claimed that at that time, there were approximately 30,000 residents in his barangay. Thus, it may be possible that he did not personally know said persons.¹⁴⁵

According to his Judicial Affidavit,¹⁴⁶ witness **Tito M. Sanchez** ("*Witness Sanchez*") has been the Barangay Chairman of Daanghari, Navotas City since 2013. He received a subpoena with an attached list of beneficiaries from the Office of the Ombudsman. After verification, he issued a Certification that Nicanor Orio and Ma. Elena Tingod were not residents of his barangay.¹⁴⁷ The parties stipulated on the due execution and authenticity of the Judicial Affidavit.¹⁴⁸

On cross-examination, witness Sanchez admitted that in issuing the Certification, he had relied on the findings of his four "*kawani*" or employees, namely, Vangie Sanchez, Mela Cruz, Chacha Cruz and Ms. Abogaga. Said employees, however, did not execute any document to

¹⁴⁰ Id., p. 58.

¹⁴¹ Judicial Affidavit, subscribed and sworn to on January 30, 2018.

¹⁴² Id., pp. 1-3.

¹⁴³ Transcript of Stenographic Notes dated March 9, 2018.

¹⁴⁴ Id.

¹⁴⁵ Id., pp. 12-14.

¹⁴⁶ Judicial Affidavit, subscribed and sworn to on January 24, 2018.

¹⁴⁷ Id., pp. 1-2.

¹⁴⁸ Transcript of Stenographic Notes dated March 9, 2018.

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attest to this fact. He claimed that he had personally gone around his barangay with a population of about 20,000 to verify. He asked his kagawads and residents for three to four days. He tried his best to go to the relocation site of other residents. Since he was not the Barangay Captain in May 2008, he was not aware of the events in his barangay. He admitted that he did not know whether Nicanor Orio and Ma. Elena Tingod had been residents of his barangay at that time. Aside from the COMELEC voters list, he also referred to the database of the barangay. He affirmed that the COMELEC voters list could not be a reliable and complete source of names.¹⁴⁹

During re-direct examination, witness Sanchez reiterated that he did not know Nicanor Orio and Ma. Elena Tingod in 2008.¹⁵⁰

By way of his Judicial Affidavit,¹⁵¹ witness **Policarpio A. Ombas** ("*Witness Ombas*") testified that he has been the Barangay Chairman of Barangay Tonsuya, Malabon City since 2007. Acting on the subpoena issued to him and after verification, he found that Norma C. Juan, a supposed PFI beneficiary, was not in the database and not a bonafide resident of his barangay. He issued a Certification dated March 25, 2014 in this regard.¹⁵² The parties stipulated on the due execution and authenticity of the Judicial Affidavit.¹⁵³

During his cross-examination, witness Ombas maintained that a bona fide or legitimate resident is a registered voter. If a person is not a legitimate resident, he may be staying, but not voting there. He was also not aware of the PDAF-funded seminar. Admittedly, he relied on the database, and asserted that those in the database are legitimate residents. Yet, he is not familiar with the residents who are boarding or renting. He further admitted the possibility that those who were renting had not been reported to the barangay, and that lessees in some apartments for several years had not been known to him. He however did not consider lessees as bona fide barangay residents.¹⁵⁴

¹⁴⁹ Id., pp. 19-29.

¹⁵⁰ Id, p. 30.

¹⁵¹ Judicial Affidavit, subscribed and sworn to on February 28, 2018.

¹⁵² Id., pp. 1-3.

¹⁵³ Transcript of Stenographic Notes dated March 9, 2018.

¹⁵⁴ Id., pp. 36-45.

Based on his Judicial Affidavit,¹⁵⁵ witness **Enrico P. Sevilla** ("*Witness Sevilla*") was the Assistant City Legal Officer of the Malabon City in 2011. He was also designated as OIC of the BPLO of Malabon City. He received a letter from the COA regarding several business establishments. After verification from the electronic database, they obtained information on some, but none on the others. They then prepared a letter addressed to the COA marked as Exhibit B-244 and D-74.¹⁵⁶ The parties stipulated on the due execution and authenticity of the Judicial Affidavit.¹⁵⁷

During cross examination, witness Sevilla confirmed that the verification had been conducted by his staff. He only signed the Certification. It was the Acting City Administrator who appointed him. He identified Joan Lacsamana as the one who accessed the database to verify. He affirmed that some business entities are operating without permit.¹⁵⁸

Witness **Victor R. Trinidad** ("*Witness Trinidad*") was the Barangay Chairman of Barangay Acacia, Malabon from 1992 to 2007. He was then re-elected in 2013. By way of his Judicial Affidavit,¹⁵⁹ witness Trinidad testified that he had checked the Master List of Voters and had asked around the barangay about Edilberto O. Rivas. After verification, it was found that there was no such person in his barangay. He then issued a Certification regarding this information.¹⁶⁰ The parties stipulated on the due execution and authenticity of the Judicial Affidavit.¹⁶¹

On cross-examination, witness Trinidad recounted that he had checked the voters list and had gone around the barangay to look for Edilberto Rivas. According to the witness, the population of his barangay was around 11,000 at that time. He did not know how many of those were 10 years old and below and how many were 18 years old and below. He affirmed that not all who are 18 years old and above had registered to vote. He added that people renting were not registered residents. He clarified that at that time, there was no barangay resolution prohibiting a person to use a rented place as address in his

¹⁵⁵ Judicial Affidavit, subscribed and sworn to on October 6, 2017.

¹⁵⁶ Id., pp. 2-3.

¹⁵⁷ Transcript of Stenographic Notes dated March 16, 2018.

¹⁵⁸ Id., pp. 9-14.

¹⁵⁹ Judicial Affidavit, subscribed and sworn to on January 31, 2018.

¹⁶⁰ Id., pp. 2-3.

¹⁶¹ Transcript of Stenographic Notes dated March 16, 2018.

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transactions. He said that his query in the third paragraph of his Certification about the exact address of the person had not been answered by the Office of the Ombudsman. He stressed that to get a barangay clearance, a person needs at least 6 months of residency in the barangay.¹⁶²

In his Judicial Affidavit,¹⁶³ witness **Ricardo L. Sy** ("*Witness Sy*"), the Barangay Chairman of San Rafael Village, Navotas City in 2014, testified that he had received a subpoena from the Office of the Ombudsman to confirm the residency of Rebecca Ona and Marissa Laad. After verification, it was revealed that said names were not in the list of voters. Neither were the names included in the list of people who requested a barangay clearance. He also did not know anyone with said names in his barangay. He then made a Certification dated May 24, 2014 reflecting the results of his verification.¹⁶⁴ The parties stipulated on the due execution and authenticity of the Judicial Affidavit.¹⁶⁵

During cross-examination, witness Sy confirmed that he had checked the voters list and had even asked former Barangay Captain George So about Rebecca Ona and Marissa Laad. He pointed out that he had even checked the list of issued barangay clearances. He asserted that his barangay did not receive any monetary benefits from any Congressman of Navotas.¹⁶⁶

According to his Judicial Affidavit,¹⁶⁷ witness **Enrico P. Gino-Gino** ("*Witness Gino-Gino*"), the Barangay Chairman of Barangay San Roque, Navotas City since 2013, received a subpoena from the OSP directing him to submit the Certificates of Residency of Ramon Alicaya and Jenny Hirang whose names appear in the attached List of Beneficiaries of the PFI project. After verification, it was found that the supposed beneficiaries were not residents of his barangay. In this regard, he issued a Certification dated April 28, 2014. He used the COMELEC List of Voters since it is the most reliable source of

¹⁶² Id., pp. 19-37.

¹⁶³ Judicial Affidavit, subscribed and sworn to on February 21, 2018.

¹⁶⁴ Id., pp. 2-3.

¹⁶⁵ Transcript of Stenographic Notes dated March 16, 2018.

¹⁶⁶ Id., pp. 72-75.

¹⁶⁷ Judicial Affidavit, subscribed and sworn to on February 28, 2018.

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information as regards bona fide residents.¹⁶⁸ The parties stipulated on the due execution and authenticity of the Judicial Affidavit.¹⁶⁹

On cross-examination, witness Gino-Gino confirmed that he had checked the voters list. He also asked the help of his secretary, people from the barangay, barangay health workers and barangay tanod to search for the supposed beneficiaries. Although he went around his barangay, he did not find said persons. He was not yet the Barangay Chairman on May 2-15, 2008 when the livelihood program was conducted. At that time, there were around 15,000 barangay residents and some had relocated. He became the Barangay Captain in 2013 and his Certification only covered the period from 2013 to the time that they did the search.¹⁷⁰

Witness **COA Director Garcia**, then Director IV of the COA-SAO, identified and adopted her Judicial Affidavit¹⁷¹ as her direct testimony.¹⁷²

According to COA Director Garcia, she supervised the PDAF special audit under COA Office Order No. 2010-309 and subsequent issuances from June 2010 to September 2012. The special audit included the PDAF of accused Sandoval for calendar years 2007-2009. Pertinently, she identified the DVs and supporting documents relative to SARO No. D-08-03248 dated April 14, 2008.¹⁷³ She identified the signatures in the documents including that of accused Petronila. She also recounted that upon verification, the Quezon City BPLO had certified that Horizon Research and Padillo Transport have no business permit. The Quezon City Technology Development Office also confirmed that WWD Merchandise and Padillo Transport were not in its database. Likewise, MAB Restaurant has no record in said offices. She then averred that the letters sent by the COA Special Service Sector to said suppliers had been "returned to sender." An ocular inspection of the business address of PFI in Manila also revealed that the site was a dilapidated apartment that had been previously occupied by accused Petronila. On the other hand, PFI's contract for the other listed address on Quezon Avenue, Quezon City had already been terminated effective

¹⁶⁸ Id., pp. 1-5.

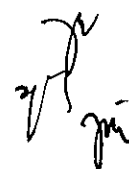
¹⁶⁹ Transcript of Stenographic Notes dated March 16, 2018.

¹⁷⁰ Id., pp. 83-95.

¹⁷¹ Judicial Affidavit, subscribed and sworn to on March 23, 2018.

¹⁷² Transcript of Stenographic Notes dated April 6, 2018, p. 28.

¹⁷³ Id., pp. 62-64.



December 30, 2009. In another ocular inspection in Old Balara, Quezon City, the president of the homeowners' association confirmed the existence of the NGO within the subdivision.¹⁷⁴

COA Director Garcia then testified on the following findings of the audit team regarding SARO No. ROCS-07-07448:

"a. SARO No. D-08-03248 was released by the DBM to TRC, sourced from FY 2008 Budget, RA No. 9498, as National Government's Subsidy to cover the implementation of various livelihood trainings and project in the District of Malabon City-Navotas City, despite the absence of documents required to be submitted by TRC to DBM as implementing agency (IA).

b. Of the amount received by TRC without its endorsement, P4.5 Million was merely transferred to PANG-FI, a non-governmental organization (NGO), despite the absence of an appropriation law earmarking an amount to be contracted out to NGOs as required under GPPB Resolution No. 12-2007 which was adopted as Section 53(j) of IRR-A of RA No. 9184, now Section 53.11 of the revised IRR.

c. The selection of Pangkabuhayan Foundation, Inc. was not in accordance with the guidelines prescribed under GPPB Resolution No. 12-2007 and COA Circular No. 2007-001 because of the following reasons:

1. PFI was not selected through competitive bidding or negotiated procurement prescribed under Section 53 (j) of the IRR-A of RA No. 9184 as provided under GPPB Resolution No. 12-2007. Instead, MOA was entered into with PANG-FI notarized on December 16, 2008 upon the endorsement by the legislator of PANG-FI and request for release of fund to PANG-FI in his letter dated December 15, 2008;

2. There was no proof that the project was made public via newspapers, agency websites, bulletin boards

¹⁷⁴ Id., pp. 70-88.

and the like, at least three months prior to the target date of commencement of the identified projects to ensure transparency as required under Item 4.5.1 of COA Circular No. 2007-001;

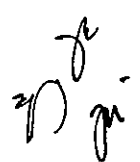
3. No documents were submitted to show that the Bids and Awards Committee accredited PFI after conducting selection process, including screening of the qualification documents, ocular inspection of NGO's business site and evaluation of their technical and financial capability.

4. The MOA did not include the provisions on the following, among others:

- Systems and procedures to implement the project
- Time schedules for the periodic inspection/evaluation, reporting, monitoring requirements and date of completion.
- Visitorial audit by the officials and personnel of COA and
- Project description, beneficiaries, benefits to be derived, brief description and site/location.

d. The physical and legal existence of PANG-FI turned out to be questionable as discussed below:

a. Of the P4.50 Million amount transferred, P4.00 Million was purportedly used to conduct livelihood trainings, and pay training related expenses to five (5) suppliers/providers and distribute financial assistance to 45 beneficiaries at either P25,000 or P50,000 each. The balance of P500,000 remained unliquidated as of audit date. The provision under Section 5.4 of COA Circular No. 2007-001 prescribing submission of the final Fund Utilization Report supported with inspection report, certificate of project completion and list of beneficiaries for the unliquidated P500,000 was not observed.



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b. The physical and legal existence of the purported suppliers/providers is also questionable as discussed below:

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c. The submitted list of 45 beneficiaries from the Cities of Malabon and Navotas on the livelihood development program conducted from May 2-15, 2008 are (sic) deficient.

d. Former Congressman Alvin Sandoval confirmed the authenticity of his signatures in the documents subject of this ND.

e. The utilization of Php500,000.00 retained by TRC as service fee for technical assistance and learning materials cannot also be accounted for as it was not documented."¹⁷⁵

COA Director Garcia pointed out that the submitted list of 45 alleged beneficiaries from the Cities of Malabon and Navotas who participated in the livelihood development program conducted from May 2-15, 2008 is deficient since their complete addresses had not been included therein. Thus, no verification can be had. There were no daily attendance sheets, and the training conducted was not disclosed. She then enumerated the persons who should be held liable and the documents which showed their participation or those which supported the findings of the COA.¹⁷⁶

During her cross-examination,¹⁷⁷ COA Director Garcia confirmed that although the PDAF system was declared unconstitutional, the audit of the subject 2007 to 2009 transactions were conducted prior to such decision. She stressed that it was the 2013 GAA that was declared unconstitutional. She also stressed that it was accused Sandoval who certified the completion of the project, signed the MOA and endorsed the foundation. It was likewise emphasized that while the NGO is SEC-registered, it has no track record, and is thus incapable of conducting trainings. Thus, accused Sandoval did not comply with the guidelines

¹⁷⁵ Id., pp. 88-90.

¹⁷⁶ Id., pp. 92-106.

¹⁷⁷ Transcript of Stenographic Notes dated April 6, 2018.

of the COA, which require competitive bidding in the selection of NGOs.¹⁷⁸ She further testified that the team selected the agencies to audit based on the materiality of the amount, and that the focus of their audit was on the IAs. They covered the Congressmen and Senators who implemented their projects.¹⁷⁹

COA Director Garcia thereafter recounted the events that transpired after the issuance of the Special Audit Report, specifically its submission to the IAs, DBM, TLRC, Senate, Congress and Office of the Ombudsman and the issuance of the NDs. She then explained that being a signatory to the subject documents made the person liable because payment is based on the signatures. She also clarified that the NDs had been issued for the refund of the disallowed transactions.¹⁸⁰

In her Judicial Affidavit,¹⁸¹ witness **Andreliza R. Cala** ("*Witness Cala*") stated that she has been the Division Chief of the Data Warehousing and Systems Operations Division, Information Systems Development and Operations Service of the BIR since 2013. Acting on the subpoena addressed to BIR Commissioner Caesar Dulay and after verification, their office submitted the Letter dated April 5, 2018 certifying that Horizon Research and WWD Merchandise, among others, have no registration data and no authority to print ("*ATP*"). The TINs of said suppliers were also invalid. She then identified the copies of receipts issued by said establishments to PFI and the other NGOs.¹⁸² The parties then stipulated on the due execution and authenticity of the Judicial Affidavit.¹⁸³

On cross-examination, witness Cala clarified that the certification that was issued had been based on the information given to her by the computer operator. In the examination of the documents, she did not come across the name of accused Sandoval except in the subpoena. When the photocopies of the receipts were shown to her, she confirmed that while the face of the receipts shows that several suppliers had issued them, it does not indicate the participation of the NGOs or the payors.¹⁸⁴

¹⁷⁸ Id., pp. 30-37.

¹⁷⁹ Id., p. 42.

¹⁸⁰ Id., pp. 45-59.

¹⁸¹ Judicial Affidavit, subscribed and sworn to on April 18, 2018.

¹⁸² Id., pp. 1-4.

¹⁸³ Transcript of Stenographic Notes dated April 27, 2018.

¹⁸⁴ Id., pp. 17-20.

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Accused Petronila and Fernando manifested that they will no longer conduct a cross-examination of the above-mentioned prosecution witnesses.¹⁸⁵

The prosecution thereafter recalled and presented witness Bernal on the stand.¹⁸⁶

Witness Bernal adopted his previous testimony and Judicial Affidavit dated November 28, 2017. He confirmed that while he was the current Chief Counsel of the SEC at the time of his testimony, he served as Securities Counsel III assigned at the Company Registration and Monitoring Department or CRMD of the SEC. In compliance with the subpoenas dated June 28, 2016, the CRMD submitted to the OSP the authenticated copies of the documents relative to the incorporation of PFI and other related documents. Also, said witness reasserted that he had personally verified said documents, and as Securities Counsel III, he had been required to testify on (1) the authenticity and due execution of the submitted documents and (2) the certification of the duly identified documents.¹⁸⁷

On cross-examination, witness Bernal clarified that officers or members of a corporation applying for the registration of its articles of incorporation are not required to be present before his office. He also testified that he had never seen accused Petronila and Fernando. With regard to the status of PFI, it was revealed during the cross examination that the registration of said NGO was previously revoked on September 30, 2003 for non-filing of reports as stated in Exhibit M-65 or the PFI Board Resolution dated April 27, 2007. When asked whether the PFI was re-registered, witness Bernal replied that he needed to verify the same from the system. He however clarified that said Board Resolution is a supporting document of the desire of the Board of Trustees to re-register.¹⁸⁸

At this point, the prosecution pointed out Exhibit M-61 or the Verification/Reservation Request and Exhibit M-59 or the Reservation

¹⁸⁵ Pre-Trial Orders dated April 4, 2023 and July 3, 2023, respectively.

¹⁸⁶ Records, Vol. XXIV, p. 413, Order dated July 11, 2023; Transcript of Stenographic Notes dated July 11, 2023.

¹⁸⁷ Transcript of Stenographic Notes dated July 11, 2023, pp. 5-8.

¹⁸⁸ *Id.*, pp. 10-12.

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Notice for SEC Registration, which prove that there had in fact been an application for the re-registration of PFI. It was also put on record that accused Petronila submitted Exhibit M-62 or the Registration Data Sheet dated April 27, 2007 as one of its incorporators. The prosecution eventually manifested that contrary to the postulation of the defense that PFI has yet to be re-registered, the evidence previously presented, particularly Exhibit M-42 or Certificate of Incorporation of PFI issued on May 9, 2007, proves PFI's re-registration with the SEC.¹⁸⁹

A Supplemental Formal Offer of Evidence dated July 25, 2023¹⁹⁰ was thereafter filed by the prosecution manifesting that it has adopted the Formal Offer of Evidence dated July 12, 2018, and specifically offers herein Exhibits A, A-1 to A-2, A-3 to A-7, A-8-A-461, A-460-a to A-460-n, A-461-a to A-461g, A-21, A-22 to A-24, A-26 to A-27, A-28 to A-29, A-46 to A-48, A-52 to A-65, A-161, A-165 to A-166, A-285 to A-287, B, B-1 to B-20, B-44 to B-48, B-49 to B-56, B-123, B-184, B-185, B-189, B-191 to B-260, B-262 to B-282, B-285 to B-300, B-305 to B-313, B-316 to B-363, B-483 to B-944, D, D-2 to D-28, D-30 to D-84, F-1 to F-5, G-2 to G-9, H-8 to H-13, H-27 to H-30, J, J-3 to J-4, M-29 to M-78, O-36 to O-37, O-84, O-109 to O-117, P-2 to P-8, R-2 to R-10, S-4 to S-5, S-7 to S-8, S-11 to S-13, T-1, T-4, T-7, and U-3 to U-16, the particulars of which are as follows:

Exhibit	Description
A	Certified True Copy of Special Audits Report No. 2012-03 Government-wide Performance Audit, consisting of 454 pages
A-1 to A-2	Special Services Sector Special Audit Office Letter dated August 14, 2013 addressed to Secretary Florencio B. Abad from COA Director IV Susan P. Garcia, consisting of two (2) pages
A-3 to A-7	Table of Contents, consisting of five (5) pages
A-8 to A-461	Page 1 to page 454

¹⁸⁹ Id., p. 18.

¹⁹⁰ Records, Vol. XXIV, pp. 430-691.

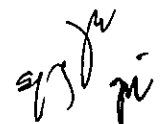
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A-460--a	Name and Signature of Catherine B. Petri
A-460-b	Name and Signature of Kristina Cleo R. Bigornia
A-460-c	Name and Signature of Jennifer A. Sanorjo
A-460-d	Name and Signature of Cristina P. Mercado
A-460-e	Name and Signature of Ma. Cristina Irene P. Franco
A-460-f	Name and Signature of Joselita G. Corteza
A-460-g	Name and Signature of George S. Tamayo, Jr.
A-460-h	Name and Signature of Dondon P. Marcos
A-460-i	Name and Signature of Joselito N. Sucion
A-460-j	Name and Signature of Rosemarie R. Magtaan
A-460-k	Name and Signature of Onofre R. Mores
A-460-l	Name and Signature of Lydia R. Duzon
A-460-m	Name and Name and Signature of Teresa T. Santiago
A-460-n	Name and Signature of Grace T. De Castro
A-461-a	Name and Signature of Joan Agnes N. Alfafaras
A-461-b	Name and Signature of Angelita A. Aquino
A-461-c	Name and Signature of Cheryll J. Apalisoc



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A-461-d	Name and Signature of Leona A. Andriano
A-461-e	Name and Signature of Gloria D. Silverio
A-461-f	Name and Signature of Elsielyn C. Masangcay
A-461-g	Name and Signature of Susan P. Garcia
A-21	Audit Findings No. 2 on Part I, Executive Summary, particularly on use of the IAs of the funds without due regard to existing rules and regulations. (page 14 of COA SARO Report No. 2012-03)
A-22 to A-24	Audit Findings No. 2.a on Part I, Executive Summary, particularly on Livelihood and Other Projects (pages 15 to 17 of COA SARO Report No. 2012-03)
A-26 to A-27	Management's Comments on Part I, Executive Summary, particularly on Livelihood and Other Projects (pages 19 to 20 of COA SARO Report No. 2012-03)
A-28 to A-29	Team's Rejoinder on Part I, Executive Summary (pages 21 to 22 of COA SARO Report No. 2012-03)
A-46 to A-48	Audit Observation No. 5 on Chapter I or the Allocation and Transfer of Funds and Monitoring of Releases, particularly on the release of funds to IAs without their endorsements and the transfer of funds to NGOs without legal basis because these NGOs are not among the listed IAs in the GAA (pages 39 to 41 of COA SARO Report No. 2012-03)

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A-52 to A-65	<p>a. Audit Observation No. 1 on Chapter 2 or the Implementation of Livelihood and Other Projects, particularly on the implementation of livelihood projects by NGOs endorsed by accused Sandoval in spite of the absence of any appropriation law or ordinance as required under GPPB Resolution No. 12-2007 (pages 46 to 47 of COA SARO Report No. 2012-03)</p> <p>b. Audit Observation No. 2 on Chapter 2 or the Implementation of Livelihood and Other Projects, particularly on non-compliance with COA Circular No. 2007-001 and GPPB Resolution No. 12-2007 in the selection of NGOs and projects were merely covered by MOA (page 48 of COA SARO Report No. 2012-03)</p> <p>c. Audit Observation No. 2 on Chapter 2 or the Implementation of Livelihood and Other Projects, particularly on the questionable existence of the NGOs, status of NGOs, status of suppliers and status of beneficiaries. (pages 49 to 65 of COA SARO Report No. 2012-03)</p>
A-161	Annex C on Part V or the Matrix of NGOs and the Amounts Released to them by the IAs Audit of PDAF Covering CYs 2007 to 2009, particularly on physical existence of PFI (Page 154 of COA SARO Report No. 2012-03)
A-165 to A-166	Annex C on Part V or the Matrix of NGOs and the Amounts Released to them by the IAs Audit of PDAF Covering CYs 2007 to 2009, particularly on TLRC's implementation of PDAF funded projects, existence of the suppliers and beneficiaries, and confirmation of the signature of accused Sandoval (Pages 158 to 159 of COA SARO Report No. 2012-03)

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A-285 to A-287	Annex D on Part V or the Management's Comments and Team's Rejoinder Funds Transfers to NGOs Audit of PDAF Covering CYs 2007 to 2009, particularly on IA's role in the implementation, selection of NGOs, selection of suppliers, selected beneficiaries, and liquidation of fund transfer (pages 278 to 280)
B	Original of Complaint, consisting of twenty-two (22) pages
B-1	Name and Signature of R Epicurus Charlo S. Salcedo
B-2	Name and Signature of Fe T. Bergancia-Celebrado III
B-3	Name and Signature of Philip Daniel B. Mathews
B-4	Name and Signature of Mary Chile G. Nivera
B-5	Annex A - Photocopy of Letter dated July 2, 2014, for Atty. Christopher S. Soguilon, Assets Acting Director, FIO from Ester L. Villaflor-Roxas, Director IV, Commission on Elections (COMELEC)
B-6	Annex A-1 - Photocopy of Certification dated July 2, 2014
B-7 (L-10 Comelec)	Annex A-2 - Photocopy of Certified True Copy of Voters Identification Card of Alvin S. Sandoval
B-8 to B-9	Annex A-3 to A-4 - Photocopy of Certified True Copy of List of Voters, consisting of two (2) pages

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B-10 (L-1 Comelec)	Annex A-5 – Photocopy of Certified True Copy of Certificate of Canvass of Votes and Proclamation of the Winning Candidates for Member of the House of Representatives
B-11 to B-12 (L-2 to L-3 Comelec)	Annex A-6 – Photocopy of Certified True Copy of Statement of Election Contributions and Expenses, consisting of two (2) pages
B-13 (L-4 Comelec)	Annex A-7 – Photocopy of Certified True Copy of Schedule of Expenditures
B-14 (L-5 Comelec)	Annex A-8 – Photocopy of Certified True Copy of Report on Expenditures on Public Meetings/Rallies
B-15 (L-6 Comelec)	Annex A-9 – Photocopy of Certified True Copy of Schedule of Unpaid Obligations
B-16 to B-17	Annex B – Photocopy of Certified True Copy of Document on File of Personal Data Sheet of Antonio Y. Ortiz, consisting of two (2) pages
B-18 to B-20	Annex B-1 – Photocopy of Certified True Copy of Document on File of Service Record of Antonio Y. Ortiz, consisting of three (3) pages
B-44 to B-48	Annexes G to G-4 – Photocopy of Articles of Incorporation of Pangkabuhayan Foundation, Inc. (PFI), consisting of five (5) pages
B-49 to B-56	Annexes G-5 to G-12 – Photocopy of By-Laws of Pangkabuhayan Foundation, Inc. (PFI), consisting of eight (8) pages
B-123	Annex K – Certified True Copy of SARO No. D-08-03248 dated April 14, 2008

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(D-2 COA; J DBM)	
B-184	Annex AA - Original of Certification dated March 20, 2014 from the City Business Permits and Licensing Office (CBPLO) of Navotas stating that no Mayor's Permit and Business License were issued to: Baby Nicolas, Andrea Y. Santos; Daphne Flores; Teodorico Bathan; and Delia Magcayan
B-185	Annex AA-1 - Original of Certification dated March 20, 2014 from the Business Permits and Licensing Office (BPLO) of Malabon stating that based on available records, there is no registered business under the names of: Baby Nicolas, Andrea Y. Santos; Daphne Flores; Teodorico Bathan; and Delia Magcayan
B-189 (F-3 COA)	Annex DD - Certified True Copy from Records on File of Letter dated November 29, 2011 addressed to Asst. Comm. Arcadio B. Cuenco, Jr. of COA signed by Cong. Alvin S. Sandoval confirming his signatures in the docs and authenticity of said docs submitted by the NGOs to TRC/DSWD.
B-191 (D-5 COA)	Annex FF - Certified True Copy from Records on File of TLRC-TL Official Receipt No. 2233235 dated April 25, 2008 in the amount of P5,000,000.00
B-192 (D-21 COA)	Annex GG - Certified True Copy from Records on File of Work Financial Plan for the P5,000,000.00 project submitted by Petronila A. Balmaceda, President of Pangkabuhayan Foundation, Inc. (PFI) and approved by Cong. Sandoval

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B-193 (D-13 COA)	Annex HH - Certified True Copy from Records on File of Endorsement Letter in favor of PFI dated April 29, 2008 signed by Cong. Alvin S. Sandoval addressed to Director-General Antonio Y. Ortiz of TRC
B-194 to B-198 (D-14 to D-18 COA)	Annexes II to II-4 - Certified True Copy from Records on File of Memorandum of Agreement among TRC, PFI and Cong. Sandoval dated May 2, 2008, consisting of five (5) pages
B-199 (D-6 COA)	Annex JJ - Certified True Copy from Records on File of Landbank Check No. 0000885800 dated May 2, 2008 in favor of PFI in the amount of P4,000,000.00
B-200 (D-6-a COA)	Dorsal part of the Landbank Check No. 0000885800
B-201 (D-10 COA)	Annex KK - Certified True Copy from Records on File of PFI Official Receipt No. 327 in the amount of P4,000,000.00
B-202 (D-11 COA)	Annex LL - Certified True Copy from Records on File of Disbursement Voucher No. 012008041128 in the amount of P5, 000,000.00 representing the release of financial grants from PDAF of Cong. Alvin Sandoval for the implementation of livelihood projects under SARO No. D-08-03248 issued on April 14, 2008.
B-203 (D-22 COA)	Annex MM - Certified True Copy from Records on File of Landbank Check No. 0000890017 dated December 2, 2008 in favor of Payee PFI in the amount of P500,000.00
B-204 (D-22-a COA)	Dorsal part of the Landbank Check No. 0000890017

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B-205 (D-27 COA)	Annex NN - Certified True Copy from Records on File of PFI Official Receipt No. 0553 in the amount of Five Hundred Thousand Pesos
B-206 (D-28 COA)	Annex OO - Certified True Copy from Records on File of Disbursement Voucher No. 012008122708 in the amount of P500,000.00 representing the release of 10% retention fee from the 5M PDAF of Cong. Sandoval
B-207 (D-31 COA)	Annex PP - Certified True Copy from Records on File of PFI Project Final Report on the proper utilization/disbursement of P5,000,000.00 and its beneficiaries
B-208 to B-209 (D-33 to D-34 COA) B-210 to B-215	Annexes QQ to QQ-7 - Certified True Copy from Records on File of Report of Independent Certified Public Accountant for PFI re: receipt and disbursement of P4,000,000.00 out of the P5,000,000.00 from the PDAF of Cong. Sandoval, consisting of eight (8) pages
B-216 (D-37 COA)	Annex RR - Certified True Copy from Records on File of Horizon Research Company Official Receipt No. 383 in the amount of P300,000.00 dated May 15, 2008
B-217 (D-38 COA)	Annex RR - Certified True Copy from Records on File of PFI Disbursement Voucher No. 519 in the amount of P300, 000.00 representing additional payment for consultancy services on seminar/training on livelihood development project of Cong. Sandoval dated May 15, 2008.
B-218 (D-39; G-5 COA)	Annex RR-1 - Certified True Copy from Records on File of Horizon Research Company Official Receipt No. 376 in the amount of P400,000.00 dated May 15, 2008

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B-219 (D-40 COA)	Annex RR-1 - Certified True Copy from Records on File of PFI Disbursement Voucher No. 513 in the amount of P400, 000.00 representing partial payment for consultancy services on seminar/training on livelihood development project of Cong. Sandoval dated May 15, 2008
B-220 (D-41 COA)	Annex RR-2 - Certified True Copy from Records on File of WWD General Merchandise Official Receipt No. 401 in the amount of P400,000.00 dated May 16, 2008
B-221 (D-42 COA)	Annex RR-2 - Certified True Copy from Records on File of PFI Disbursement Voucher No. 510 representing payment for the materials used in the seminar/training on livelihood development project of Cong. Sandoval dated May 16, 2008
B-222 (D-43 COA)	Annex RR-3 - Certified True Copy from Records on File of MAB Restaurant & Catering Services Official Receipt No. 288 dated May 15, 2008 in the amount of P75,000.00
B-223 (D-44 COA)	Annex RR-3 - Certified True Copy from Records on File of PFI Disbursement Voucher No. 509 representing payment for the venue during the entire duration of seminar/training about livelihood development project of Cong. Sandoval in the amount of P75,000.00 dated May 15, 2008
B-224 (D-45- COA)	Annex RR-4 - Certified True Copy from Records on File of MAB Restaurant & Catering Services Official Receipt No. 286 dated May 15, 2008 in the amount of P475,000.00

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B-225 (D-46 COA)	Annex RR-4 - Certified True Copy from Records on File of PFI Disbursement Voucher No. 502 representing payment for the food during the entire duration of seminar/training of beneficiaries in the amount of P475,000.00 dated May 15, 2008
B-226 (D-47 COA)	Annex RR-5 - Certified True Copy from Records on File of Padillo Transport Services, Inc. Official Receipt No. 261 dated May 15, 2008 in the amount of P350,000.00
B-227 (D-48 COA)	Annex RR-5 - Certified True Copy from Records on File of PFI Disbursement Voucher No. 501 representing payment for the transportation during seminar/training about livelihood development project of Cong. Sandoval in the amount of P350,000.00 dated May 16, 2008
B-228	Annex RR-6 - Certified True Copy from Records on File of Horizon Research Company Official Receipt No. 384 dated April 15, 2008 in the amount of P550,000.00
B-229	Annex RR-7 - Certified True Copy from Records on File of Horizon Research Company Official Receipt No. 383 dated May 15, 2008 in the amount of P300,000.00
B-230	Annex RR-7 - Certified True Copy from Records on File of Horizon Research Company Official Receipt No. 376 dated May 15, 2008 in the amount of P400,000.00
B-231	Annex RR-8 - Certified True Copy from Records on File of Padillo Transport Services, Inc. Official Receipt No. 265 dated October 8, 2007 in the amount of P350,000.00

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B-232	Annex RR-9 - Certified True Copy from Records on File of Padillo Transport Services, Inc. Official Receipt No. 261 dated May 15, 2008 in the amount of P350,000.00
B-233	Annex RR-10 - Certified True Copy from Records on File of WWD General Merchandise Official Receipt No. 407 dated October 8, 2007 in the amount of P250,000.00
B-234	Annex RR-11 - Certified True Copy from Records on File of WWD General Merchandise Official Receipt No. 401 dated May 16, 2008 in the amount of P400,000.00
B-235	Annex RR-12 - Certified True Copy from Records on File of MAB Restaurant & Catering Services Official Receipt No. 288 dated May 15, 2008 in the amount of P75,000.00
B-236	Annex RR-12 - Certified True Copy from Records on File of MAB Restaurant & Catering Services Official Receipt No. 286 dated May 15, 2008 in the amount of P475,000.00
B-237	Annex SS - Certified True Copy from Records on File of BPLO Certification dated (?) stating that no business permit has been issued in the name of: Padillo Transport Sev., Inc; Horizon Research Company, etc.
B-238 to B-241 (D-79 to D-82; E119 to E-122 COA)	Annexes SS-1 to SS-4 - Certified True Copy from Records on File of Letter dated November 21, 2011 signed by the Head of Information Technology Development Office of QC submitting the list of business establishments with record and no record of payments based on their database, consisting of four (4) pages

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B-242	Annex SS-5 - Original of QC BPLO Certification stating that no business permit has been issued to: Horizon Research Company; Padillo Transport Services, Inc.; Mab Restaurant & Catering Services; WWD General Merchandise and Teodoro Francisco
B-243	Annex SS-6 - Original of 1 st Indorsement dated April 2, 2014 from BPLO Novaliches District Center
B-244 (D-74/E-108 COA)	Annex TT - Certified True Copy from Records on File of BPLO Letter dated March 3, 2011 to COA with information on MAB Restaurant & Catering Services, etc.
B-245	Annex TT-1 - Original of Certification dated April 4, 2014 from the BPLO of Malabon stating that there is no registered business under the names of: Horizon Research Company; Padillo Transport Services, Inc.; MAB Restaurant & Catering Services; WWD General Merchandise and Teodoro Francisco
B-246	Annex UU - Original of Certification dated April 1, 2014 issued by the City BPLO of Navotas stating that no Mayor's Permit and Business License were issued to: Horizon Research Company; Padillo Transport Services, Inc.; MAB Restaurant & Catering Services; WWD General Merchandise and Teodoro Francisco
B-247 to B-249	Annex VV - Original of DTI Certification Re: Horizon Research Company; Padillo Transport Services, Inc.; Mab Restaurant & Catering Services; WWD General Merchandise and Pangkabuhayan Foundation, Inc., consisting of three (3) pages
B-250 (D-51 COA)	Annex WW - Certified True Copy from Records on File of PFI Livelihood Development Program List of Beneficiaries (Malabon City)

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B-251 (D-52 COA)	Annex WW-1 - Certified True Copy from Records on File of PFI Livelihood Development Program List of Beneficiaries (Malabon City)
B-252 (D-53 COA)	Annex WW-2 - Certified True Copy from Records on File of PFI Livelihood Development Program List of Beneficiaries (Navotas City)
B-253	Annex XX - Original of Letter dated April 8, 2014 signed by Barangay Chairman of Niugan, Malabon stating that the names appearing in the list of beneficiaries of PFI are not bona fide residents nor even become residents of said barangay
B-254	Annex XX-1 - Original of Certification dated April 8, 2014 signed by Barangay Chairman of Niugan, Malabon stating that the names appearing in the list of beneficiaries of PFI are not bona fide residents nor even become residents of said barangay
B-255 to B-257	Annex XX-2 to XX-4 - Photocopy of Certified True Copy from Records on File of Attachments: PFI Livelihood Development Program List of Beneficiaries (Malabon and Navotas City), consisting of three (3) pages
B-258	Annex XX-5 - Original of Letter dated April 14, 2014 signed by Barangay Captain of Baritan, Malabon stating that the names appearing in the list of beneficiaries of PFI are not bona fide residents nor even become residents of said barangay
B-259 to B-260	Annex XX-6 to XX-7 - Original of Certification dated April 14, 2014 signed by Barangay Captain of Baritan, Malabon stating that Ms. Rebecca Berrnildez whose name is in the attached list is not a bona fide resident nor even become residents of said barangay (2 copies)

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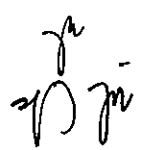
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B-262 to B-280	Annexes XX-9 to XX-27 - Computer Print Out of List of Registered Voters by Barangay, Barangay Baritan, Malabon City, consisting of nineteen (19) pages
B-281	Annex XX-28 - Original of Certification dated April 21, 2014 issued by Punong Barangay of Barangay Daanghari - Tito M. Sanchez - stating that NICANOR ORIO and MA. ELENA TINGOD are not residents and not registered voters in their barangay
B-282	Annex XX-29 - Photocopy of Certified True Copy from Records on File of attachment - PFI Livelihood Development Program List of Beneficiaries (Navotas City)
B-285	Annex XX-32 - Original of Certification dated March 13, 2014 issued by Barangay Chairman Julian Buenaventura, Jr.
B-286 to B-288	Annexes XX-33 to XX-35 - Photocopy of Certified True Copy from Records on File of attachments - PFI Livelihood Development Program Lists of Beneficiaries (Malabon City and Navotas City), consisting of three (3) pages
B-289	Annex XX-36 - Original of Certification dated April 21, 2014 issued by the Punong Barangay of Barangay San Jose, Navotas City stating that Jose Magsino is not a resident of Barangay San Jose, Navotas City
B-290	Annex XX-37 - Original of Certification dated 21 April 2014 issued by Barangay Chairman Tito M. Sanchez



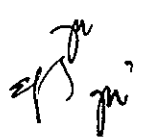
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B-291	Annex XX-38 - Photocopy of Certified True Copy from Records on File of PFI Livelihood Development Program List of Beneficiaries (Navotas City)
B-292	Annex XX-39 - Original of Certification dated May 24, 2014 issued by the Barangay Chairman of Barangay San Rafael Village, Navotas City stating that the names listed in the PFI program particularly Rebecca Ona and Marissa Laad are not bona-fide residents of said barangay
B-293 to B-295	Annexes XX-40 to XX-42 - Photocopy of Certified True Copy from Records on File of Attachments - PFI Livelihood Development Program Lists of Beneficiaries (Malabon City and Navotas City), consisting of three (3) pages
B-296	Annex XX-43 - Original of Letter dated April 28, 2014 by the Barangay Chairman of Barangay Tinajeros, Malabon City stating that he cannot comply with the subpoena issued to Mr. Esteban O. Arevalo, Ms. Irma S. Licudo and Paul Feliciano because said persons are no longer connected with the Barangay and that no proper turn-over of records were done by Mr. Arevalo.
B-297	Annex XX-44 - Original of Certification dated March 27, 2014 issued by the Barangay Chairwoman of Barangay Navotas West, Navotas City stating that Onie Liban whose name was on the list is not a resident of said Barangay and was not on the list/record of COMELEC of Navotas City.
B-298 to B-300	Annexes XX-45 to XX-47 - Photocopy of Certified True Copy from Records on File of attachments - PFI Livelihood Development Program Lists of Beneficiaries (Malabon City and Navotas City), consisting of three (3) pages



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B-305	Annex XX-52 – Original of Letter dated April 21, 2014 issued by the Barangay Chairman of Barangay San Roque, Navotas City requesting ample time until April 25, 2014 to comply with request/order for the submission of the certificates of residency of Mr. Ramon Alicaya and Ms. Jenny Hiran
B-306 to B-308	Annexes XX-53 to XX-55 – Photocopy of Certified True Copy from Records on File of attachments - PFI Livelihood Development Program Lists of Beneficiaries (Malabon City and Navotas City), consisting of three (3) pages
B-309	Annex XX-56 – Original of March 27, 2014 Cover Letter of Punong Barangay of Barangay Tanza, Navotas City
B-310	Annex XX-57 – Original of Salaysay of the Punong Barangay of Barangay Tanza, Navotas City stating that Marife Nagahay and Joey Manigod are not in the list of registered voters of Barangay Tanza and that these persons are not residents of Barangay Tanza
B-311 to B-313	Annexes XX-58 to XX-60 - Photocopy of Certified True Copy from Records on File of attachments - PFI Livelihood Development Program Lists of Beneficiaries (Malabon City and Navotas City), consisting of three (3) pages
B-316	Annex XX-63 – Original of Certification dated April 8, 2014 of the Punong Barangay of Barangay Bagumbayan North, Navotas City stating that Leonila Manuzzo, Carmelo Rigunan and Marcelo Daet are not residents of said Barangay

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B-317 to B-319	Annexes CC-64 to XX-66 - Photocopy of Certified True Copy from Records on File of attachments - PFI Livelihood Development Program Lists of Beneficiaries (Malabon City and Navotas City), consisting of three (3) pages
B-320	Annex XX-67 - Original of Certification dated March 27, 2014 of the Barangay Chairman of Barangay Acacia, Malabon City stating that Edilberto O. Rivas is not a voter in the said Barangay and that as per house-to-house inquiry made, nobody knew of the said person in their barangay
B-321 to B-323	Annexes XX-68 to XX-70 - Photocopy of Certified True Copy from Records on File of attachments - PFI Livelihood Development Program Lists of Beneficiaries (Malabon City and Navotas City), consisting of three (3) pages
B-324	Annex XX-71 - Original of Letter dated March 28, 2014 of the Barangay Chairman of Barangay Hulong Duhat, Malabon City
B-325	Annex XX-72 - Original of Certification dated March 28, 2014 stating that Mr. Pedro Celeda whose name is in the attached list is not a bona fide resident nor have been resident of this Barangay as per record.
B-326 to B- 328	Annexes XX-73 to XX-75 - Photocopy of Certified True Copy from Records on File of attachments - PFI Livelihood Development Program Lists of Beneficiaries (Malabon City and Navotas City), consisting of three (3) pages
B-329 to B-353	Annexes XX-76 to XX-100 - Original of the List of Residents of Barangay Hulong Duhat, Malabon City, consisting of twenty-five (25) pages

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B-354	Annex XX-101 - Original of Certification dated March 25, 2014 of the Barangay Chairman of Barangay Tonsuya, Malabon City stating that the persons in the attached list are not bonafide resident nor have been residents of this Barangay.
B-355 to B-357	Annexes XX-102 to XX-104 - Photocopy of Certified True Copy from Records on File of attachments - PFI Livelihood Development Program Lists of Beneficiaries (Malabon City and Navotas City), consisting of three (3) pages
B-358	Annex XX-105 - Original of Certification dated March 26, 2014 of the Barangay Chairman of Barangay Santulan, Malabon City stating that Ponciano D. Santiago and Exequiel De Mesa are not bonafide residents of said Barangay according to the Voter's Master List and Comelec Malabon Master List
B-359 to B-361	Annexes XX-106 to XX-108 - Photocopy of Certified True Copy from Records on File of attachments - PFI Livelihood Development Program Lists of Beneficiaries (Malabon City and Navotas City), consisting of three (3) pages
B-362 (D-32 COA)	Annex YY - Certified True Copy from Records on File Certification dated May 15, 2008 of Congressman Alvin S. Sandoval stating that Pangkabuhayan Foundation, Inc. (PFI) has 100% completed its livelihood programs and project at the Lone District of Malabon City and Navotas City conducted last May 2-14, 2008 with the funding coming from the PDAF of Cong. Sandoval under SARO NO. D-08-03248 dated April 14, 2008 amounting to P5,000,000.00. Said certification is for the purpose of releasing the 10% retention fee equivalent to P500,000.00 to PFI

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B-363	Annex ZZ – Certified True Copy of November 29, 2011 Letter of Cong. Alvin S. Sandoval to Mr. Arcadio B. Cuenco, Jr., Asst. Commissioner of COA confirming that the documents relative to the priority projects for CY 2007-2009 with TRC and NGO's (DRAISFI, PFI, JCBFI, among others) are authentic and that the signatures therein are his signature or that of the signature of his duly authorized representative, Mr. Ian Martinez
B-483 to B-944	Annex QQQQ - Special Audits Report No. 2012-03 Government-wide Performance Audit, consisting of 462 pages including the Cover Page, Letter dated August 14, 2013, Table of Contents and Signatory Pages
D	Title Page re: PDAF of Congressman Alvin S. Sandoval released under SARO No. D-08-03248
D-2 (B-123 FIO; J DBM)	Certified True Copy from Photocopy of SARO No. D-08-03248
D-3 (J-1 DBM)	Certified True Copy from Photocopy of Advice of SARO issued dated April 14, 2008 for SARO No. D-08-03248
D-4	Certified True Copy from Photocopy of Letter dated April 14, 2008 of Rolando G. Andaya, Jr. to Director General (DG) Antonio Y. Ortiz advising issuance of SARO No. D-08-03248 and its corresponding NCA
D-5 (B-191 FIO)	Certified True Copy from Photocopy of Official Receipt No. 2233235 K dated April 25, 2008 issued by TRC to the Bureau of Treasury
D-6 (B-199 FIO)	Certified True Copy of Landbank Check No. 0000885800 dated May 2, 2008

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D-6-a (B-200 FIO)	Certified True Copy of the Dorsal portion of Landbank Check No. 0000885800
D-6-b	Signature of Antonio Y. Ortiz on bottom right portion of Landbank Check No. 0000885800
D-7	Certified True Copy of Duplicate Copy of Landbank Check No. 0000885800
D-8	Certified True Copy of Memo for Cash Division dated April 30, 2008 re DV No. 012008041128
D-9 (B-201-a FIO)	Certified True Copy of Checklist/ Attachments for PDAF
D-10 (B-201 FIO)	Certified True Copy of Pangkabuhayan Foundation, Inc. (PFI) Official Receipt No. 327 dated May 2, 2008
D-11 (B-202 FIO)	Certified True Copy of Disbursement Voucher No. 012008041128
D-12	Certified True Copy of Memorandum for Antonio Y. Ortiz dated April 29, 2008 recommending release of PDAF of Congressman Alvin S. Sandoval
D-13 (B-193 FIO)	Certified True Copy from Photocopy of Letter of Hon. Alvin S. Sandoval dated April 29, 2008 to Director General Antonio Y. Ortiz endorsing PFI and requesting the release of the full amount
D-14 to D-18 (B-194 to B-198 FIO)	Certified True Copy of Memorandum of Agreement between TRC, PFI and the Office of Hon. Alvin S. Sandoval dated May 2, 2008, consisting of five (5) pages

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D-19 to D-20	Certified True Copy of Project Proposal for Livelihood Training to Improve the Economic Conditions of the Constituents in the Lone District of Malabon City-Navotas City, consisting of two (2) pages
D-21 (B-192 FIO)	Certified True Copy of Work Financial Plan for 5.0 Million
D-22 (B-203 FIO)	Certified True Copy of Landbank Check No. 0000890017 dated December 2, 2008
D-22-a (B-204 FIO)	Certified True Copy of the Dorsal portion of Landbank Check No. 0000890017
D-22-b (B-204 FIO)	Signature of Antonio Y. Ortiz on right portion of Landbank Check No. 0000890017
D-23	Certified True Copy of Duplicate of Landbank Check No. 0000890017 dated December 2, 2008
D-24	Certified True Copy of the Note of Atty. Figura dated December 3
D-25	Certified True Copy of Memo for Cash Division dated December 2, 2008, re: DV No. 012008122708
D-26	Certified True Copy of Requirements for the Release of Retention Fee for the PDAF given to Foundation
D-27 (B-205 FIO)	Certified True Copy of PFI Official Receipt No. 0553 dated December 5, 2008
D-28 (B-206 FIO)	Certified True Copy of Disbursement No. 012008122708

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D-30	Certified True Copy of the Letter of Petronila A. Balmaceda dated November 17, 2008 to DG Antonio Y. Ortiz submitting the Comprehensive Report on the Project
D-31 (B-207 FIO)	Certified True Copy of the Project Final Report
D-32 (B-362 FIO)	Certified True Copy from Photocopy of Certification dated May 15, 2008 issued by Representative Alvin S. Sandoval for the 100% completion of the livelihood programs and project in the Lone District of Malabon City and Navotas City
D-33 to D-34 (B-208 to B-209 FIO)	Certified True Copy of Report of Independent Certified Public Accountant on the receipt and disbursement of P4.0 Million released under SARO No. D-08-03248, consisting of two (2) pages
D-35	Certified True Copy of Liquidation and Disbursement Report
D-36	Certified True Copy of Report of Disbursement (Replenishment/Liquidation of Cash Advance) as of May 15, 2008
D-37 (B-216 FIO)	Certified True Copy of Horizon Research Company Official Receipt No. 383 dated May 15, 2008
D-38 (B-217 FIO)	Certified True Copy of Pangkabuhayan Foundation, Inc. (PFI) Disbursement Voucher No. 519 in the amount of P300,000.00
D-39 (B-218 FIO; G-5 COA)	Certified True Copy of Horizon Research Company Official Receipt No. 376 dated May 15, 2008

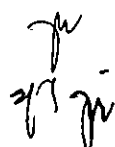
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D-40 (B-219 FIO)	Certified True Copy of PFI Disbursement Voucher No. 513 in the amount of P400,000.00
D-41 (B-220 FIO)	Certified True Copy of WWD General Merchandise Official Receipt No. 401 dated May 16, 2008
D-42 (B-221 FIO)	Certified True Copy of PFI Disbursement Voucher No. 510 in the amount of P400,000.00
D-43 (B-222 FIO)	Certified True Copy of MAB Restaurant & Catering Services Official Receipt No. 288 dated May 15, 2008
D-44 (B-223 FIO)	Certified True Copy of PFI Disbursement Voucher No. 509 in the amount of P75,000.00
D-45 (B-224 COA)	Certified True Copy of MAB Restaurant & Catering Services Official Receipt No. 286 dated May 15, 2008
D-46 (B-225 FIO)	Certified True Copy of PFI Disbursement Voucher No. 502 in the amount of P475,000.00
D-47 (B-226 FIO)	Certified True Copy of Padillo Transport Services, Inc. Official Receipt No. 261 dated May 15, 2008 in the amount of P350,000.00
D-48 (B-227 FIO)	Certified True Copy of PFI Disbursement Voucher No. 501 in the amount of P350,000.00
D-49	Certified True Copy of PFI Disbursement Voucher No. 522 in the amount of P500,000.00
D-50	Certified True Copy of PFI Disbursement Voucher No. 521 in the amount of P1,500,000.00



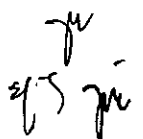
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D-51 to D-53 (B-250 TO B-252 FIO)	Certified True Copy of Livelihood Program List of Beneficiaries, consisting of three (3) pages
D-54 to D-55	Certified True Copy of Pictures during the Livelihood Training Program dated May 2-14, 2008, consisting of two (2) pages
D-56 to D-57	Certified True Copy of Letter dated May 30, 2012 addressed to the President of Pangkabuhayan Foundation, Inc. from Susan P. Garcia re: Result of Confirmation/Validation, consisting of two (2) pages
D-58	Certified True Copy of Business Payment for PFI for the Tax Year 2009-03
D-59	Certified True Copy of Business Payment for PFI for the Tax Year 2008
D-60	Certified True Copy of Business Payment for PFI for the Tax Year 2007-03
D-61 to D-62	Certified True Copy of Quezon City Business Permits & Licensing Office Certification dated March 4, 2011 re: No Business Permit for various business names, consisting of two (2) pages
D-63 to D-66	Certified True Copy of Letter dated May 16, 2011 addressed to the Manager/Owner of Horizon Research Company from Susan P. Garcia with attached self-stamped envelope, consisting of four (4) pages
D-67 to D-70	Certified True Copy of Letter dated May 17, 2011 addressed to the Manager/Owner of Padillo Transport Services, Inc. with attached self-stamped envelope, consisting of four (4) pages



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D-71 to D-73	Certified True Copy of Letter dated May 17, 2011 addressed to the Manager/Owner of MAB Restaurant & Catering Services, consisting of three (3) pages
D-74 (B-244 FIO)	Certified True Copy of Letter dated March 3, 2011 addressed to Susan P. Garcia from Atty. Enrico P. Sevilla of Malabon City Business Permits and Licensing Office
D-75 to D-78	Certified True Copy of Letter dated May 19, 2011 addressed to the Manager/Owner of WWD General Merchandise with attached self-stamped envelope, consisting of four (4) pages
D-79 to D-82 (B-238 to B-241 FIO)	Certified True Copy of Letter dated November 21, 2011 addressed to Susan P. Garcia from Reynald Paul M. Imjada, Quezon City Information Technology Development Office with attachments, consisting of four (4) pages
D-83	Certified True Copy of Letter dated November 17, 2011 addressed to Atty. Vincent Emmanuel T. Cruz, Election Officer IV, Office of the Election Officer, Municipal Gym Annex, Navotas City from Susan P. Garcia
D-84	Certified True Copy of Letter dated November 17, 2011 addressed to Ms. Jessica M. Cabrera, Acting Election Officer, Office of the Election Officer, Malabon City from Susan P. Garcia
F-1	Certified True Copy of Letter dated October 10, 2011 addressed to Mr. Alvin S. Sandoval from Arcadio B. Cuenco, Jr. re: inquiry as to authenticity of Sandoval's signature

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F-2	Certified True Copy of Annex A - List of Documents
F-3 (B-189 FIO)	Certified True Copy of Reply-Letter dated November 29, 2011 addressed to Mr. Arcadio B. Cuenco, Jr. from Alvin S. Sandoval re: confirmation on the authenticity of his signature or that of Mr. Ian Martinez
F-4	Certified True Copy of Letter dated June 19, 2012 addressed to Mr. Alvin Sandoval from Carmela S. Perez, DBA, Assistant Commissioner re: inquiry as to the authenticity of his signature
F-5	Certified true Copy of Reply-Letter dated July 5, 2012 addressed to Ms. Carmela S. Perez, DBA from Alvin S. Sandoval re: confirmation of his signatures appearing on the documents mentioned
G-2	Certified True Copy of Me-Anns Car Rental Services Official Receipt No. 404 dated September 19, 2008 in the amount of P150,000.00
G-3	Certified True Copy of Generic Project Research, Inc. Official receipt No. 303 dated September 15, 2008 in the amount of P125,000.00
G-4	Certified True Copy of Livelihood Research Corporation Official Receipt No. 354 dated September 15, 2008 in the amount P125,000.00
G-5 (D-39 COA; B-218 FIO)	Certified True Copy of Horizon Research Company Official Receipt No. 376 dated May 15, 2008 in the amount of P400,000.00

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G-6	Certified True Copy of WWD General Merchandise Official Receipt No. 401 dated May 16, 2008 in the amount P400,000.00
G-7	Certified True Copy of Blue Crystal Seminar Center Official Receipt No. 376 dated September 19, 2008 in the amount of P15,000.00
G-8	Certified True Copy of LTC Enterprises & Gen. Merchandise Official Receipt No. 0241 dated February 10, 2009 in the amount of P80,000.00
G-9	Original of Reply Letter dated April 5, 2018 addressed to Atty. Darlene R. Vivas from Caesar R. Dulay
H-8 to H-13	Certified True Copy of Notice of Disallowance with SAO ND No. TRC-2015-213-PDAF (07-09) dated October 26, 2015, consisting of six (6) pages
H-27	COA Office Order No. 2010-309
H-28	COA Office Order No. 2010-327
H-29	COA Office Order No. 2011-039
H-30	COA Office Order No. 2011-428
J (D-2 COA; B-123 FIO)	Certified True Copy of SARO No. D-08-03248 dated April 14, 2008 in the amount of P5,000,000.00
J-3	Certified True Copy of Letter dated April 14, 2008 of Hon. Rolando G. Andaya, Jr., DBM Secretary to Mr. Antonio Y. Ortiz, Director General, TRC

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J-4	Certified True Copy of Letter request dated March 13, 2008 of Hon. Alvin S. Sandoval to Hon. Rolando G. Andaya, Jr., Secretary, DBM
M-29	Certified True Copy of Certificate of Incorporation for the Year 1995 of Pangkabuhayan Foundation, Inc. (PFI)
M-30 to M-34	Certified True Copy of the Articles of Incorporation of Pangkabuhayan Foundation, Inc. (PFI), consisting of five (5) pages
M-35 to M-41	Certified True Copy of the By-Laws of Pangkabuhayan Foundation, Inc. (PFI), consisting of seven (7) pages
M-42	Certified True Copy of Certificate of Incorporation for the Year 2007 of Pangkabuhayan Foundation, Inc. (PFI)
M-43	Certified True Copy of Cover Sheet with Document I.D. 20070508-313 of Pangkabuhayan Foundation, Inc. (PFI)
M-44 to M-48	Certified True Copy of the Articles of Incorporation of Pangkabuhayan Foundation, Inc. (PFI), consisting of five (5) pages
M-49 to M-66	Certified True Copy of the By-Laws of Pangkabuhayan Foundation, Inc. (PFI), (including Certificate of Deposit from Equitable PCI Bank, Registration Payment Confirmation, Payment Assessment Form, Reservation Payment Confirmation, Reservation Notice, Verification/Reservation Request, Registration Data Sheet, Statement of Willingness to be Audited, Board Resolution), consisting of eighteen (18) pages

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M-67	Certified True Copy of Cover Sheet of Pangkabuhayan Foundation, Inc. (PFI)
M-68	Certified True Copy of the Report of Independent Auditor
M-69	Certified True Copy of Statement of Receipts & Disbursements for the Year ended December 31, 2007 of Pangkabuhayan Foundation, Inc. (PFI)
M-70	Certified True Copy of Balance Sheet for December 31, 2007 and 2006 of Pangkabuhayan Foundation, Inc. (PFI)
M-71	Certified True Copy of Cash Flow Statement for the year ended December 31, 2007 and 2006
M-72 to M-73	Certified True Copy of Notes to Financial Statements of Pangkabuhayan Foundation, Inc. dated December 31, 2007), consisting of two (2) pages
M-74 to M-78	Certified True Copy of the General Information Sheet of Pangkabuhayan Foundation, Inc. (PFI), consisting of five (5) pages
O-36 to O-37	Certified Photocopy from the Original of the Service Record of Susan P. Garcia, COA, consisting of two (2) pages
O-84	Certified Photocopy from the Original of COA Reassignment Order No. 2015-011
O-109 to O-116	Certified Photocopy from the Original of the Personal Data Sheet of Carmela S. Perez, Assistant Commissioner COA, consisting of eight (8) pages

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O-117	Certified Photocopy from the Original of the Service Record of Carmela S. Perez, Assistant Commissioner COA
P-2 to P-3	Certified Xerox /True Copy of the Appointment Paper of Reynald Paul M. Imjada, City Government Office Head, Information Technology Development Office, Quezon City, consisting of two (2) pages
P-4	Original of the Service Record of Reynald Paul M. Imjada, City Government Office Head, Information Technology Development Office, Quezon City
P-5 to P-8	Certified Xerox/True Copy of the Personal Data Sheet of Reynald Paul M. Imjada, City Government Office Head, Information Technology Development Office, Quezon City, consisting of four (4) pages
R-2	Certified Xerox Copy of the Appointment Paper of Marita DP. Trinidad, Business Permits and Licensing Office, Navotas City
R-3	Certified Xerox Copy of the Service Record of Marita DP. Trinidad, Business Permits and Licensing Office, Navotas City
R-4 to R-10	Certified Xerox Copy of the Personal Data Sheet of Marita DP. Trinidad, Business Permits and Licensing Office, Navotas City, consisting of seven (7) pages
S-4	Certified Xerox Copy of the Panunumpa sa Katungkulan of Tito M. Sanchez, Punong Barangay ng Daanghari, Lungsod ng Navotas
S-5	Certified Xerox Copy of the Panunumpa sa Katungkulan of Enrico P. Gino-Gino, Punong Barangay ng San Roque, Lungsod ng Navotas

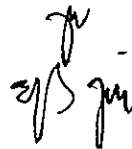
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S-7	Certified Xerox Copy of the Panunumpa sa Katungkulan of Ricardo L. Sy, Punong Barangay ng San Rafael Village, Lungsod ng Navotas
S-8	Certified Xerox Copy of a handwritten Sulat ng Pagbibitiw bilang Punong Barangay ng Brgy. San Rafael Village of Ricardo L. Sy, dated 25 June 2015
S-11	Certified Xerox Copy of the Panunumpa sa Katungkulan of Elvie P. Dela Rosa, Punong Barangay ng Navotas West, Lungsod ng Navotas
S-12	Certified Xerox Copy of the Panunumpa sa Katungkulan of Carlito M. De Guzman, Punong Barangay ng Tanza, Lungsod ng Navotas
S-13	Certified Xerox Copy of the Panunumpa sa Katungkulan of Marilou C. Gonzales, Punong Barangay ng Bagumbayan North, Lungsod ng Navotas
T-1	Original of Certification dated March 7, 2017 issued by Emmanuel D. Borromeo, CESE, City Director, DILG, Malabon City, re: list of incumbent and duly-elected Punong Barangays of Malabon City
T-4	Certified Photocopy from File of the Panunumpa sa Katungkulan of Roderick N. Fulgencio, Punong Barangay, Barangay Niugan, Malabon City
T-7	Certified Photocopy from File of the Panunumpa sa Katungkulan of Julian B. Buenaventura, Jr., Punong Baran gay, Barangay Tañong, Malabon City
U-3	Original of the Service Record of Dolores D. Nalica, Officer-In-Charge of the Business Permit and License, Malabon City



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U-4 to U-7	Certified Xerox Copy of the Personal Data Sheet of Dolores D. Nalica, Officer-In-Charge of the Business Permit and License, Malabon City, consisting of four (4) pages
U-8	Certified Xerox Copy of Memorandum dated 6 March 2009 from Engr. Benjamin N. Villacorta, Acting City Administrator, Malabon City, to Atty. Enrico P. Sevilla, Asst. City Legal Officer, Malabon City, re: Designation as OIC - Business Permit and Licensing Office
U-9 to U-10	Certified Xerox Copy of Memorandum Order MCSO -0100108-003 dated 7 January 2010 from the City Mayor, re: designation, among others, of Atty. Enrico P. Sevilla as OIC of BPLO, Malabon City, consisting of two (2) pages
U-11	Certified Xerox Copy of Memorandum Order No. MLLO 2013-011 dated 16 July 2013 to Atty. Enrico P. Sevilla, Officer-In-Charge, BPLO from Antolin A. Oreta III, City Mayor of Malabon, re: Designation as Officer-In-Charge of Civil Registry Department in concurrent capacity
U-12	Original of the Service Record of Atty. Enrico P. Sevilla, Acting Chief, Business Permit and Licensing Office, Malabon City
U-13 to U-16	Certified Xerox Copy of the Personal Data Sheet of Atty. Enrico P. Sevilla, Acting Chief, Business Permit and Licensing Office, Malabon City, consisting of four (4) pages

Accused Petronila and Fernando did not file any comment or opposition thereto.

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In its Minute Resolution of August 30, 2023,¹⁹¹ the Court admitted the exhibits offered by the prosecution in its Supplemental Formal Offer of Evidence against accused Petronila and Fernando. The Court also adopted its September 2, 2018 Resolution insofar as it is applicable.

Accused Petronila and Fernando then proceeded to present their evidence. Accused Petronila and Fernando submitted their Judicial Affidavits, and thereafter offered their testimonies in evidence on September 19, 2023¹⁹² and November 14, 2023,¹⁹³ respectively.

During her direct testimony,¹⁹⁴ accused Petronila denied knowing PFI. She also denied signing any document or paper relating to PFI. She claimed that she has no knowledge of any reason why she had been included in the present cases.¹⁹⁵

On cross-examination, accused Petronila testified that she had checked the exhibits from the SEC bearing her signatures, as well as the identification card ("ID") that was allegedly presented before the SEC. She then presented in court several IDs from the Home Development Mutual Fund ("PAG-IBIG"), the Bureau of Internal Revenue ("BIR"), the *Philamlife* and *AIA Healthier Longer Better Lives*. The IDs from BIR, Philamlife and AIA bear the name Petronila B. Sadaran. She also presented a school ID from MCU issued in 1976. When asked about her tax identification number, she confirmed that the number stated in her BIR ID is the same as the one appearing in Exhibits M-63 or the document on record with the SEC. She also confirmed that she had previously resided at 1242 Oroquieta Street, Sta. Cruz, Manila and that the said address is the one indicated in her BIR ID. The same address is also indicated in Exhibit M-31 as the principal office of PFI. However, she insisted that the address is a residential apartment, not an office.¹⁹⁶

Continuing with her cross-examination, accused Petronila manifested that accused Fernando is her brother while Angeles Balmaceda is her sister. Both were listed as incorporators of PFI. She however denied knowing Jennifer Bautista and Richard Oriate, the other listed incorporators. When asked about Exhibit M-16, she

¹⁹¹ Records, Vol. XXVII, p. 35.

¹⁹² Id., p. 55, Order dated September 19, 2023.

¹⁹³ Id., p. 70, Order dated November 14, 2023.

¹⁹⁴ Except for the offer of testimony stated therein, the Judicial Affidavit of accused Petronila was disregarded by the Court for containing leading questions, Transcript of Stenographic Notes dated September 19, 2023, pp. 7-9.

¹⁹⁵ Transcript of Stenographic Notes dated September 19, 2023, pp. 12-14.

¹⁹⁶ Id., pp. 15-20.

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admitted that Leoncio G. Balisi, Virginia Padillo and Marie Rose Anog are her cousins. She also stated that she has other cases before the different divisions of the Court.¹⁹⁷

On re-direct, accused Petronila denied the signature appearing in the Articles of Incorporation claiming that it had been forged. She also reiterated that she has never been a member or employee of PFI. She reasserted that she has no knowledge of said NGO. She also has no knowledge of who used her residential address as the principal office of PFI. The name Sadaran appears on some of her IDs as her last name instead of Balmaceda since she got married in 1984. She started using her maiden name, Balmaceda, when she got separated in 2015.¹⁹⁸ On re-cross, accused Petronila stated that she had signed her Judicial Affidavit as Petronila Balmaceda. She also used the name Petronila Balmaceda in her PAG-IBIG ID.¹⁹⁹

Answering questions propounded by the Court, accused Petronila clarified that there is no court declaration nullifying her marriage. She however claimed that she was able to secure a Certificate of No Marriage from the Philippine Statistics Authority in 2022.²⁰⁰

Accused Fernando adopted his Judicial Affidavit²⁰¹ as his direct testimony. Allegedly, he has no knowledge of PFI. He also denied being a secretary or officer of PFI. After examining the SEC documents bearing his signatures, he concluded that the same are mere forgeries. Except for his sister Petronila, he never met his co-accused.²⁰²

On cross-examination, accused Fernando admitted that he did not do anything after discovering that he had been listed as an officer of PFI. While he previously resided at 1242 Oroquieta Street, Sta. Cruz, Manila, he did not live at 1050 DND Building in Quezon City. He confirmed his relationship with his sister, Petronila, and cousins, Angeles Balmaceda, Marie Rose Anob, Virginia Padillo and Leoncio G. Balisi. He further admitted that aside from denial, he has no other defense in the present cases.²⁰³ On re-direct, accused Fernando again denied knowledge of, or any connection with PFI.²⁰⁴

¹⁹⁷ Id., pp. 20-21.

¹⁹⁸ Id., pp. 22-25, 28.

¹⁹⁹ Id., pp. 25-26.

²⁰⁰ Id., pp. 29-30.

²⁰¹ Judicial Affidavit, subscribed and sworn to on September 13, 2023.

²⁰² Transcript of Stenographic Notes, November 14, 2023, pp. 7-9.

²⁰³ Id., pp. 10-12.

²⁰⁴ Id., pp 12-13.

With no documentary exhibits to formally offer in evidence, accused Petronila and Fernando rested their case.²⁰⁵

The prosecution, in turn, presented **Ma. Buen S. Dela Torre** ("*Witness Dela Torre*") as its rebuttal witness on November 28, 2023.

Witness Dela Torre, adopting her Judicial Affidavit²⁰⁶ as her direct testimony, testified that as Branch Manager of Land Bank of the Philippines-Ortigas Center Pearl Drive Branch, she has access to the records of the depositors and clients of said branch and the bank records of UCPB Shaw-Escriva Branch. Apparently, UCPB Shaw-Escriva Branch was absorbed by her branch on account of the merger between Land Bank of the Philippines and UCPB. She identified and verified the certified photocopies of (1) the UCPB Specimen Signature Card dated April 10, 2008 for Savings Account No. 164-117270-0 (Exhibit "Y") bearing the signatures of accused Petronila and Leoncio G. Balisi as representatives of PFI, (2) the dorsal portion of said specimen signature card (Exhibit "Y-1"), and (3) the Record on File of UCPB Terms and Conditions for the same bank account (Exhibit "Y-2"). According to the witness, the bank account was initially opened at UCPB Shangrila Branch, but was later transferred to UCPB Shaw-Escriva Branch. As of April 27, 2012, said savings account was considered a dormant account.²⁰⁷

On cross-examination, witness Dela Torre clarified that her branch is only the custodian of the bank records belonging to accused Petronila and Balisi since UCPB Shaw-Escriva had merged with Land Bank of the Philippines. Concedingly, she was not present at the time accused Petronila and Balisi made their bank transactions. She also did not see them at the bank.²⁰⁸

At the same hearing, the Court admitted in evidence the prosecution's Exhibits Y-rebuttal, Y-1-rebuttal, Y-2-rebuttal and Z-rebuttal. Exhibit Z-rebuttal is the certified photocopy of accused Petronila's MCU ID issued in 1974.²⁰⁹

²⁰⁵ Id., p. 15.

²⁰⁶ Judicial Affidavit, subscribed and sworn to on November 22, 2023.

²⁰⁷ Transcript of Stenographic Notes dated November 28, 2023, pp. 4-6.

²⁰⁸ Id., p. 9.

²⁰⁹ Records, Vol. XXVII, p. 135, Order dated November 28, 2023.

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Consequently, the parties were ordered to submit their respective Memoranda. On December 22, 2023, accused Petronila and Fernando submitted their Joint Memorandum dated December 18, 2023. On December 27, 2023, the prosecution filed its Memondum dated December 15, 2023.

The Issues

The pivotal issues to be resolved in the instant cases are as follows:

1. Whether the prosecution has proven the elements of Section 3(e) of R.A. No. 3019, as amended, beyond reasonable doubt to warrant the conviction of accused Petronila and Fernando.

2. Whether accused Petronila and Fernando are guilty beyond reasonable doubt of Malversation of Public Funds under Article 217 of the RPC.

The Court's Ruling

Considering that the resolution of the present cases requires the determination and evaluation of varying facts and applicable laws *vis-a-vis* the respective criminal and civil liabilities of accused Petronila and Fernando in the subject Informations, the Court shall resolve the issues interposed by the parties *in seriatim*.

Violation of Section 3 (e) of R. A. No. 3019

Section 3 (e) of R. A. No. 3019 states:

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:

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(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 offense that must concur to warrant a conviction are: (1) the offender is a public officer; (2) the act was done in the discharge of the public officer's official, administrative or judicial functions; (3) the act was done through manifest partiality, evident bad faith, or gross inexcusable negligence; and (4) the public officer caused any undue injury to any party, including the Government, or gave any unwarranted benefits, advantage or preference.²¹⁰

First and Second Elements

As can be readily gathered from the records, the afore-mentioned first and second elements of Section 3(e) of R.A. 3019, as amended, are availing in the present case. While they are admittedly private individuals, accused Petronila and Fernando were indicted herein as co-conspirators of their co-accused Sandoval, Ortiz, Lacsamana, Jover and Espiritu, who were all public officers at the time of their involvement in the questioned PDAF-funded livelihood project. It is undisputed that accused Sandoval was the former Congressman of the Lone District of Malabon and Navotas. On the other hand, accused Ortiz, Lacsamana, Jover and Espiritu were officers of the now defunct TRC, an IA of the DOST.

Equally undisputed is the fact that the separate participatory acts of accused Sandoval, Ortiz, Lacsamana, Jover and Espiritu relative to the PDAF-funded project of PFI were committed in the performance of their official duties as public officers. Verily, accused Sandoval signed the endorsement letters, Project Proposals, Work and Financial Plans, MOAs, DVs, Certifications of Completion in his capacity as the

²¹⁰ *Jose Tapales Villarosa vs. People of the Philippines*, G.R. Nos. 233155-63, June 23, 2020, 875 Phil. 270, 301

legislator whose office had received the subject PDAF allocation. Accused Ortiz signed the MOAs and approved the DVs as the Director General of TRC. Accused Lacsamana, on the other hand, signed box A of the DVs as the alternate signatory of the Deputy Director General in PDAF transactions. She also issued the Release Memoranda as Group Manager. Accused Jover, in turn, certified the availability of funds in the MOA and DVs as Chief of the Accounting Division of TRC while accused Espiritu signed the DVs as Chief of its Budget Division.

On account of their purported complicity in the commission of the charged offense, the first and second elements of Section 3(e) of R.A. 3019, as amended, are therefore deemed met as regards accused Petronila and Fernando. Even though they are private individuals, accused Petronila and Fernando may be indicted and if proven, adjudged criminally guilty of said graft charge since they are alleged to have acted in conspiracy with said public officers.

Well-settled is the rule that "private persons, when acting in conspiracy with public officers, may be indicted and, if found guilty, held liable for the pertinent offenses under Section 3 of RA 3019, in consonance with the avowed policy of the anti-graft law to repress certain acts of public officers and private persons alike constituting graft or corrupt practices act, or which may lead thereto."²¹¹

Third Element

First off, the Court finds no persuasion in the dire attempt of accused Petronila and Fernando to deny their connection with or involvement in PFI. They deny any knowledge of PFI claiming that the signatures appearing on the documentary exhibits relevant to PFI and its PDAF-funded project had been forged. In effect, the premise of their defense is that their names were used by another to incorporate PFI and their signatures forged to conduct its business transactions, which include accused Sandoval's PDAF-funded project. The evidence on record, however, easily defeats their bare denial. Needless to state, unsubstantiated denial is a weak defense and cannot be given credence, as it is self-serving.²¹²

²¹¹ *Edelbert C. Uybocho vs. People of the Philippines*, G.R. No. 211703, December 10, 2014, 749 Phil. 987, 993-994, citing *People of the Philippines vs. Go* (2014).

²¹² *Edwin S. Villanueva, et. al. vs. People of the Philippines*, G.R. No. 237864, July 8, 2020, 876 Phil. 855, 867.

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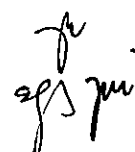
Particularly, the testimonies of accused Petronila and Fernando fail to establish their supposed lack of knowledge of or involvement in PFI. In fact, accused Fernando admittedly did nothing when he discovered that his name was used in the incorporation and business transactions of PFI. He cannot feign innocence or ignorance as his inaction despite notice refutes his insistence that he has no knowledge of PFI. Surely, an innocent man would take action upon knowledge of another person usurping his name and identity. Accused Petronila, in like manner, cannot deny her involvement in PFI as the documentary exhibits show consistency in the use of her name and address in all incorporation and business documents of PFI.

Truly, the weakness of said testimonies pale in comparison with the documentary exhibits, which show their participation not only in the incorporation and re-registration of PFI, but also their connection with the other personalities involved in the NGO. Also, both accused Petronila and Fernando confirmed the listed principal office of PFI as their previous residence. More, absent evidence to the contrary, accused Petronila's signatures in Exhibits Y-rebuttal, Y-1-rebuttal and Y-2-rebuttal prove that she opened and acted as a signatory for PFI's bank account.

Besides, the simple expedient of claiming forgery as a defense cannot refute their connection with PFI. Forgery cannot be presumed and must be proved by clear, positive and convincing evidence and the burden of proof lies on the party alleging forgery.²¹³ Despite the fact that the crux of their defense heavily relies on forgery, accused Petronila and Fernando did not offer evidence to prove it. Aside from their mere say so, no witness, expert or otherwise, was presented to show that the signatures appearing on the disputed PFI documents had been falsified by another. Without clear, positive and convincing evidence on record, there is no basis to declare the signatures of accused Petronila and Fernando on pertinent PFI documents as forgeries.

Be that as it may, this Court finds the third element of Section 3 (e) of R.A. No. 3019, as amended, *i.e.*, the act was done through manifest partiality, evident bad faith, or gross inexcusable negligence, lacking with respect to accused Petronila and Fernando. In the case at bench, the subject Information alleges the three modes or manner by which

²¹³ *Danilo O. Garcia, et. al. vs. Sandiganbayan*, G.R. No. 197204, March 26, 2014, 730 Phil. 521, 539.



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accused Petronila and Fernando purportedly committed the offense charged. Proof of any of these three modes in connection with the prohibited acts mentioned in Section 3(e) of R.A. 3019 is enough to convict.²¹⁴ However, as was in the case of accused Sandoval, Lacsamana, Jover and Espiritu, the evidence presented by the prosecution against them has failed to prove any of said modalities with the required quantum of proof.

In a litany of cases, the Supreme Court expounded on the concept of manifest partiality, evident bad faith, or gross inexcusable negligence, as they relate to the charge of violation of Section 3(e) of R.A. 3019, as amended. Particularly, in the case of *Garcia vs. Sandiganbayan*,²¹⁵ the Supreme Court enunciates:

"The second element provides the different modes by which the crime may be committed, that is, through "manifest partiality," "evident bad faith," or "gross inexcusable negligence." In Uriarte v. People, this Court explained that Section 3(e) of RA 3019 may be committed either by dolo, as when the accused acted with evident bad faith or manifest partiality, or by culpa, as when the accused committed gross inexcusable negligence. There is "manifest partiality" when there is a clear, notorious, or plain inclination or predilection to favor one side or person rather than another. "Evident bad faith" connotes not only bad judgment but also palpably and patently fraudulent and dishonest purpose to do moral obliquity or conscious wrongdoing for some perverse motive or ill will. "Evident bad faith" contemplates a state of mind affirmatively operating with furtive design or with some motive or self-interest or ill will or for ulterior purposes. "Gross inexcusable negligence" refers to negligence characterized by the want of even the slightest care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally, with conscious indifference to consequences insofar as other persons may be affected."

Apropos thereto, it bears to stress that the Court, in the Joint Decision, already rendered judgment acquitting accused Sandoval, Lacsamana, Espiritu and Jover of the criminal charge under R. A. No.

²¹⁴ *Rolando E. Sison vs. People of the Philippines*, G.R. Nos. 170339 and 170398-403, March 9, 2010, 628 Phil. 573, 583.

²¹⁵ 730 Phil. 521.

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3019, as amended. The acquittal, as stated, was anchored on the failure of the prosecution to prove the third element of the offense beyond reasonable doubt. While the Court has found the allocation and implementation of the livelihood project covered by SARO No. D-08-03428 as tainted with irregularities, the separate acts of accused Sandoval, Lacsamana, Jover and Espiritu, however flawed, cannot be deemed committed through manifest partiality, evident bad faith, or gross inexcusable negligence.

On the part of accused Sandoval, the Court highlighted in the Joint Decision the case of *Belgica vs. Executive Secretary Ochoa*,²¹⁶ wherein the Supreme Court pronounced that the questioned PDAF releases from 2007 to 2009 are considered valid releases of government pursuant to the doctrine of operative fact.

In *Belgica*, the Supreme Court found the Congressional PDAF provisions of the 2013 General Appropriations Act as well as all other provisions of law which similarly allow legislators to wield any form of post-enactment authority in the implementation or enforcement of the budget, unrelated to congressional oversight, as unconstitutional. Corollary thereto, informal practices, through which legislators have effectively intruded into the proper phases of budget execution, must be deemed as acts of grave abuse of discretion amounting to lack or excess of jurisdiction and, hence, accorded the same unconstitutional treatment. However, it was held that such declaration of nullity should only apply prospectively in view of the operative fact doctrine.

Thus, when accused Sandoval requested for the release of his PDAF allocation and endorsed DRAIFSI, PFI and JCBFI as project-implementors, he had performed acts that were still deemed lawful and customary at that time. The Court also observed that the import of the endorsement made by accused Sandoval was merely recommendatory, as it still assigned the choice of the NGO to TRC, as the IA. Further, it was the choice of the IA not to conduct a competitive bidding based on

²¹⁶ G.R. Nos. 208566, 208493, 209251 & L-20768, November 19, 2013, 721 Phil. 416.

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COA Circular No. 96-003 dated February 27, 1996²¹⁷ and COA Circular No. 2007-001 dated October 25, 2007.²¹⁸

For these reasons, the Court found no basis to declare accused Sandoval guilty of violating Section 3(e) of R.A. No. 3019, as amended. As it was pointed out by the Court, accused Sandoval's acts relative to the questioned PDAF-funded projects, *i.e.*, requesting the release of his PDAF, endorsing an NGO to implement the project, signing the MOA and confirming the report of the PFI, could not be considered as corrupted with manifest partiality, evident bad faith or even gross inexcusable neglect. When he performed the acts pertaining to his PDAF allocation, accused Sandoval was simply performing acts required for the release of the funds at that time. Thus, when the Supreme Court eventually declared said acts as unconstitutional, the doctrine of operative fact still clothes accused Sandoval's acts with the presumption of validity.

Moreover, the Court emphasized the failure of the prosecution to present evidence to indicate that accused Sandoval had a dishonest purpose or consciousness of doing a wrong when he performed the aforesaid acts. As noted, accused Sandoval was guilty of bad judgment or even negligence, but the same falls short of the requirement of law to make it unlawful. In this regard, the Court found persuasion in accused Sandoval's defense that he had affixed his signatures in the pre-signed documents brought to him by the employees of TRC after

²¹⁷ 3.2 The NGO/PO shall be accredited by the GO. x x x

4.0. Duties and Responsibilities of the GO

The GO shall:

4.1. accredit the NGO/PO after project verification and validation of required documents and statements;

4.2. develop standards for project implementation and acceptance;

4.3. release the grant as required and record as Cash Funds Entrusted to NGO/POs (8-70-910);

4.4. require monthly or quarterly financial and physical status reports as it deems necessary;

4.5. monitor and inspect project implementation and verify financial records and reports of the NGO/PO;

4.6. issue certificates of acceptance upon completion of the project and acceptance by its beneficiaries and take up the credit to the NGO/PO account; x x x

²¹⁸ x x x 4.5.2 For each project proposal, the GO shall accredit the NGO/PO project partners through the Bids and Awards Committee (BAC), or a committee created for the purpose, which shall formulate the selection criteria. The Committee shall perform the selection process, including the screening of the qualification documents, ocular inspection of the NGOs/POs business site, and evaluation of the technical and financial capability of the NGO/PO.

4.5.3 Upon proper evaluation, the GO, thru the Committee, shall award the project to the NGO/PO which meets the minimum qualification requirements and the specifications for the project and which can satisfactorily undertake the project at terms most advantageous to the beneficiaries, taking into consideration the cost effectiveness of the project. The project shall be covered by a MOA which shall embody the terms of reference such as: x x x

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the call made by accused Ortiz on the premise that the same was part of the standard operating procedure followed in PDAF transactions. Lastly, there was no evidence, testimonial or documentary, presented to establish that accused Sandoval benefited from the PDAF transactions.

In the same vein, the Court declared the evidence on record insufficient to prove the guilt of accused Lacsamana, Jover and Espiritu beyond reasonable doubt. True, pursuant to COA Circular Nos. 96-003 and 2007-001, TRC, being the government organization ("GO") or the IA, is tasked to accredit the NGO prior to the awarding of the project and to ensure that the requirements of accreditation are met. It also has the obligation to monitor and supervise the implementation of the project,²¹⁹ as well as validate the reports submitted by the implementing partner. Thus, the responsibility or accountability for the irregularities attending the implementation of questioned livelihood project rests on the accused officials of the TRC. Still, the evidence on record has failed to establish the existence of manifest partiality, evident bad faith, or gross negligence on the part of the accused officers of the TRC. Except in the case of accused Ortiz who remains at large, the Court already rendered judgment absolving accused Lacsamana, Jover and Espiritu of criminal liability.

In the Joint Decision, the Court observed that the participation of said accused had been limited to their overt acts of signing the DVs in their respective capacities as officials of TRC. At this juncture, the Court reiterates its disquisition in this regard:

"From the evidence presented, the Court is not convinced that the failure to conduct public bidding could not be imputed to accused Cunanan, Lacsamana, Jover and Espiritu of TRC. It is unclear as to who is the Head of the Procuring Entity (HoPE), and the BAC of TRC, who may have violated the procurement law. What is proven in evidence is that the participation of these four (4) accused is mainly on their act of signing the DVs in the following capacity:

²¹⁹ COA Circular No. 96-003 (February 27, 1996)

x x x

The GO shall:

x x x

4.5 monitor and inspect project implementation and verify financial records and reports of the NGO/PO;

x x x

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It is the belief of accused Lacsamana, Jover and Espiritu that they, being TRC personnel, were merely performing ministerial functions when they signed the DVs. Accused Lacsamana stated that she was following the signature of the Legal Department of TRC. She said she merely faithfully followed Office Circular Nos. 000P0090 and 000P0100 in the performance of her functions. Her duty is to attest that the expenses are necessary and lawful after ascertaining that the required documents under the circulars are complied with, without any authority to select, endorse, approve and deal with the legislators or the NGOs. There was no showing that she had foreknowledge of any irregularity in the planning and selection of the NGOs. She acted in good faith in signing the DVs when they were made in compliance with the office circulars.

Accused Jover checks the relevant documents to certify that funds are available. And according to her, even without her signature, the funds may still be released. She also said that it is not the function of her office to review the formalities and legal technicalities of the documents that pass through the Accounting Division. Accused Espiritu said that her participation is simply the certification that the requested expenditure is within the budget. Their actions are limited to the duties as contained in the Office Circulars and their only participation is the signing of the various documents.

However, under the Government Auditing Code, accused Jover and Espiritu, being the Chief of the Accounting Division and Chief of the Budget Division, respectively, may be held liable even if they affixed their signatures on the documents just because they already contained the initials from the Legal Department or a superior officer.

Section 106. Liability for acts done by direction of superior officer. No accountable officer shall be relieved from liability by reason of his having acted under the direction of a superior officer in paying out, applying, or disposing of the funds or property with which he is chargeable, unless prior to that act, he notified the superior officer in writing of the illegality of the

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payment, application, or disposition. The officer directing any illegal payment or disposition of the funds or property shall be primarily liable for the loss, while the accountable officer who fails to serve the required notice shall be secondarily liable.

*Accused Lacsamana's reason for affixing her signature was the checklist of the requirements showing that the documents were complete. As regards the MOA, she said that it was either Atty. Figura, GM of the Administrative Department, or Ms. Vanie, GM of the CSSG, who initials or countersigns the MOA. Accused Jover, on her part, said that she does not know where the documentary requirements come from, but she knows that they go through the legal department. Accused Espiritu's reason for certifying that the requested expenditure was within the budget was the submission of the SARO, NCA and ORs. From the evidence presented, it cannot be determined whether the signatory from the Legal Department is considered as superior officer of accused Lacsamana or Jover. They only testified that the documents go through the legal department. There was also no evidence presented that the superior officer of accused Lacsamana, Jover and Espiritu directed them to sign the DVs."*²²⁰

From the foregoing disquisitions, the acts of accused Sandoval, Lacsamana, Jover and Espiritu in connection with the PDAF-funded livelihood project of PFI were declared devoid of manifest partiality, evidence bad faith or gross negligence. As pointed out in the Joint Decision, no evidence, testimonial or documentary, was presented to establish that accused Sandoval, Lacsamana, Jover and Espiritu benefitted from the subject PDAF transaction. There was also no proof that Sandoval, Lacsamana, Jover and Espiritu made any representation to effectuate the release of the PDAF in favor of PFI.

As it is, the Court observed that the separate acts of accused Sandoval, Lacsamana, Jover and Espiritu in relation to the subject PDAF allocation, albeit irregular and to some extent irresponsible, were all committed in good faith and in the performance of their duties. Said acts cannot be deemed as malevolent, intentional, biased and grossly inexcusable.

²²⁰ Records, Vol. XX, pp. 131-132.

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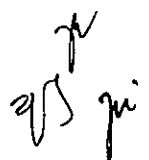
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In fine, as stated in the Joint Decision, accused Sandoval merely relied on what was considered customary and acceptable informal practices in terms of PDAF allocation and implementation. This was prior to the *Belgica* ruling of the Supreme Court, which declared PDAF releases and other post-enactment provisions as unconstitutional. On the other hand, accused Lacsamana, Jover and Espiritu acted on the belief that they were performing their ministerial functions pursuant to office circulars and instructions of their superior officers. They relied on the fact that the DVs, having been reviewed by its Legal Department, were all in order. In contrast, accused Ortiz, as Director General of TRC, signed the MOA, approved the DVs and signed the check payments to PFI. It is unfortunate that accused Ortiz remains at large, as his involvement and culpability in relation to the present controversy have yet to be determined.

Guided by the foregoing considerations and based on the evidence presented against them, compliance with the third element is also unavailing in so far as accused Petronila and Fernando are concerned. The prosecution failed to overcome the burden and prove beyond reasonable doubt that accused Petronila and Fernando are guilty of manifest partiality, evident bad faith, or gross inexcusable negligence to warrant their conviction for violating Section 3(e) of R.A. No. 3019, as amended. Whether it be at their own instance or as a co-conspirator of their co-accused, the evidence on record falls short of the required quantum of proof to justify the conviction of accused Petronila and Fernando.

For one, there is clearly no conspiracy among accused Petronila and Fernando and their co-accused. No evidence exists to prove that accused Sandoval, Lacsamana, Jover, Espiritu, Petronila and Fernando have a relationship or connection, more so a common purpose to defraud the government. There is also no causal link with respect to their respective involvement or participation in the implementation of SARO No. D-08-03248. Amongst them, there is no indication that the separate act of one is dependent on, and in pursuance of the act of another in the interest of a common objective.

Conspiracy is said to exist where two or more persons come to an agreement concerning the commission of a felony and decide to commit it. The essence of conspiracy is the unity of action and purpose. Its elements, like the physical acts constituting the crime itself, must be



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proved beyond reasonable doubt. To be a conspirator, one need not participate in every detail of the execution; he need not even take part in every act. Each conspirator may be assigned separate and different tasks which may appear unrelated to one another but, in fact, constitute a whole collective effort to achieve their common criminal objective. Once conspiracy is shown, the act of one is the act of all the conspirators. The precise extent or modality of participation of each of them becomes secondary, since all the conspirators are principals.²²¹ Everything said, written or done by any of the conspirators in execution or furtherance of the common purpose is deemed to have been said, done, or written by each of them and it makes no difference whether the actual actor is alive or dead, sane or insane at the time of trial.²²²

As held by the Supreme Court, proof of the conspiracy need not be based on direct evidence, because it may be inferred from the conduct of the parties indicating a common understanding among themselves with respect to the commission of the crime. Neither is it necessary to show that two or more persons met together and entered into an explicit agreement setting out the details of an unlawful scheme or objective to be carried out. The conspiracy may be deduced from the mode or manner in which the crime was perpetrated; it may also be inferred from the acts of the accused evincing a joint or common purpose and design, concerted action and community of interest.²²³

In the present case, there is no question that the totality of the acts of the accused were instrumental to the evidently irregular implementation of the disputed PDAF-funded project. Yet, *sans* proof, be it direct or circumstantial, that accused Petronila and Fernando acted in conspiracy with accused public officers Sandoval, Lacsamana, Jover, Espiritu, the suppositions and conclusions of the prosecution cannot plausibly overcome the presumption of innocence and be made basis of their conviction. While inferences and deductions may be made as proof of its existence, the manner by which accused Sandoval, Lacsamana, Jover and Espiritu performed their respective roles in the implementation of the questioned livelihood project and the actions

²²¹ *People of the Philippines vs. Roberto Esperanza Jesalva*, G.R. No. 227306, June 19, 2017, 811 Phil. 299, 308, citing *Quidet vs. People of the Philippines* (2010) and *People of the Philippines vs. Medice* (2012).

²²² *People of the Philippines vs. Go*, G.R. No. 168539, March 25, (2014)..

²²³ *People of the Philippines vs. Elmer Fegidero Y Cordova*, G.R. No. 113446, August 4, 2000, 392 Phil. 36, and *People of the Philippines vs. Ricardo Francisco Y Cupcupin, et al.*, G.R. Nos. 118573-74, May 31, 2000, 388 Phil. 94.

subsequently undertaken by accused Salvador belie the insistence that there was conspiracy amongst them.

Thus, in the Joint Decision, the Court observed:

*"Accused Lacsamana, Jover and Espiritu's link to the alleged conspiracy is their act of signing the documents but there was no showing that it was in concurrence with a criminal design. Accused Cunanan's only participation is his signature on one DV. The DVs they signed had supporting documents. Given that they know some of their co-accused also from the TRC, the prosecution should have presented evidence to prove that their relationship was not merely that of a professional nature but more of a connection and a conspiracy to accomplish an anomalous transaction which involves a scheme to funnel the PDAF through the NGOs and misappropriate the same. It was also not shown that accused Sandoval was involved in an orchestrated PDAF scam with the other accused. He even filed three (3) criminal complaints against his co-accused after he learned of the irregularities in these cases."*²²⁴

On the part of accused Petronila, the alleged extent of her participation in the PDAF-funded project was limited to the signing of the MOA, Project Proposals, Project Final Reports, Liquidation and Disbursement Reports, Reports of Disbursement, DVs issued by PFI and Work Financial Plan. Accused Fernando, on the other hand, allegedly signed the Reports of Disbursement and DVs issued by PFI. These acts are clearly in compliance with PFI's obligations under the MOA in so far as the implementation and liquidation of the PDAF project are concerned. Certainly, there is nothing indicative of a malevolent design or conspiratorial scheme other than the fulfillment of said obligations.

For another, the absence of manifest partiality, evident bad faith or gross inexcusable negligence on the part of accused Petronila and Fernando is strengthened by the failure of the prosecution to actually prove with moral certainty the inexistence of the livelihood project of PFI. In this regard, it is important to note that the prosecution questions the existence of the suppliers that were contracted by PFI in conducting the disputed livelihood project. The prosecution asserts that the

²²⁴ Records, Vol. XX, p. 141.

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absence of business permits in the name of PFI's suppliers and the irregularities in their supporting documents prove that said livelihood project is fictitious.

The Court, however, begs to differ.

As can be gathered from the evidence on record, the COA and the Office of the Ombudsman conducted their respective investigations on the questioned livelihood project by inquiring with different government agencies about the business names and permits issued to PFI's suppliers. They also verified the list of beneficiaries by sending subpoenas to barangay captains requiring the latter to confirm whether the beneficiaries were indeed residents of their respective barangays.

However, the certifications issued by the DTI and BPLOs of Quezon City, Malabon and Navotas stating that PFI's suppliers have no registered business names or issued business permits are not sufficient to prove their inexistence. As acknowledged by the witnesses presented in this regard, business entities can still exist, and business transactions can still be conducted even without a permit.

Additionally, verifications with different barangay captains of Malabon and Navotas were conducted by the Office of the Ombudsman more than five (5) years *after* the completion of said livelihood project in May 2008. Most of the barangay captains were not even in office at that time. Undeniably so, the separate investigations and verifications conducted by the barangay captains cannot be considered comprehensive and thorough, as some of them were merely based on the COMELEC voters list and information collected from select barangay officials and residents.

Truth be told, notwithstanding the irregularities attending the questioned livelihood project, these considerations cast reasonable doubt on the guilt of the accused. Without moral certainty, the Court cannot hold accused Petronila and Fernando guilty of violating Section 3(e) of R. A. No. 3019.

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To be sure, in the case of *Cabarios vs. People of the Philippines*,²²⁵ the Supreme Court, citing the case of *People of the Philippines vs. Chiong-Javier*, found inadequacy in the search conducted by the COA in determining the existence of beneficiaries and the receipt of financial assistance. The Supreme Court said:

"Verily, the Sandiganbayan found that COA's personal search was inadequate as it merely interviewed select residents and purok leaders in the barangay, asking if the persons they were searching resided there. More, COA could not have validly concluded that the beneficiaries were fictitious based alone on the search it did in 2003, or two (2) years from when the questioned disbursements took place in 2001. This two-year gap raised a lot of possibilities: the named beneficiaries had either passed away or moved or relocated to another place, hence, were no longer residing in Zamboanga Sibugay when the search was done. One in fact was confirmed to have already died even before the case started. In other words, the Sandiganbayan found that the accuracy and reliability of the search itself were doubtful, hence, it cannot reasonably support a conclusion that petitioner's named beneficiaries were indeed fictitious.

As in Chiong-Javier, Atty. Sumicad and his audit team undertook the same verification process as regards petitioner's beneficiaries:

The audit team also conducted personal searches for the individual beneficiaries and when it failed to locate the same, asked the barangay chairpersons if the latter knew the persons listed in the documents. If the barangay chairpersons did not know them, the audit team sent confirmation letters to the beneficiaries. The replies they received were from Francisca Alvarez and Antonio Dominado, who both denied having received assistance from Cabarios. With regard to the other beneficiaries[,] the audit team sent confirmation letters to, two of the letters were returned with the markings "Return to sender, party unknown" on them, while the other letters did not merit a response or were surmised to have been returned or lost. They likewise sent confirmation letters to municipal local government officials.

²²⁵ G.R. Nos. 228097-103 & 228139-41, September 29, 2021.

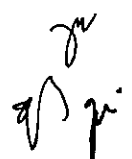
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Too, as in *Chiong-Javier*, COA did the search here only after two (2) years following the questioned disbursements. It, therefore, raises the same possibilities that the named beneficiaries had already moved, relocated, or even passed away. Yet, the Sandiganbayan here differently pronounced that it is "hard to believe that within a short span of time, a significant number of the beneficiaries had already relocated. While the Court may allow for a margin of error in the statistics submitted by the audit team, due to the difficulty of locating persons and other factors, the number of missing beneficiaries is still too substantial to ignore.

In criminal cases, we do not indulge in probabilities. As stated, we require the prosecution to establish its case beyond reasonable doubt. Such quantum of evidence, however, is absent here. In other words, as in Chiong Javier, there is no moral certainty that petitioner's beneficiaries are fictitious or non-existent."

Indeed, while the prosecution presented the barangay captains and the representatives of the DTI and BPOs as witnesses, said testimonies do not prove the guilt of accused Petronila and Fernando with moral certainty. On this point, the Court now quotes its discussion in Joint Decision, to wit:

"The prosecution was able to present evidence that some of the individuals listed as beneficiaries neither had knowledge about the projects nor received any livelihood kits or cash benefits. These witnesses also denied affixing their signatures in the list of beneficiaries. However, the prosecution was not able to prove beyond reasonable doubt that these witnesses were exactly the same persons referred to in the list and not other individuals who also resided in Malabon City and Navotas City and who happened to also have exactly the same names. Considering the number of people living in the pertinent barangays, it is a fact that not all residents therein are registered voters who can be found in the list of the Comelec. The prosecution also presented evidence that the suppliers had no existing records or permits with the pertinent government offices. However, it has not



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*proven beyond reasonable doubt that the suppliers did not exist and were not doing business. Testimonial evidence showed that there are entities which are unregistered or doing business without licenses. But then again, had the TRC officials been vigilant in the performance of their work, the further release of the PDAF would have been obviated and the irregularities flagged. The fact remains that the TRC officials were negligent or remiss in their duties, although such negligence is not tantamount to gross negligence as it could not be said that they acted with willful or conscious indifference to consequences". In fact, they stated that the payment was cleared by the legal department and that they relied on the clearance of the said department, which led them to sign the DVs. In other words, accused Lacsamana, Jover and Espiritu had the foresight to secure clearance from the legal department which reviewed the documents prior to payment."*²²⁶

What is more, in imputing manifest partiality, evident bad faith or gross inexcusable negligence on the part of accused Petronila and Fernando, the prosecution harps on what it perceived as extraordinary accommodation that was extended by TRC in favor of PFI. Again, the Court is not persuaded, as the acts of accused Sandoval, Lacsamana, Jover and Espiritu, as found by the Court in the Joint Decision, are not indicative of manifest partiality or evident bad faith. There is simply no evidence that the aforesaid accused preferred and deliberately chose PFI for purposes other than to implement the livelihood project. Verily, there is "manifest partiality" when there is a clear, notorious, or plain inclination or predilection to favor one side or person rather than another.

Similarly, bad faith *per se* is not enough for one to be held criminally liable for violation of Section 3(e) of R.A. No. 3019. It must be evident and must partake the nature of fraud or a manifest deliberate intent on the part of the accused to do wrong or to cause damage. To constitute evident bad faith or manifest partiality, it must be proven that the accused acted with malicious motive or fraudulent intent. It is not enough that the accused violated a law, committed mistakes or was negligent in his or her duties. There must be a clear showing that the accused was spurred by a corrupt motive or a deliberate intent to do

²²⁶Records, Vol. XX, p. 133.

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wrong or to cause damage.²²⁷ It contemplates a breach of sworn duty through some perverse motive or ill will.²²⁸

Accused Petronila and Fernando's acts in the performance of their obligations under the MOA were not of such nature and degree as to be considered brazen, flagrant and palpable to merit a conviction for violation of Section 3(e), of R.A. No. 3019. There is therefore no patent and conscious criminal design that can be attributed to the award made to PFI.

On the other hand, "gross inexcusable negligence" does not signify mere omission of duties nor plainly the exercise of less than the standard degree of prudence. Rather, it refers to negligence characterized by the want of even the slightest care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally, with conscious indifference to consequences insofar as other persons may be affected. It entails the omission of care that even inattentive and thoughtless men never fail to take on their own property, and in cases involving public officials it takes place only when breach of duty is flagrant and devious.²²⁹ While there were irregularities in the documents submitted by accused Petronila and Fernando, such lapses are far from being intentional, flagrant and devious. As observed in the Joint Decision, accused Petronila and Fernando, along with the other impleaded private individuals, can be considered as mere passive recipients considering the absence of proof that they had knowingly, and complicity participated in the supposed irregularities in the related documents of the PFI.

Fourth Element

Documentary exhibits and testimonial evidence are extant to prove that the fourth element, *i.e.*, that the accused caused undue injury to the Government, is present in the case at bench.

²²⁷ *People of the Philippines vs. Lorenzo Mayogba Cerezo, et. al.*, G.R. No. 252173, March 15, 2022.

²²⁸ *Richard T. Martel, et. al. vs. People of the Philippines*, G.R. No. 224720-23, *Benjamin P. Bautista, Jr. vs. People of the Philippines*, G.R. Nos. 224765-68, February 2, 2021.

²²⁹ *People vs. Cerezo*, Supra at Note 227.

Emphatically, there are two ways by which a public official violates Section 3(e) of R.A. No. 3019 in the performance of his functions, namely: (1) by causing undue injury to any party, including the Government; or (2) by giving any private party any unwarranted benefit, advantage or preference. The accused may be charged under either mode or both. The disjunctive term "or" connotes that either act qualifies as a violation of Section 3(e) of R.A. No. 3019. In other words, the presence of one would suffice for conviction.²³⁰

As borne by the records, the prosecution was able to prove the fourth element of Section 3(e) of R.A. No. 3019 with conclusive evidence. The government and the constituents of accused Sandoval suffered undue injury in the amount of P4,500,000.00, the project cost of the PDAF-funded project of the PFI. In the Joint Decision, the Court pronounced:

"The acts of the accused officials of TRC which eventually led to the release of the PDAF, caused undue injury to the government. Their negligence and failure to exercise due care in the release of the funds caused injury to the government and in effect, gave undue or unwarranted benefits, advantage, or preference to the NGOs in the amount of Php4.5 million, Php4.5 million and Php18 million, which are the amounts equivalent to the PDAF allocations of accused Sandoval less the management and service fees charged by TRC. Precisely, TRC charges 10% retention fee, 5% management fee and another 5% for TRC products and services in cases where project components are not available with TRC, for every project implemented through their agency because they incur expenses when they supervise the project implementation.

This Court notes that none of the accused refuted the evidence of the prosecution that the projects were not implemented and the deliveries reported are actually ghost deliveries. The prosecution's claim that the liquidation documents, the programs conducted and the kits and cash benefits distributed to the beneficiaries of various barangays within Malabon City and Navotas City, even the lists of beneficiaries submitted, were falsified was established and

²³⁰ Dionisio B. Coloma, Jr. vs. Sandiganbayan (Third Division) and People of the Philippines, G.R. No. 205561, September 24, 2014, 744 Phil. 214, 232.

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none of the accused presented any evidence to prove otherwise."

All told, regardless of the undue injury suffered by the government, particularly the constituents of accused Sandoval, the acquittal of their co-accused public officers contradicts the guilt of accused Petronila and Fernando, especially so when there is no proof that they themselves acted with manifest partiality, evident bad faith or gross inexcusable negligence. Surely, without the presence of the third element of the offense charged, accused Petronila and Fernando cannot be made liable when their supposed co-conspirators had already been declared innocent. The absence of proof of causal connection or link between the acts of the accused private individuals and that of the public officers negates the existence of conspiracy. Without moral certainty of their guilt, the acquittal of accused Petronila and Fernando on the charge of violation of Section 3(e) of R.A. No. 3019, as amended, is therefore proper, as it is warranted by the evidence on record.

Malversation of Public Funds

Malversation of Public Funds is defined and penalized under Article 217 of the RPC, as amended, as follows:

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 neglect, shall permit any other person to take such public funds or property, wholly or partially, or shall otherwise be guilty of misappropriation or malversation of such funds or property xxx

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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

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facie evidence that he has put such funds or property to personal uses.

As laid out by the Supreme Court in the case of *Zoleta vs. Sandiganbayan*,²³¹ the elements of the crime of Malversation of Public Funds are: 1) the offender is a public officer; 2) the offender has custody and control of funds or property by reason of the duties of his office; 3) the funds or property are public funds or property for which he is accountable; and 4) the offender appropriated, took, misappropriated, consented or through abandonment or negligence, permitted another person to take them.

To be convicted, there must be asportation of public funds or property, akin to the taking of another's property in theft. The funds, money or property taken must be public funds or private funds impressed with public attributes or character for which the public officer is accountable.²³² In addition, in the crime of malversation of public funds, all that is necessary for conviction is proof that the accountable officer had received the public funds and that such officer failed to account for the said funds upon demand without offering a justifiable explanation for the shortage.²³³

First Element

The first element of Malversation of Public Funds is availing in the present case. The fact that accused Sandoval, Ortiz, Lacsamana, Jover and Espiritu are public officers is undisputed, as it is admitted by the parties and borne by the records. As discussed above, accused Petronila and Fernando, are properly impleaded in, and indicted on the present charge of malversation considering their alleged complicity with their co-accused.

Second and Third Element

Like the first element, the second and third elements, *i.e.* that the offender has custody and control of funds or property by reason of the

²³¹ G.R. No. 185224, July 29, 2015, 765 Phil. 39, 53.

²³² *Fidel T. Salamera vs. Sandiganbayan (First Division)*, G.R. No. 121099, February 17, 1999, 362 Phil. 556.

²³³ *Nida P. Corpuz vs. People of the Philippines*, G.R. No. 241383, June 8, 2020, 873 Phil. 601, 612-613.

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duties of his office, and that the funds or property are public funds or property for which he is accountable, have been complied with given the attending circumstances. An accountable officer is a public officer who, by reason of his or her office, is accountable for public funds or property.²³⁴

In the cited case of *Belgica*,²³⁵ the Supreme Court pronounced that the PDAF had become personal funds under the effective control of each legislator and given unto them on the sole account of their office. Evidently, accused Sandoval is an accountable officer in this respect. With regard to accused TRC officials, the Court, in the Joint Decision, ruled that by reason of the duties of their offices as Chief Accountant and Chief of the Budget Division, respectively, accused Jover and Espiritu also fall under the definition of accountable officers. Accused Lacsamana, on the other hand, as Group Manager of TRC, did not have the authority or duty to possess funds for safekeeping, and she did not have control of the PDAF funds.

Hence, the presence of the second and third elements of the crime is proven in so far as accused Sandoval, Jover and Espiritu are concerned. They were accountable for the disbursed funds, which are public in character. Again, it is noteworthy that accused Lacsamana, Petronila and Fernando, although not accountable officers with control of public funds, are included in the malversation charge in view of their alleged complicity with accountable officers, accused Sandoval, Jover and Espiritu.

Fourth Element

Nonetheless, the prosecution has failed to prove with moral certainty the fourth element of the offense charged, *i.e.*, the offender appropriated, took, misappropriated, consented or through abandonment or negligence, permitted another person to take them. As held in Joint Decision:

“ xxx However, the prosecution failed to prove the fourth element of the offense charged. It was not shown that accused

²³⁴ Ibid.

²³⁵ Supra at Note 216.

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*Sandoval received any money from the PDAF funds or that money was delivered to him which represented kickbacks, gifts or commissions from these funds. There is no evidence to show that he appropriated, took, misappropriated or consented or, through abandonment or negligence, permitted another person to take them. The funds were released by the DBM directly to the TRC as implementing agency. He had nothing to do with the preparation of the vouchers and the release of the checks. Accused Sandoval could not even be considered to have constructive possession and control of the money as the control of the same was transferred to TRC once the funds were released to them. Even in the choice of the NGO, all that the lawmaker can do is recommend an NGO, but the right to choose the NGO implementor rests with the implementing agency."*²³⁶

In finding that misappropriation or malversation on the part of the TRC officials has not been proven beyond reasonable doubt, the Court added:

"While the PDAF allocations passed through TRC, there is no allegation that it was misappropriated. In fact, that the funds were used in the conduct of livelihood programs and projects and the distribution of livelihood kits and cash allowances to the constituents would disprove the theory of misappropriation or conversion of the use of these items for private gain. Otherwise stated, the prosecution failed to prove that the training programs were not conducted, that the beneficiaries did not receive the kits and cash benefits, that the kits were either inexistent or that they were not delivered, and were instead converted to personal use by the accused. Despite the number of witnesses presented by the prosecution, it failed to convince this Court that the projects were inexistent. A single or a fewer number of witnesses who could have really attested to the 'ghost' projects could have disproved the presumption of regularity, for instance, persons who witnessed the preparation of the lists of beneficiaries and other documents, persons who can verify that a certain beneficiary in the list is the only one with such name in the entire Malabon or Navotas or in the entire country, persons who witnessed any of the accused

²³⁶ Records, Vol. XX, pp. 135-136.

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meeting and planning the alleged scheme to defraud the government, and the like.

As for accused Ignacio, Petronila and Fernando Balmaceda, and Agana, being the representatives of the NGOs that received the PDAF funds of accused Sandoval, without proof beyond reasonable doubt that they knowingly participated in the irregularity attending the disallowed disbursements and that they planned together with their co-accused to defraud the government, they can be considered as mere passive recipients. As held by the Supreme Court, good faith is anchored on an honest belief that one is legally entitled to the benefit."²³⁷

With regard to accused Jover and Espiritu, there is likewise no indubitable proof that they misappropriated the PDAF allocation of accused Sandoval. Neither is there proof that they received any kickback or money from any of the accused. Verily, they asserted that their acts were purely ministerial in nature and done in accordance with office circulars. In fact, they claimed that in some instances, funds were released without their signatures.

So viewed, with the lack of proof beyond reasonable doubt that accused Sandoval, Jover and Espiritu misappropriated the subject PDAF and the equally lack of proof that accused Lacsamana, Petronila and Fernando had performed separate acts in furtherance of the alleged conspiracy to commit the crime of malversation of public funds, there is no cogent reason to hold accused Petronila and Fernando guilty of the malversation charge under Criminal Case No. SB-16-CRM-0240. As discussed above, the prosecution has failed to prove with moral certainty the connivance and complicit acts among accused Sandoval, Lacsamana, Jover, Espiritu, Petronila, and Fernando. There is simply no link or connection among them to justify a finding of conspiracy. With no conspiracy to speak of, the acquittal of accused Petronila and Fernando is imperative.

It is settled that the burden is on the prosecution to prove an accused's guilt beyond reasonable doubt. This is demanded by the due process clause of the Constitution, which protects an accused from conviction except upon proof beyond reasonable doubt of every fact necessary to constitute the crime with which he or she is charged.

²³⁷ Id, pp. 139-140.

Unless the prosecution is able to discharge its burden, the accused need not even offer evidence in his/her behalf, and he/she would be entitled to an acquittal.²³⁸

Civil Liability of Accused Petronila and Fernando

In the case of *Philippine National Bank vs. Raymundo*,²³⁹ the Supreme Court expounded on the two kinds of acquittal recognized by law, as well their effects on the civil liability of the accused. Citing the case of *Lumantas vs. Calapiz*,²⁴⁰ the Supreme Court in the *Raymundo* case said:

"Our law recognizes two kinds of acquittal, with different effects on the civil liability of the accused. First is an acquittal on the ground that the accused is not the author of the act or omission complained of. This instance closes the door to civil liability, for a person who has been found to be not the perpetrator of any act or omission cannot and can never be held liable for such act or omission. There being no delict, civil liability ex delicto is out of the question, and the civil action, if any, which may be instituted must be based on grounds other than the delict complained of. This is the situation contemplated in Rule 111 of the Rules of Court. The second instance is an acquittal based on reasonable doubt on the guilt of the accused. In this case, even if the guilt of the accused has not been satisfactorily established, he is not exempt from civil liability which may be proved by preponderance of evidence only.

*The Rules of Court requires that in case of an acquittal, the judgment shall state "whether the evidence of the prosecution absolutely failed to prove the guilt of the accused or merely failed to prove his guilt beyond reasonable doubt. In either case, the judgment shall determine if the act or omission from which the civil liability might arise did not exist."*²⁴¹

²³⁸ *People vs. Cerezo*, Supra at Note 227.

²³⁹ G.R. No. 208672, December 7, 2016, 802 Phil. 617.

²⁴⁰ G.R. No. 163753, January 15, 2014, 724 Phil. 248, 253-254.

²⁴¹ *PNB v. Raymundo*, 802 Phil. 617, 626-627.

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Every person criminally liable for a felony is also civilly liable. Yet, the dismissal of the criminal action does not carry with it the extinction of the civil liability where: "(a) the acquittal is based on reasonable doubt as only preponderance of evidence is required; (b) the court declares that the liability of the accused is only civil; and (c) the civil liability of the accused does not arise from or is not based upon the crime of which the accused is acquitted." The quantum of proof to establish civil liability is preponderance of evidence which is defined as the "weight, credit, and value of the aggregate evidence on either side and is usually considered to be synonymous with the term '*greater weight of the evidence*' or '*greater weight of the credible evidence*.' It is evidence which is more convincing to the court as worthy of belief than that which is offered in opposition thereto."²⁴²

Relevant as it is, emphasis should be made that the Court, in the Joint Decision, acquitted accused Sandoval, Lacsamana, Jover and Espiritu. In the present case, accused Petronila and Fernando are also acquitted of the charges against them. However, the basis for acquittal in both instances is the failure of the prosecution to prove their guilt beyond reasonable doubt. It is not founded on the finding that they are not the authors of the act or omission complained of. Thus, their civil liability survives because only preponderant evidence is necessary to establish it. Here, the required quantum of proof was met to support the civil liability of accused Petronila and Fernando, similar to that of accused Sandoval, Lacsamana, Jover and Espiritu as discussed in the Joint Decision.

While the Court ruled that certain circumstances cast reasonable doubt not only on their guilt, but also on the proper implementation of the PDAF-funded livelihood project of PFI, there is a preponderance of evidence that accused Sandoval, Lacsamana, Jover, Espiritu, Petronila and Fernando committed irresponsible acts in the performance of their duties and obligations in relation to said project. There is preponderance of evidence that several irregularities attended the conduct of the livelihood project. There is no question that their separate, yet collective acts or omissions led to the release of the PDAF to PFI and the irregularities that plagued the project.

²⁴² *Silvino B. Matobato, Sr. vs. People of the Philippines*, G.R. No. 229265, *Walter B. Bucao, et. al. vs. Sandiganbayan-Special Fifth Division, et. al.*, G.R. No. 229624, February 15, 2022.

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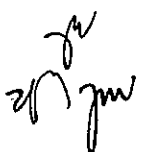
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Particularly, accused Sandoval irresponsibly and perfunctorily signed all the documents brought to him by the TRC representatives considering that his signature was vital in the release of his PDAF allocations. As opined in the Joint Decision, had he not affixed his signature in the documents, the Government would not have suffered the loss. His reliance on the representations of the TRC officials that they will take care of the documentation and implementation caused the disbursements of his PDAF allocations to PFI. He failed to take the necessary precautions including verifying whether the projects were indeed implemented.

Also, the acts or omission of the accused officials of TRC that caused undue injury to the government is made apparent by their negligence and failure to exercise due care in the release of the funds. Again, had the TRC officials been vigilant, the further release of the PDAF would have been prevented and the irregularities flagged. They were remiss in their duties, although such negligence does not tantamount to gross negligence.

For their part, there is preponderant evidence that accused Petronila and Fernando committed acts or omissions that allowed lapses in the PFI's livelihood project and eventually led to irregularities in the liquidation and accounting documents. While there is reasonable doubt that absolved them of criminal liability, they failed to contradict the alleged inconsistencies that attended the list of beneficiaries and uncertainties that put the existence of PFI suppliers in question.

Hence, it is beyond dispute that by reason of the acts or omissions of the accused Petronila and Fernando and their co-accused, the government suffered undue injury in the amount of P4,500,000.00. This is the amount equivalent to the PDAF allocations of accused Sandoval to PFI less the fees charged by the TRC, which include management and service fees. For every project implemented through their agency, TRC charges 10% retention fee, 5% management fee and another 5% for TRC products and services in cases where project components are not available with TRC. In sum, based on the evidence on record, accused Petronila and Fernando are civilly liable for the loss suffered by the government, and should be made jointly and severally liable with accused Sandoval, Lacsamana, Jover and Espiritu in the amount of P4,500,000.00.



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WHEREFORE, premises considered, the Court hereby renders judgment as follows:

1. In Criminal Case No. SB-16-CRM-0237, accused **PETRONILA A. BALMACEDA** and **FERNANDO BALMACEDA** are hereby **ACQUITTED** of violating Section 3(e) of R.A. 3019, as amended, for failure of the prosecution to establish their guilt beyond reasonable doubt.

2. In Criminal Case No. SB-16-CRM-0240, accused **PETRONILA A. BALMACEDA** and **FERNANDO BALMACEDA** are hereby **ACQUITTED** of Malversation of Public Funds under Article 217 of the Revised Penal Code for failure of the prosecution to establish their guilt beyond reasonable doubt.

3. However, accused **PETRONILA A. BALMACEDA** and **FERNANDO BALMACEDA** are found to be **CIVILLY LIABLE** for the improper implementation of the project funded by the PDAF released under SARO No. D-08-03248, and are **JOINTLY and SEVERALLY** liable with accused **ALVIN S. SANDOVAL, MARIA ROSALINDA M. LACSAMANA, MARIVIC V. JOVER, CONSUELO LILIAN R. ESPIRITU** in the amount of Four Million Five Hundred Thousand Pesos (P4,500,000.00).

SO ORDERED.

Quezon City, Metro Manila, Philippines.

Geraldine Faith A. Econg
GERALDINE FAITH A. ECONG
Associate Justice

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WE CONCUR:


EFREN N. DE LA CRUZ
Associate Justice
Chairperson


JULIET M. MANALO-SAN GASPAR
Associate Justice

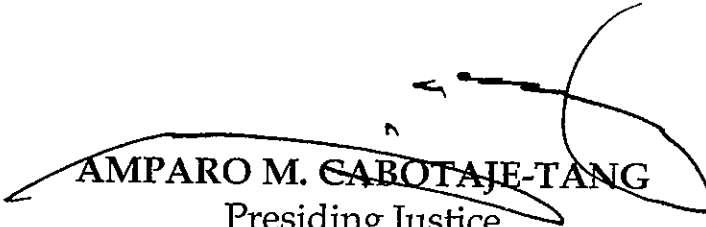
ATTESTATION

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.


EFREN N. DE LA CRUZ
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13, of the Constitution, and the Division Chairperson'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

