



Republic of the Philippines
SANDIGANBAYAN
Quezon City

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,

Plaintiff,

SB-17-CRM-0663-64

For: Violation of Section
3(e) of R.A. No. 3019, as
amended.

-versus-

SB-17-CRM-0665-66

For: Malversation of Public
Funds (Art. 217 of the
Revised Penal Code)

**TEODULO "DOLOY"
MONTANCES COQUILLA, ALAN
ALUNAN JAVELLANA,
ENCARNITA-CRISTINA P.
MUNSOD, MA. JULIE A.
VILLARALVO-JOHNSON,
ROMULO M. RELEVO, MARGIE
TAJON LUZ, MA. CRISTINA
JIMENO VIZCARRA,**

Present:

CABOTAJE-TANG, A.M.
P.J.,
Chairperson,
FERNANDEZ, B.R., J. and
MORENO, R.B. J.

Accused.

Promulgated:

FEBRUARY 23, 2024

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DECISION

Moreno, J.:

In Criminal Case No. SB-17-CRM-0663, accused TEODULO "DOLOY" MONTANCES COQUILLA ("Coquilla"), ALAN ALUNAN JAVELLANA ("Javellana"), ENCARNITA-CRISTINA POTIAN MUNSOD ("Munsod"), MA. JULIE ASOR VILLARALVO-JOHNSON ("Johnson"), ROMULO M. RELEVO ("Relevo"), MARGIE TAJON LUZ ("Luz"), and MA. CRISTINA JIMENO VIZCARRA ("Vizcarra") are charged with violation of Section 3(e) of Republic Act No. 3019 (Anti-

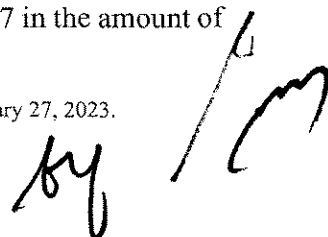
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Graft and Corrupt Practices Act), as amended. The amended *Information*¹ reads:

On or about January 23, 2008, or sometime prior or subsequent thereto, in Eastern Samar, Philippines, and within this Honorable Court's jurisdiction, the abovenamed accused public officers TEODULO "Doloy" MONTANCES COQUILLA (Coquilla), the then Congressman of the Lone District of Eastern Samar; ALAN ALUNAN JAVELLANA (Javellana), President, ENCARNITA-CRISTINA POTIAN MUNSOD (Munsod), Human Resources and Administrative Manager, MA. JULIE ASOR VILLARALVO-JOHNSON (Johnson), Chief Accountant, ROMULO M. RELEVO (Relevo), Head of General Services Unit, all of the National Agribusiness Corporations (NABCOR); while in the performance of their administrative and/or official functions and conspiring with one another and with private individuals MARGIE T. LUZ (Luz), and MA. CRISTINA JIMENO VIZCARRA (Vizcarra), both of GABAYMASA Development Foundation, Inc. (GABAYMASA); acting with manifest partiality, evident bad faith; did then and there willfully, unlawfully and criminally cause undue injury to the government in the amount of at least FOUR MILLION THREE HUNDRED SIXTY FIVE THOUSAND PESOS (PHP4,365,000.00), and/or give unwarranted benefits, advantage or preference to said private individuals and GABAYMASA, through the following acts:

- (a) Coquilla, a public officer accountable for and exercising control over the Priority Development Assistance Fund (PDAF) allocated to him by the general appropriation law for the year 2007 by reason of the duties of his office, unilaterally chose and indorsed GABAYMASA, a non-government organization operated and/or controlled by the aforementioned private individuals, as "project partner" in the implementation of livelihood projects in his legislative district, which were funded by Coquilla's Priority Development Assistance Fund (PDAF) allocation covered by Special Allotment Release Order (SARO) No. ROCS-07-07743, in disregard of the appropriation law and its implementing rules, and/or without the benefit of public/competitive bidding, as required under Republic Act No. 9184 and its implementing rules and regulations, and with GABAYMASA being unaccredited and unqualified to undertake the projects; he also signed undated Certificate of Acceptance and undated Acknowledgement Receipt to make it appear that the fictitious supplies were delivered to the intended beneficiaries in his District;
- (b) Javellana of NABCOR and Luz of GABAYMASA then entered into a Memorandum of Agreement (MOA) on the purported implementation of Coquilla's PDAF-funded projects;
- (c) Javellana also facilitated, processed, and approved the disbursement of the subject PDAF released by signing Disbursement Voucher No. 08-01-00200 along with Munsod, Revelo, and Johnson, thus certifying that the documents are complete and proper, with Javellana causing the issuance of United Coconut Planters Bank (UCPB) Check No. 407937 in the amount of

¹ Record, Vol. I, pp. 364-368. As further amended through *Order* dated January 27, 2023.
Record, Vol. X, pp. 143-144.

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PhP4,365,000.00 to GABAYMASA which was signed by Javellana, without the accused NABCOR officers and employees having carefully examined and verified the accreditation and qualification of GABAYMASA as well as the transaction's supporting documents;

- (d) Luz and Vizcarra caused or participated in the preparation and signing of undated certification, certificate of acceptance, delivery reports, abstract canvass, purchase order, project proposals and other liquidation documents supporting the Disbursement Voucher No. 08-01-00200, and, likewise received the check;
- (e) By their above acts, all of the aforementioned accused embezzled or caused or allowed the embezzlement by Luz, Vizcarra and GABAYMASA of the PDAF-drawn public funds, instead of implementing the PDAF projects, which turned out to be non-existent or fictitious, to the damage and prejudice of the Republic of the Philippines.

CONTRARY TO LAW.

The amended *Information*² in Criminal Case No. SB-17-CRM-0664 is similarly worded as above and uniformly indicts accused Coquilla, Javellana, Munsod, Johnson, Relevo, Luz, and Vizcarra. They only differ with respect to the following details:

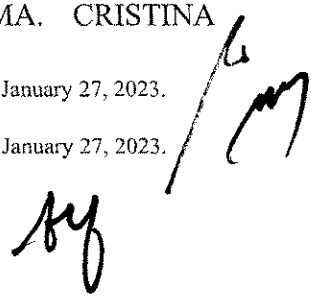
Date of Transaction: July 1, 2008
Amount Involved: FOUR HUNDRED EIGHTY FIVE THOUSAND PESOS (PHP485,000.00)
Disbursement Voucher Involved: Disbursement Voucher No. 08-07-02229
Check Involved: United Coconut Planters Bank (UCPB) Check No. 417265

In Criminal Case No. SB-17-CRM-0665, the accused are charged with the crime of Malversation of Public Funds, as defined and penalized under Article 217 of the Revised Penal Code, as amended. The amended *Information*³ reads:

On or about January 23, 2008, or sometime prior or subsequent thereto, in Eastern Samar, Philippines, and within this Honorable Court's jurisdiction, the abovenamed accused public officers TEODULO "Doloy" MONTANCES COQUILLA (Coquilla), the then Congressman of the Lone District of Eastern Samar; ALAN ALUNAN JAVELLANA (Javellana), President, ENCARNITA CRISTINA POTIAN MUNSOD (Munsod), Human Resources and Administrative Manager, MA. JULIE ASOR VILLARALVO-JOHNSON (Johnson), Chief Accountant, ROMULO M. RELEVO (Relevo), Head of General Services Unit, all of the National Agribusiness Corporations (NABCOR); while in the performance of their administrative and/or official functions and conspiring with one another and with private individuals MARGIE T. LUZ (Luz), and MA. CRISTINA

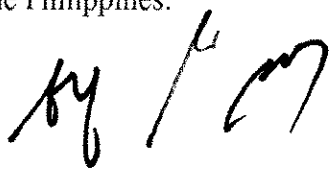
² Record, Vol. I, pp. 369-373. As further amended through *Order* dated January 27, 2023.
Record, Vol. X, pp. 143-144.

³ Record, Vol. I, pp. 374-378. As further amended through *Order* dated January 27, 2023.
Record, Vol. X, pp. 143-144.

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VIZCARRA (Vizcarra), both of GABAYMASA Development Foundation, Inc. (GABAYMASA); did then and there willfully, unlawfully and feloniously misappropriate or consent, or allow MARGIE TAJON LUZ, MA. CRISTINA JIMENO VIZCARRA and GABAYMASA to take public funds amounting to at least FOUR MILLION THREE HUNDRED SIXTY FIVE THOUSAND PESOS (PHP4,365,000.00), through the following acts:

- (a) Coquilla, a public officer accountable for and exercising control over the Priority Development Assistance Fund (PDAF) allocated to him by the general appropriation law for the year 2007 by reason of the duties of his office, unilaterally chose and indorsed GABAYMASA, a non-government organization operated and/or controlled by the aforementioned private individuals, as "project partner" in the implementation of livelihood projects in his legislative district, which were funded by Coquilla's Priority Development Assistance Fund (PDAF) allocation covered by Special Allotment Release Order (SARO) No. ROCS-07-07743, in disregard of the appropriation law and its implementing rules, and/or without the benefit of public/competitive bidding, as required under Republic Act No. 9184 and its implementing rules and regulations, and with GABAYMASA being unaccredited and unqualified to undertake the projects; he also signed undated Certificate of Acceptance and undated Acknowledgement Receipt to make it appear that the fictitious supplies were delivered to the intended beneficiaries in his District;
- (b) Javellana of NABCOR and Luz of GABAYMASA then entered into a Memorandum of Agreement (MOA) on the purported implementation of Coquilla's PDAF-funded projects;
- (c) Javellana also facilitated, processed, and approved the disbursement of the subject PDAF released by signing Disbursement Voucher No. 08-01-00200 along with Munsod, Revelo, and Johnson, thus certifying that the documents are complete and proper, with Javellana causing the issuance of United Coconut Planters Bank (UCPB) Check No. 407937 in the amount of Php4,365,000.00 to GABAYMASA which was signed by Javellana, without the accused NABCOR officers and employees having carefully examined and verified the accreditation and qualification of GABAYMASA as well as the transaction's supporting documents;
- (d) Luz and Vizcarra caused or participated in the preparation and signing of undated certification, certificate of acceptance, delivery reports, abstract canvass, purchase order, project proposals and other liquidation documents supporting the Disbursement Voucher No. 08-01-00200, and, likewise received the check;
- (e) By their above acts, all of the aforementioned accused misappropriated or consented or allowed Luz, Vizcarra and GABAYMASA to take or misappropriate PDAF-drawn public funds, instead of implementing the PDAF projects, which turned out to be non-existent or fictitious, to the damage and prejudice of the Republic of the Philippines.

A handwritten signature in black ink, appearing to be a stylized combination of letters, possibly 'Jy' or 'Jm', followed by a flourish.

CONTRARY TO LAW.

The amended *Information*⁴ in Criminal Case No. SB-17-CRM-0666 is similarly worded as above, and uniformly indicts the accused Coquilla, Javellana, Munsod, Johnson, Relevo, Luz, and Vizcarra. They only differ with respect to the following details:

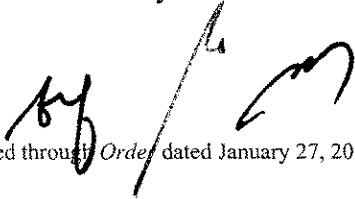
Date of Transaction: July 1, 2008
Amount Involved: FOUR HUNDRED EIGHTY FIVE THOUSAND PESOS (PHP485,000.00)
Disbursement Voucher Involved: Disbursement Voucher No. 08-07-02229
Check Involved: United Coconut Planters Bank (UCPB) Check No. 417265

Antecedent Proceedings

In its *Resolution* promulgated on April 17, 2017⁵, the Court found existence of probable cause against accused Coquilla, Javellana, Munsod, Johnson, Relevo, Luz, and Vizcarra after a careful evaluation of the records of these cases. Thus, the Court issued *hold departure orders* and *warrants of arrest* against them.

On May 29, 2017, accused Munsod voluntarily surrendered to the Court⁶ and posted her cash bail bond for her provisional liberty.⁷ Accused Javellana and Vizcarra were not furnished with copies of the *Informations* and the warrants of arrest at their respective addresses for the reason that they are no longer residing thereat.⁸ The warrant of arrest against accused Johnson was also returned on the ground that it was unserved, citing that she could not be located at the given address.⁹

On June 22, 2017, accused Relevo voluntarily surrendered to the Court¹⁰ and posted his cash bail bond for his provisional liberty on the same day.¹¹ Accused Coquilla, on the other hand, voluntarily surrendered to the Court on August 2, 2017,¹² and was discharged on the same date after posting his reduced cash bond for his provisional liberty.¹³ On August 10, 2017, accused Luz voluntarily surrendered to the Court¹⁴ and posted her reduced cash bond for her provisional liberty.¹⁵


⁴ Record, Vol. I, pp. 379-383. As further amended through *Order* dated January 27, 2023.
Record, Vol. X, pp. 143-144.
⁵ Record, Vol. I, p. 185.
⁶ Record, Vol. I, p. 237.
⁷ Record, Vol. I, p. 242.
⁸ Record, Vol. I, pp. 266, 407, 411, 417, 542, 680.
⁹ Record, Vol. I, p. 425; Vol. II, p. 7.
¹⁰ Record, Vol. I, p. 327.
¹¹ Record, Vol. I, p. 322.
¹² Record, Vol. I, p. 481.
¹³ Record, Vol. I, p. 482.
¹⁴ Record, Vol. I, p. 490.
¹⁵ Record, Vol. I, p. 488.

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On July 3, 2017, the prosecution filed its *Manifestation and Motion to Admit Amended Information*.¹⁶ Upon re-arraignment, accused Luz,¹⁷ Munsod, and Relevo¹⁸ refused to enter a plea on the Amended Informations. Accordingly, a plea of "NOT GUILTY" was entered into the records. On the other hand, accused Coquilla was not arraigned on the ground of his alleged fact of death.¹⁹

During the pre-trial, the parties jointly agreed to stipulate the following:

STIPULATION OF FACTS

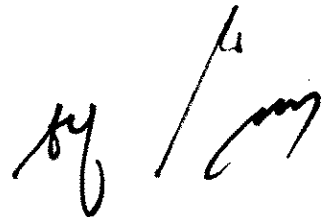
Prosecution and Accused Romulo M. Relevo.

1. Whenever referred to orally or in writing by this Honorable Court and the prosecution and/or its witness, accused Relevo admits that he is the same person being referred to in the Informations.
2. At the time material to these cases, accused Relevo was a public Officer, being the former Head of the General Services Unit of NABCOR.
3. At the time material to these cases, Accused Coquilla was a public officer, being the Congressman of the Lone District of Eastern Samar.
4. Accused Javellana and Villaralvo-Johnson were public officers at the time material to these cases, being the President and Chief Accountant of NABCOR, respectively.
5. NABCOR is the identified implementing agency of accused Coquilla's PDAF-funded projects subject of these cases.
6. A MOA was entered into on January 16, 2008, between accused Javellana of NABCOR and accused Luz of Gabaymasa on the implementation of accused Coquilla's PDAF-funded projects.
7. Accused Relevo signed Disbursement Voucher No. 08-07-2229.

Prosecution and Accused Encarnita Cristina P. Munsod.

1. Whenever referred to orally or in writing by this Honorable Court and the prosecution and/or its witness, accused Munsod admits that she is the same person being referred to in the Informations.

¹⁶ Record, Vol. I, p. 360.
¹⁷ Record, Vol. II, p. 894.
¹⁸ Record, Vol. III, pp. 36-37.
¹⁹ Record, Vol. III, pp. 219, 242, 357.

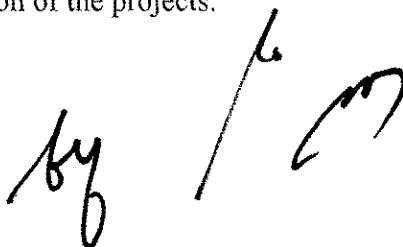


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2. At the time material to the cases, accused Munsod was a public officer, being the former Human Resources and Administrative Manager of NABCOR.
3. At the time material to these cases, Accused Coquilla was a public officer, being the Congressman of the Lone District of Eastern Samar.
4. Accused Javellana and Villalarvo-Johnson were public officers at the time material to these cases, being the President and Chief Accountant of NABCOR, respectively.
5. NABCOR is the identified implementing agency of accused Coquilla's PDAF-funded projects subject of these cases.
6. A MOA was entered into on January 16, 2008, between accused Javellana of NABCOR and accused Luz of Gabaymasa on the implementation of accused Coquilla's PDAF-funded projects.
7. Accused Munsod signed Disbursement Voucher No. 08-01-00200.

Prosecution and Accused Margie T. Luz

1. As to the identities of the accused named in the Informations.
2. That accused Luz is the President of Gabaymasa in 2007 and 2008.
3. That NABCOR is the identified implementing agency.
4. That Gabaymasa is a non-government organization.
5. That Gabaymasa was the project partner chosen by accused Coquilla in the implementation of the livelihood projects in his district which were funded by the latter's PDAF allocation for the year 2007.
6. That accused Coquilla signed the undated Certificate of Acceptance and undated Acknowledgement Receipts.
7. A MOA was entered into on January 16, 2008 between accused Javellana of NABCOR and accused Luz of Gabaymasa on the implementation of accused Coquilla's PDAF-funded projects and one of the conditions imposed in the MOA was for Gabaymasa to coordinate with the office of accused Coquilla for the implementation of the projects.²⁰



EVIDENCE FOR THE PROSECUTION

The evidence offered by the prosecution with respect to accused Munsod, Relevo, Coquilla, and Luz, derived from the Court's *Decision*²¹ dated September 2, 2022, is summed up as follows:

1. Testimony of witness Marissa A. Santos.

Witness Marissa A. Santos ("Santos") is the Chief Administrative Officer of the Central Records Division of the Department of Budget and Management ("DBM"). As the Chief Administrative Officer, she supervises the day-to-day operation of the Central Record Division and is assigned as the custodian and safe keeper of the DBM records (*i.e.*, DMB issuances, documents, and records that are processed and issued by the DBM, such as Special Allotment Release Orders ("SARO"), Notice of Cash Allocation ("NCA"), Advice of NCA Issued ("ANCAI"), and basic agency requests). She testified having received a subpoena directing her to submit the certified true copies of the original SARO No. ROCS-07-07743 dated October 10, 2007, including its annexes issued to the Department of Agriculture ("DA"), its corresponding NCA, ANCAI, and other pertinent documents relative to the PDAF cases against accused Coquilla, et al. She submitted the certified true copies of the aforementioned documents to the Office of the Special Prosecutor ("*Exhibits TTTT to TTTT-7*"), which are the faithful reproduction of the originals that are in her custody.²²

2. Testimony of witness Lourdes B. Plechas.

Witness Lourdes B. Plechas ("Plechas") is the Officer-in-Charge, Records Division of the DA, Central Office, in Diliman, Quezon City. As the Officer-in-Charge ("OIC"), she has custody of the original MOA between the DA and NABCOR dated December 28, 2007, a certified true copy of which was previously marked as *Exhibit "YYYY"*. In connection with her duties and functions, she certified a copy of the original MOA in compliance with a subpoena.²³

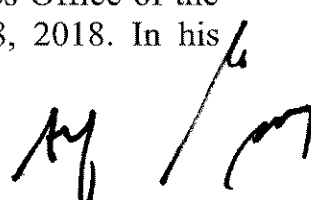
3. Testimony of witness Glicerio Kalaw.

Witness Glicerio Kalaw ("Kalaw") has been the Supervising Administrative Officer of the Records Management Services of the General Services Office of the COA since January 4, 2011. As per Office Order No. 2018-742 dated August 28, 2018, he was designated as OIC of the Records Management Services of the General Services Office of the COA effective September 3, 2018, up to September 28, 2018. In his

²¹ Record, Vol. X, pp. 16-103.

²² *Decision* dated September 2, 2022, p. 11. Record, Vol. X, p. 26.

²³ *Decision* dated September 2, 2022, pp. 11-12. Record, Vol. X, pp. 26-27.

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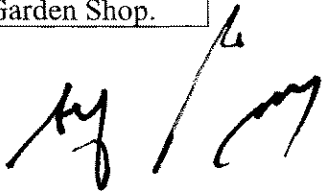
capacity as the OIC of the Records Management Services, he certified and submitted to the Office of the Special Prosecutor, in compliance with the latter’s subpoena, Officer Orders pertaining to the conduct of a government-wide performance audit of the PDAF, which were previously marked as *Exhibits “SSSS” to “SSSS-3”*.²⁴

4. Testimony of witness Abdelghani C. Sultan.

Witness Abdelghani C. Sultan (“Sultan”) is a State Auditor II of Team 2-NABCOR, Audit Group E-Natural Resources and Technology Group. She identified the following documents attached to her *Judicial Affidavit*, which are in his custody:²⁵

Exhibit	Description
“HHHH” to “HHHH-4”	COA AOM No. 2008-17 dated July 28, 2009. <i>(original copy)</i>
“IIII” to “IIII-10”	Projects Implemented by GABAYMASA.
“JJJJ”	BIR Annual Income Tax Return of GABAYMASA as of Dec. 2005.
“KKKK”	Report of an Independent CPA of GABAYMASA.
“LLLL”	GABAYMASA Statement of Financial Position as of Dec. 31, 2005.
“MMMM”	GABAYMASA Statement of Activities as of Dec. 31, 2005.
“NNNN”	BIR Annual Income Tax Return of GABAYMASA as of Dec. 2006.
“OOOO”	GABAYMASA Statement of Financial Position as of Dec. 31, 2006.
“PPPP”	GABAYMASA Statement of Activities as of Dec. 31, 2006.
“QQQQ” to “QQQQ-9”	GABAYMASA Annual Audited Financial Statement as of Dec. 31, 2007.
“RRRR”	Sources and Details of Proponents Equity Participation in the Project certified correct by Margie Luz.
“AAA” to “AAA-1”	Project Proposal of NABCOR.
“BBB”	Detailed Budget prepared by Margie Luz.
“II-1”	Acknowledgment Receipt signed by Coquilla.
“T-1”	GABAYMASA Abstract of Canvass signed by Vizcarra.
“Z-1”	GABAYMASA Purchase Order dated Dec. 15, 2007, with Marinduqueño’s Garden Shop as supplier, signed by Vizcarra.
“HHH-1”	Price Quotation of Mangopina Trading Co.
“GGG-1”	Price Quotation of Lilia Dapuran Marketing.
“DDD-1”	Price Quotation of Marinduqueño’s Garden Shop.

²⁴ Decision dated September 2, 2022, p. 12. Record, Vol. X, p. 27.
²⁵ Decision dated September 2, 2022, p. 13. Record, Vol. X, p. 28.



"Y-1"	GABAYMASA Purchase Order dated Dec. 11, 2007, with KP Enterprises as supplier, signed by Vizcarra.
"OO"	GABAYMASA Certification signed by Margie Luz.
"MMM"	Price Quotation of BT Mangrubang Enterprises.
"III-1"	Price Quotation of KP Enterprises.
"NNN"	Price Quotation of MJ Amores Enterprises.
"I" to "I-1"	Terms of Reference signed by Margie Luz.

5. Testimony of witness Atty. RJ A. Bernal.

Witness Atty. RJ A. Bernal ("Atty. Bernal") is the Chief Counsel of the Company Registration and Monitoring Department ("CRMD") of the Securities and Exchange Commission ("SEC"). In compliance with the subpoena from the Office of the Special Prosecutor, he submitted to the latter certified true copies of relevant documents pre-marked as *Exhibits "PP", "QQ" to "QQ-10", "SS", "TT" to "TT-5", "UU" to "UU-4", "VV", "WW", "XX", "YY" to "YY-5", "ZZ", to "ZZ-4".*²⁶

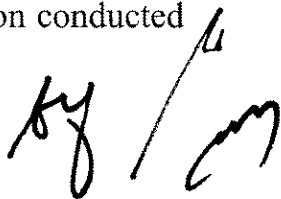
6. Testimony of witness Philip Daniel Mathews.

Witness Philip Daniel Mathews ("Mathews") was an Associate Graft Investigation Officer I in the Field Investigation Office of the Office of the Ombudsman in 2012. In 2012, with the authority of his superiors, witness Mathews conducted an ocular inspection and surveillance of the premises of Marinduqueño's Garden Shop and KP Enterprises in connection with the case concerning accused Coquilla's PDAF. He took pictures of the premises of Marinduqueño's Garden Shop and KP Enterprises and printed the same. During the ocular inspection and surveillance, he verified that Marinduqueño's Garden Shop is an establishment that deals in landscaping services and is not a supplier of seedlings.²⁷

During the cross-examination, witness Mathews testified that upon conducting the ocular inspection on April 17, 2012, his team took pictures of Marinduqueño's Garden Shop's establishment, signboard, and signages, and then posed as buyers of the subject seedlings to inquire whether the seedlings were indeed available. However, a certain unnamed store attendant of the shop mentioned to him that the shop is not selling seedlings. As for KP Enterprises, they were not able to talk with anybody in the shop concerning its business.²⁸

Witness Matthews also confirmed that they used the 2007 sales invoices as the basis for the addresses of the ocular inspection conducted

²⁶ Decision dated September 2, 2022, pp. 13-14. Record, Vol. X, pp. 28-29.
²⁷ Decision dated September 2, 2022, p. 14. Record, Vol. X, p. 29.
²⁸ Decision dated September 2, 2022, pp. 14-15. Record, Vol. X, pp. 29-30.



on April 17, 2002, of the Marinduqueño's Garden Shop and KP Enterprises. There were no other documents to prove the nature of the business of both Marinduqueños Garden Shop and KP Enterprises back in 2007. Witness Mathews admitted that they were not able to check the business permit or SEC registration of Marinduqueño's Garden Shop and KP Enterprises. They relied on the Certification issued by the DTI that both shops are not duly registered.²⁹

7. Testimony of witness Gegie Fietas.

Witness Gegie Fietas ("Fietas") is the proprietor of Marinduqueño's Garden Shop. According to her, the shop was only selling ornamental plants and did not sell any fruit-bearing seedlings. She denied that the shop entered into any transaction with GABAYMASA. As to the Purchase Order of GABAYMASA dated December 15, 2007, previously marked as *Exhibit "Z"*, witness Fietas denied having received the same. She also manifested that the signature above the name of Fietas appearing on the left bottom portion of the purchase order does not belong to her. She likewise denied having issued to GABAYMASA the Official Receipt No. 1026 ("*Exhibit EEE*"), Official Receipt No. 1029 ("*Exhibit FFF*"), Sales Invoice No. 1035 ("*Exhibit AA*"), Delivery Receipt dated December 27, 2007 ("*Exhibit BB*"), and Undated Price Quotation of seedlings ("*Exhibit DDD*"). According to her, the shop had no employee in the name of Danilo Ocoro who signed the Delivery Receipt dated December 27, 2007 ("*Exhibit BB*").³⁰

During the hearing, witness Fietas produced the original copies of the Application for Sole Proprietorship, Certificate of Business Name Registration, Business Permit of Marinduqueño's Garden Shop, Official Receipts, Letter addressed to Ms. Gloria Silverio dated June 1, 2015, and her identification card, all of which are made Exhibits to her *Judicial Affidavit*.³¹

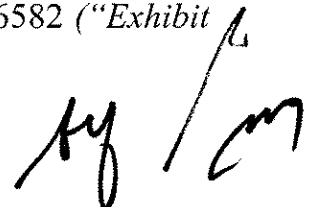
8. Testimony of witness Jerry Aurellano.

Witness Jerry Aurellano ("Aurellano") is the proprietor of KP Enterprises. According to him, KP Enterprises has been engaged in selling automotive batteries and automotive tires since 1992. He also denied that he or any representative from KP Enterprises received the Purchase Order of GABAYMASA dated December 11, 2007 ("*Exhibit Y*"). He manifested that the signature appearing thereon did not belong to him or any of his employees. KP Enterprises did not issue to GABAYMASA Sales Invoice No. 17561 ("*Exhibit FF*"), undated Official Receipt No. 16582 ("*Exhibit*

²⁹ Decision dated September 2, 2022, p. 15. Record, Vol. X, p. 30.

³⁰ Decision dated September 2, 2022, pp. 15-16. Record, Vol. X, pp. 30-31.

³¹ Decision dated September 2, 2022, p. 16. Record, Vol. X, p. 31.



LLL”), Sales Invoice No. 17550 (“*Exhibit JJJ*”), Official Receipt No. 16650 (“*Exhibit KKK*”), unnumbered Delivery Receipt dated December 7, 2007 (“*Exhibit GG*”), and undated Price Quotation of instructional materials (“*Exhibit III*”).³²

During the hearing, witness Aurellano testified that the DTI Certificates of Business Name and Registration of KP Enterprises (“*Exhibits UUUU to UUUU-1*”) are photocopies and that he was not able to present the originals thereof on the ground that he cannot locate them anymore.³³

On cross-examination, witness Aurellano testified that KP Enterprises has existed since 1992 and that it has a business permit and BIR Registration. KP Enterprises has an official printer for its official receipts and invoices. The shop has four (4) employees consisting of witness Aurellano, his son, one *tireman*, and one vulcanizer. The shop is located at the same address although the name and the number of the location changed because of local ordinance and renumbering made by the barangay. Other than selling batteries and tires, the shop is not engaged in any other businesses.³⁴

Witness Aurellano likewise testified that he doesn’t know any person by the name of Jerry Aurello and Evangeline Villa. During the cross-examination, witness Aurellano testified that he only produced the Sales Invoice issued by KP Enterprises for the year 2008 to 2009 (“*Exhibits ZZZZ and series*”) and from November 26, 2010, to December 9, 2010 (“*Exhibit VVVV and series*”) on the ground that he cannot locate any invoice for the year 2007. The witness enumerated the differences between the sales invoice that the shop issued in 2010 and the sales invoice attached to the COA letter dated 2007. When confronted with the Sales Invoice marked as *Exhibit “FF”*, it was noted that it contains the name “Jerry Aurellano” which is the same name appearing in the Sales Invoice that the shop issued in 2010.³⁵

9. Testimony of witness Bella G. Tesorero.

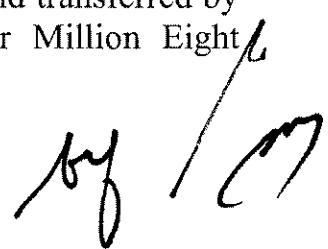
Witness Bella G. Tesorero (“Tesorero”) is a State Auditor III of the COA. Through COA Office Order No. 2009-246 dated April 22, 2009, she was designated as a member of an audit team to conduct an audit of the liquidation of cash advances granted to the NABCOR by the DA for calendar years 2007 and 2008. The audit covered the fund transferred by NABCOR to GABAYMASA in the amount of Four Million Eight

³² Decision dated September 2, 2022, pp. 16-17. Record, pp. 31-32.

³³ Decision dated September 2, 2022, p. 17. Record, Vol. X, p. 32.

³⁴ Id.

³⁵ Id.

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Hundred Fifty Thousand Pesos (Php4,850,000.00) out of the Five Million Pesos (Php5,000,000.00) PDAF allocated to accused Coquilla. According to her, the transfer to GABAYMASA was not in accordance with COA Circular No. 2007-001 dated October 25, 2007. As found by the audit team, accused Coquilla unilaterally chose and indorsed GABAYMASA, without the benefit of public bidding, to implement the livelihood projects in the Lone District of Eastern Samar funded by his PDAF allocation. Moreover, GABAYMASA was unqualified to undertake the livelihood projects in the Lone District of Eastern Samar. The audit team's observations or findings were embodied in the AOM No. 2008-17 dated July 28, 2009, marked as *Exhibits "HHHH" to "HHHH-4"* of the prosecution.³⁶

Witness Tesorero also identified the Certified True Copies of Disbursement Voucher No. 07-12-6779 dated December 28, 2007 (*"Exhibit H"*) Disbursement Voucher No. 08-01-00200 dated January 23, 2008 (*"Exhibit N"*), as well as their supporting documents which were gathered during the course of the audit (*i.e. "Exhibits J, M to M-2, O, P, Q, R, S, Y, Z, AA, BB, FF, GG, HH, H, JJ, KK, AAA to AAA-1, BBB, EEE, FFF, JJJ, KKK, LLL, OOO, PPP, QQQ, RRR, SSS, TTT, UUU, VVV, VVV-1, VVV-2, WWW, WWW-1, WWW-2, XXX, XXX-1, XXX-2, YYY, YYY-1, ZZZ, ZZZ-1, AAAA, AAAA-1, BBBB, BBBB-1, CCCC, DDDD, DDDD-1, EEEE, EEEE-1, QQQQ to QQQQ-9, AAAAA, BBBB, DDDDD, DDDDD-1, EEEEE to EEEEE-4"*).³⁷

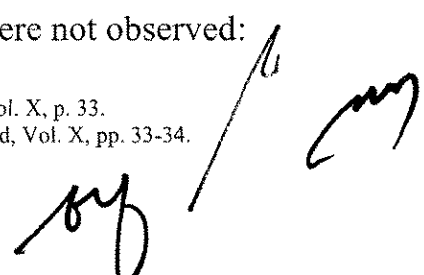
The foregoing Exhibits, except for *Exhibits "AAA" to "AAA-1"* (Certified True Copy from Photocopy of Project Proposal with Project Proponent Cong. Coquilla and Total Budget Requested), *Exhibit "BBB"* (Certified True Copy from Photocopy of Detailed Budget for the project, *Exhibits "QQQQ" to "QQQQ-9"* (Certified True Copy from Photocopy on File of the Annual Audited Financial Statement of GABAYMASA as of December 31, 2007), and *Exhibits "DDDDD to DDDDD-1"* (Certified True Copy of Authority issued by accused Luz in favor of accused Vizcarra to claim the check on behalf of GABAYMASA), were compared with the originals, and after comparison, the defense stipulated that these Exhibits are faithful reproduction of the originals.³⁸

Under Audit Observation No. 1.6., the team observed that the accused violated the provisions of COA Circular No. 2007-001, which provides for the guidelines for granting, utilization, accounting, and auditing of the funds released to Non-Government Organizations (NGOs) or People's Organizations (POs). The team noted that the following requirements under the COA Circular were not observed:

³⁶ Decision dated September 2, 2022, p. 18. Record, Vol. X, p. 33.

³⁷ Decision dated September 2, 2022, pp. 18-19. Record, Vol. X, pp. 33-34.

³⁸ *Id.*



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(1) That checks issued by the government organization covering the release of the fund to the NGO shall be crossed for deposit to its savings or current accounts; (2) that the NGO shall be selected through public bidding; (3) that the NGO must be based in the community where the project shall be implemented; (4) that the NGO must submit audited financial reports for three years preceding the date of project implementation, as well as the sources and details of proponent's equity participation in the project; (5) that the Project Proposal must be approved and signed by its officers; (6) that the MOA covering the project must embody the terms of reference; (7) that an inspection report must be submitted by the NGO within sixty (60) days after the completion of the project; and (8) that the NGO must conduct simple bidding or canvass to ensure the best terms and quality of the purchase.³⁹

The team observed that GABAYMASA did not submit an inspection report within the 60-day period. Moreover, the team found no documents pertaining to the bidding or canvass for the procurement of various seedlings and instructional materials. Under the COA Circular, in the procurement of any type of assets out of government, the NGO must conduct simple bidding or canvass to ensure the best terms and quality of the purchase. In addition, the audit team observed that there was no list of recipients of the various livelihood projects. What was submitted was only a list of municipalities and barangays with only one person's signature per barangay. Finally, the team found that GABAYMASA did not provide an equity equivalent to twenty percent (20%) of the total project cost. These observations and findings are embodied in the AOM No. 2008-17 dated July 28, 2009, which was addressed to accused Javellana, President of NABCOR ("*Exhibits HHHH and series*").⁴⁰

In response to the AOM, the management of NABCOR submitted the following comments:

(1) While the NGO may not have been locally based in the area where the project was implemented, proper coordination was observed since the project was a tripartite project with the participation of the legislator, the NGO, and the NABCOR; (2) as to the non-implementation of the COA Circular, it justified that the audit of CY 2007 was concluded in October 2008 and followed by the special audit in the same month; (3) the management also submitted sources and details of equity participation of the NGO in the implementation of the project, additional liquidation documents made by the NGO, and the terms of reference; and (4) that it also committed to complying with the recommendation that the checks shall be crossed for the succeeding releases to the NGO. These comments are embodied in the Annual Audit Report for the year ended December 31, 2008 ("*Exhibits AAAAA and series*").⁴¹

³⁹ Decision dated September 2, 2022, p. 19. Record, Vol. X, p. 34.

⁴⁰ Decision dated September 2, 2022, pp. 19-20. Record, Vol. X, pp. 34-35.

⁴¹ Decision dated September 2, 2022, p. 20. Record, Vol. X, p. 35.

When confronted with the COA Circular No. 2007-001, witness Tesorero testified that under the said circular, both the Government Organization and the Non-Government Organization involved must comply with the provisions of the MOA entered into by and between them. Moreover, both the government organization and the non-government organization must ensure that the provisions of the MOA conform with the circular.⁴²

On questions propounded by the Court, witness Tesorero testified that accused Coquilla should be indicted for the offense because he unilaterally chose and endorsed GABAYMASA to be the project partner in the implementation of the PDAF-funded livelihood project. According to her, the selection of the NGO as the project partner should have undergone bidding. On further clarification, witness Tesorero agreed with the Court that the mere fact that the accused Coquilla's PDAF-funded livelihood project was implemented by GABAYMASA, an NGO, is already a violation of the GAA for the year 2007, absent any law or ordinance appropriating funds for the NGO. As for accused Javellana, the witness alleged that his act of entering into a MOA with GABAYMASA is already an express violation of the GAA for the year 2007. Moreover, in releasing the funds to GABAYMASA, NABCOR committed violations of the COA Circular No. 2007-001.⁴³

10. Testimony of witness Inigo Padullo.

Witness Inigo Padullo ("Padullo") was the Punong Barangay of Barangay Taytay, Guiuan, Eastern Samar, from 2007 until 2010, from 2013 up to 2018. According to him, from 2007 to 2008, Barangay Taytay did not receive any instructional materials and seedlings from GABAYMASA in relation to the PDAF allotted to the Lone District of Eastern Samar nor was there any person that goes by the name Elena Adigue in Taytay, Guiuan, contrary to the undated Certificate of Acceptance ("*Exhibit HH*").⁴⁴

11. Testimony of witness Roberto Padriquez.

Witness Roberto Padriquez ("Padriquez") is the Punong Barangay of Barangay Campoyong, Guiuan, Eastern Samar since 2010. From 2002 to 2010, he was a Barangay Kagawad the said barangay. According to him, from 2007 to 2008, Barangay Campoyong did not receive any instructional materials and seedlings from GABAYMASA in relation to the PDAF allotted to the Lone District of Eastern Samar nor was there any person that

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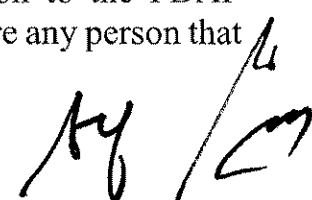
Id.

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Decision dated September 2, 2022, p. 21. Record, Vol. X, p. 36.

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Id.

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goes by the name Rosendo Balagbis in Campoyong, Guiuan, contrary to the undated Certificate of Acceptance (*"Exhibit HH"*).⁴⁵

12. Testimony of witness Gemafiel R. Gaspay.

Witness Gemafiel R. Gaspay ("Gaspay") is the Licensing Officer III of the Business Permits and Licenses Division, Office of the City Mayor, Tacloban City, since July 12, 2018. In relation to her function as Licensing Officer III, she submitted to the Office of the Special Prosecutor a Certification dated October 14, 2019 (*"Exhibit BBBBBB"*), in compliance with the latter's *subpoena*. According to her, the name "Lilia Dapuran" with the business name "LD Marketing & Services" located at Barangay 95, Caibaan, Tacloban City is a registered business proprietor and business establishment since 2015. On the other hand, there is no business name "Lila Dapuran Marketing" registered in the Business Permits and Licenses Division, Tacloban City. She also testified that based on the application for business registration, LD Marketing & Services was intended for general merchandise and manpower service and that any business transacted by LD Marketing & Services prior to its registration in 2015 is deemed illegal based on existing ordinances.⁴⁶

13. Testimony of witness Menardo Felipe, Jr.

Witness Menardo Felipe, Jr. ("Felipe") is the Municipal Government Department Head I assigned to the Business Permits and Licensing Office ("BPLO") of San Mateo, Rizal. In relation to his functions as Department Head I, he received a *subpoena* from the Ombudsman and issued the certification in compliance with the same (*"Exhibit BBBBBB-1"*). He certified that based on official records of the BPLO of San Mateo, Rizal there is no registered business establishment in the name of "MF MORES ENTERPRISES" owned by a certain Josephine Mores.⁴⁷

14. Testimony of witness Ma. Liza H. Africa.

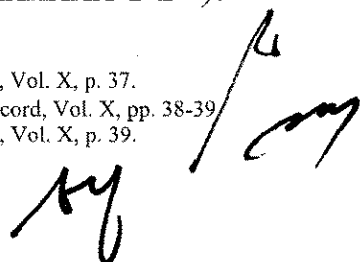
Witness Ma. Liza H. Africa ("Africa") is the OIC of the Records and Statistics Division of the Business Permits and Licensing Department of Quezon City. She identified the Certification dated October 9, 2019 (*"Exhibit AAAAAA-2"*), together with the attached documents: Business Permit (*"Exhibit AAAAAA-2-A"*), Barangay Certification or Clearance (*"Exhibit AAAAAA-2-B"*), Official Receipts (*"Exhibit AAAAAA-2-C"*), and Fire Safety Certificate (*"Exhibit AAAAAA-2-D"*).⁴⁸

⁴⁵ Decision dated September 2, 2022, p. 22. Record, Vol. X, p. 37.

⁴⁶ Decision dated September 2, 2022, pp. 23-24. Record, Vol. X, pp. 38-39.

⁴⁷ Decision dated September 2, 2022, p. 24. Record, Vol. X, p. 39.

⁴⁸ *Id.*



15. Testimony of witness Teodoro Remojo.

Witness Teodoro Remojo (“Remojo”) was the Punong Barangay of Barangay Victory, Eastern Samar, from 1989 to 1995, and from 1997 until 2010. He testified that when he was Punong Barangay in 2007 and 2008, Barangay Victory did not receive any instructional materials and seedlings from GABAYMASA. Moreover, in the same period, no person was residing in the barangay who went by the name of Juan Docena.⁴⁹

16. Testimony of witness Candida L. Opriasa.

Witness Candida L. Opriasa (“Opriasa”) was the Punong Barangay of Barangay Hagna, Guiuan, Eastern Samar, from 2002 until 2013. She testified that when she was Punong Barangay in 2007 and 2008, Barangay Hagna did not receive any instructional materials and seedlings from GABAYMASA nor was there any person who goes by the name of Junjun Cebreros who resided in the barangay.⁵⁰

17. Testimony of witness Rodulfo N. Lacasa.

Witness Rodulfo N. Lacasa (“Lacasa”) was the Punong Barangay of Barangay Bulawan, Eastern Samar, from 2007 until 2010. From 2007 and 2008, Barangay Bulawan did not receive any instructional materials and seedlings from GABAYMASA in relation to the PDAF allotted to the Lone District of Eastern Samar. Moreover, contrary to the undated Certificate of Acceptance (“*Exhibit HH*”), the barangay has no resident who goes by the name of Behel Loyola during the same period.⁵¹

18. Testimony of witness Paquito Y. Naves.

Witness Paquito Y. Naves (“Naves”) was the Punong Barangay of Barangay Malobago, Maslog, Eastern Samar, from 2007 until 2010. According to him, when he was Punong Barangay in 2007 and 2008, Barangay Malobago did not receive any instructional materials and seedlings from GABAYMASA. Moreover, no person that goes by the name of Julio Acayen resided in Malobago, Maslog contrary to the undated Certificate of Acceptance (“*Exhibit HH*”).⁵²

19. Testimony of witness Rafael Rebato.

Witness Rafael Rebato (“Rebato”) was the Punong Barangay of Barangay San Miguel, Maslog, Eastern Samar, from 2007 until 2010. He

⁴⁹ Decision dated September 2, 2022, pp. 24-25. Record, Vol. X, pp. 39-40.

⁵⁰ Decision dated September 2, 2022, pp. 25-26. Record, Vol. X, pp. 40-41.

⁵¹ Decision dated September 2, 2022, p. 26. Record, Vol. X, p. 41.

⁵² Decision dated September 2, 2022, p. 27. Record, Vol. X, p. 42.

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testified that from 2007 and 2008, Barangay San Miguel did not receive any instructional materials and seedlings from GABAYMASA in relation to the PDAF allotted to the Lone District of Eastern Samar.⁵³

20. Testimony of witness Joan Agnes N. Alfafaras.

Witness Joan Agnes N. Alfafaras ("Alfafaras") is a State Auditor IV of the COA assigned at the Special Audits Office (SAO). By COA Office Order No. 2010-309 dated May 13, 2010, a government-wide performance audit of PDAFs was conducted where she was designated as Co-Team Leader. The audit team's observations/findings were embodied in SAO Report No. 2012-03 ("*Exhibit XXXX*"). Based on the report, the Audit Team issued Notice of Disallowance No.: DA-2014-019-PDAF (07-09) and No.: NAB-2014-024-PDAF (07-09) ("*Exhibits WWWWW*" and "*WWWW-1*", respectively).⁵⁴

According to witness Alfafaras, the release of Five Million Pesos (Php5,000,000.00) PDAF allocated to Congressman Coquilla by the DBM to the DA has no basis and is in violation of DBM National Budget Circular ("NBC") No. 476, and so, the transfer of the same Five Million Pesos (Php5,000,000.00) by the DA to NABCOR is likewise illegal and in violation of the General Appropriations Act ("GAA"). Moreover, the transfer of Four Million Eight Hundred Fifty Thousand Pesos (Php4,850,000.00) by NABCOR to GABAYMASA has no legal basis and is in violation of the GAA, Government Procurement Policy Board ("GPPB") Resolution No. 12-2007, IRR-A of R.A. No. 9184 ("Government Procurement Act") and COA Circular No. 2007-001.⁵⁵

The audit team also noted that NABCOR charged administrative costs in the amount equivalent to 5% of the Five Million Pesos (Php5,000,000.00) or One Hundred Fifty Thousand Pesos (Php150,000.00). The team also found that GABAYMASA was selected merely upon the request of Congressman Coquilla and not through competitive bidding or negotiated procurement as required under GPPB Resolution No. 12-2007, in relation to the IRR-A of R.A. No. 9184. Furthermore, GABAYMASA was not qualified to implement the alleged livelihood projects and the supposed implementation of livelihood projects was questionable.⁵⁶

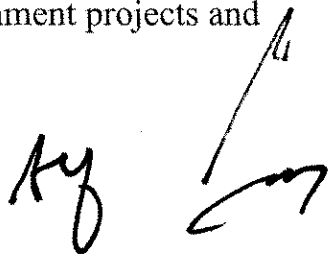
Witness Alfafaras testified that she has been with the SAO of the COA for twenty-one (21) years. SAO is an office within the COA that is in charge of conducting special audits of various government projects and

⁵³ Decision dated September 2, 2022, pp. 27-28. Record, Vol. X, pp. 42-43.

⁵⁴ Decision dated September 2, 2022, pp. 28-29. Record, Vol. X, pp. 43-44.

⁵⁵ *Id.*

⁵⁶ *Id.*

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programs. As a State Auditor of the SAO, she participates in the conduct of special audits of various government projects and programs, such as government-wide performance audits, sectoral performance audits, and other special audits. Performance audit examines the economy, efficiency, and effectiveness of government programs. In 2010, special audits were conducted on, among others, the Priority Development Assistance Funds ("PDAF") and Various Infrastructure Projects including Local Projects ("VILP") covering the calendar years 2007 to 2009. The special audit was prompted by the emerging issues on the utilization of the PDAF based on the audit reports of COA Resident Auditors, such as unliquidated fund transfers, undocumented disbursements, and non-compliance with existing laws, rules, and regulations. The performance-wide audit was conducted pursuant to COA Office Order No. 2010-309 dated May 13, 2010, and subsequent Office Orders ("*Exhibits SSSS to SSSS-3*"). The special audit covered the releases of PDAF by the DBM, and the utilization thereof and implementation of PDAF-funded projects by the following national government agencies and GOCCs, among others, during the calendar years 2007 to 2009: Department of Agriculture ("DA"), Department of Public Works and Highways ("DPWH"), Department of Social Welfare and Development ("DSWD"), Technology and Livelihood Resource Center ("TLRC/TRC"), National Livelihood Development Corporation ("NLDC"), NABCOR, ZNAC Rubber Estate Corporation ("ZREC"), and selected LGUs.⁵⁷

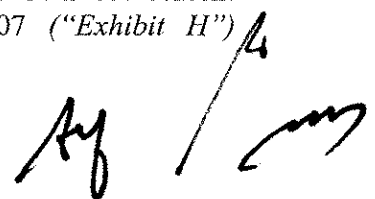
As a matter of policy, government-wide audit covers three (3) immediately preceding years. Since the office order to conduct the said audit was issued in 2010, the coverage was for the years 2007 to 2009. In the conduct of this particular audit, the team used the following relevant laws, rules, and regulations: the GAA for 2007, 2008, and 2009, the R.A. No. 9184, the Government Auditing Code (P.D. No. 1445), COA Circular No. 2007-01, DBM National Budget Circular ("NBC") No. 476 and GPPB Resolution No. 12-2007, among others.⁵⁸

In connection with these cases, the audit team gathered and obtained the following documents:

Special Allotment Release Order ("SARO"), disbursement vouchers (DVs), and their supporting documents, such as official receipts, detailed budget, project proposals, memoranda of agreement, checks, obligation request, authorization letter and other letters, delivery receipts, sales invoices, certificate of acceptance, acknowledgment receipt, and other relevant documents. Witness Alfafaras identified the Certified True Copy of Duplicate Original of SARO No. ROCS-07-07743 dated October 10, 2007 ("*Exhibit TTT*") and the Certified True Copies of Disbursement Voucher No. 07-12-6779 dated December 28, 2007 ("*Exhibit H*")

⁵⁷ Decision dated September 2, 2022, p. 29. Record, Vol. X, p. 44.

⁵⁸ Decision dated September 2, 2022, pp. 29-30. Record, Vol. X, pp. 44-45.

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Disbursement Voucher No. 08-01-00200 dated January 23, 2008 (*“Exhibit N”*), as well as their supporting documents which were gathered during the course of the audit (*i.e.* *“Exhibits J, M to M-2, N, O, P, Q, R, S, T, U, V, Y, Z, AA, BB, FF, GG, HH, H, JJ, KK, BBB-1, BBB-2 to BBB-3, DDD, EEE, FFF, GGG, HHH, III, JJJ, KKK, LLL, OOO, PPP, QQQ, RRR, SSS, TTT, UUU, VVV, VVV-1, VVV-2, WWW, WWW-1, WWW-2, XXX, XXX-1, XXX-2, YYY, YYY-1, ZZZ, ZZZ-1, AAAA, AAAA-1, BBBB, BBBB-1, CCCC, DDDD, DDDD-1, EEEE, EEEE-1, AAAAA, BBBB, CCCCC, DDDDD, DDDDD-1, EEEEE to EEEEE-4”*). Except for *Exhibit “BBB-1”*, (Certified true Copy from Photocopy of Detailed Budget for the project) *Exhibits “BBB-2 to BBB-3”* (Project Proposal of NABCOR) and *Exhibit “DDDDDD-1”* (Certified true Copy from Photocopy of SSS ID of accused Vizcarra), the foregoing exhibits were compared with the originals and the defense had stipulated that they were faithful reproduction of the originals.⁵⁹

The team also sent letters to accused Coquilla, GABAYMASA, suppliers, and selected recipients to confirm their participation in the implementation of the PDAF-funded livelihood project. Accused Coquilla did not respond to the letter. GABAYMASA did not submit written confirmation of its transaction as well as the additional documents requested by the team. The concerned suppliers, KP Enterprises and Marinduqueno’s Garden Shop denied having transacted with GABAYMASA, issuing receipts and invoices, and receiving the corresponding payments. None of the selected recipients confirmed receipts of items purportedly distributed. The audit also revealed that eight (8) selected recipients were either unknown at their given addresses or did not claim their confirmation letters. Witness Alfafaras identified Exhibits *“FFFFF”*, *“HHHHH” to “HHHHH-2”*, *“IIIII to IIIII-1”*, and *“JJJJJ to JJJJJ-8.”*⁶⁰

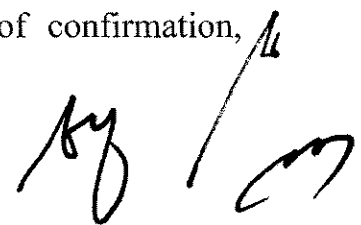
Upon confirming with the Securities and Exchange Commission and the concerned Business Permits and Licensing Office (*“BPLO”*), it appeared that GABAYMASA had no business permit to operate during the calendar years 2007 to 2009 because its latest renewal for the business permit was on March 17, 2003. Witness Alfafaras identified the Indorsement issued by the concerned BPLO showing that GABAYMASA had no business permit to operate during the calendar years 2007 to 2009 as *Exhibit “GGGGG”*. During the comparison with the original, the defense stipulated that the said exhibit is a faithful reproduction of the original.⁶¹

After gathering the relevant documents, confirming the participation of the legislator and other persons or entities, and determining the legal and physical existence of GABAYMASA, the team evaluated and analyzed all the documents, as well as the results of confirmation,

⁵⁹ Decision dated September 2, 2022, p. 30. Record, Vol. X, p. 45.

⁶⁰ Decision dated September 2, 2022, pp. 30-31. Record, Vol. X, pp. 45-46.

⁶¹ Decision dated September 2, 2022, p. 31. Record, Vol. X, p. 46.

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inspection, and validation, in order to determine the propriety of the release and utilization of and implementation of the programs funded by the PDAF allocation of accused Coquilla. The following were the results of the evaluation:

(1) Five Million Pesos (Php5,000,000.00) of the PDAF allocation of accused Coquilla was released through SARO No. ROCS-07-07743 as evidenced by the "Appropriation Source" indicated in the SARO as well as the MOA between NABCOR and GABAYMASA. The Five Million Pesos (Php5,000,000.00) was intended as financial assistance to the DA-OSEC for the implementation of livelihood programs in the Lone District of Eastern Samar as indicated in the SARO. Witness Alfafaras identified the SARO and the MOA as *Exhibits "TTTT" and "M to M-2"*, respectively.⁶²

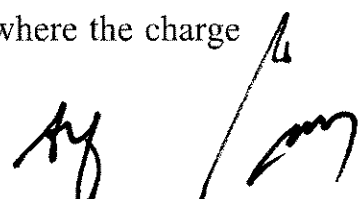
(2) The said fund was released by the DBM to the DA-OSEC, as the implementing agency named in the SARO. According to witness Alfafaras, the release of the fund by the DBM to DA has no basis and is in violation of DBM National Budget Circular (NBC) No. 476 since the fund was released without the required Project Profile and endorsement from the implementing agency. The DBM also failed to provide the audit team copies of the endorsement from the implementing agencies, including the DA despite repeated requests. Moreover, the implementing agencies, including the DA declared that they never endorsed any of the programs or projects forwarded to them for implementation but merely received the SARO and the corresponding NCAs from the DBM;

(3) The audit team also found that the DA merely transferred the fund to NABCOR through the execution of a MOA. Alfafaras observed that the transfer of funds is in violation of the GAA considering that the DA is expressly identified as the implementing agency of the project while NABCOR is not mandated to implement livelihood projects. Witness Alfafaras identified the MOA between the DA and NABCOR as *Exhibit "YYYY"* and the disbursement voucher and check under the name of NABCOR as payee, as well as the official receipt issued by NABCOR to DA as *Exhibits "AAAAA" and "BBBBB"*, respectively.⁶³

Thereafter, NABCOR implemented the project by merely transferring the amount of Four Million Eight Hundred Fifty Thousand Pesos (Php4,850,000.00) to GABAYMASA, the NGO requested by accused Coquilla as NABCOR's conduit in the implementation of the project. NABCOR charged administrative costs in the amount of One Hundred Fifty Thousand Pesos (Php150,000.00) as recorded in the Journal Entry Voucher of NABCOR. Witness Alfafaras identified the Certified True Copy of the Journal Entry Voucher of NABCOR where the charge

⁶² The original of which were presented by witnesses Santos and Perez and after the comparison, the defense stipulated that said exhibits are faithful reproduction of the originals.

⁶³ Decision dated September 2, 2022, pp. 31-32. Record, Vol. X, pp. 46-47.



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for administrative cost was recorded as *Exhibit "G"*. An original copy of the said exhibit was presented by the witness.⁶⁴

The amount of Four Million Eight Hundred Fifty Thousand Pesos (Php4,850,000.00) under the SARO was transferred by NABCOR to GABAYMASA through the execution of a MOA. The said amount was released in two (2) tranches – the amount of Four Million Three Hundred Sixty-Five Thousand Pesos (Php4,365,000.00) representing ninety percent (90%) of the Four Million Eight Hundred Fifty Thousand Pesos (Php4,850,000.00) was initially released to GABAYMASA supported with MOA and Project Proposal and the balance of ten percent (10%) or Four Hundred Eighty-Five Thousand Pesos (Php485,000.00) was subsequently released upon submission of the physical and audited financial reports, among others. Witness Alfafaras identified the MOA as *Exhibit "M to M-2"* and the disbursement vouchers, checks, official receipts issued by GABAYMASA as *Exhibits "N", "O", "P", "Q", "R", and "S"*, respectively.⁶⁵

As observed by the COA audit team, the funds were transferred to GABAYMASA despite the absence of a law appropriating or specifically earmarking such funds to be contracted out to an NGO. Moreover, GABAYMASA was selected merely upon the request of accused Coquilla. According to witness Alfafaras, the selection of and transfer of funds to GABAYMASA were in violation of GPPB Resolution No. 12-2007, in relation to the IRR-A of R.A. No. 9184 and COA Circular No. 2007-001.⁶⁶

The audit team also discovered that GABAYMASA only made it appear in the liquidation documents that it actually implemented the project by purchasing fruit-bearing seedlings and instructional materials from KP Enterprises, respectively, and distributing the same to the intended beneficiaries. GABAYMASA is not authorized to implement the project, it did not confirm the transactions and failed to submit the additional documents requested by the audit team. The purchase orders, sales invoices, official receipts, and delivery receipts were dated from November 7, 2007, to January 15, 2008, which were all before the execution of the MOA on January 16, 2008, and the issuance of the first check on January 23, 2008. Moreover, the owners of KP Enterprises and Marinduqueno's Garden Shop denied having delivered fruit-bearing seedlings and instructional materials to GABAYMASA. None of the selected recipients confirmed the receipt of the fruit-bearing seedlings and instructional materials.⁶⁷

⁶⁴ Decision dated September 2, 2022, p. 32. Record, Vol. X, p. 47.

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ Decision dated September 2, 2022, p. 33. Record, Vol. X, p. 48.

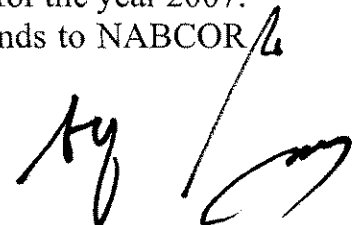
The team consolidated all the observations and findings in an audit report entitled Special Audits Office (SAO) Report No. 2012-03. Witness Alfafaras identified *Exhibit "XXXX"*, a certified true copy of SAO Report No. 2012-03, which the defense already stipulated during the comparison with the original, as a faithful reproduction thereof.⁶⁸

Thereafter, the audit team issued two notices of disallowance: SAO ND No.: DA-2014-019-PDAF (07-09) and SAO ND No. NAB-2014-024-PDAF (07-09). These NDs were issued because the subject transactions are considered irregular and illegal for being non-compliant with existing laws, rules, and regulations, and supported by deficient documents. Witness Alfafaras identified certified true copies of the SAO ND No.: DA-2014-019-PDAF (07-09) and SAO ND No. NAB-2014-024-PDAF (07-09), marked as *Exhibits "WWW to WWW-1"*, which the defense already stipulated during the comparison with the original, as faithful reproduction thereof.⁶⁹

On cross-examination, witness Alfafaras testified that under the scheme, the DBM will release the SARO and NCA to the DA then the DA transfers the funds to the NABCOR, which subsequently transfers the funds to the NGO. According to her, the DA is the implementing Agency of PDAF as identified in the GAA for the year 2007. Then, the DBM releases the funds under the SARO to the DA. In these particular cases, accused Coquilla requested former Secretary Yap of the DA to transfer the funds from the DA to NABCOR, which will implement the project. This report was based on the documents and information gathered from the various Implementing Agencies and based on the validation conducted by the COA.⁷⁰

Witness Alfafaras also testified that her team sent letters to accused Coquilla and the alleged beneficiaries of the projects in order to confirm the authenticity of the signatures and the documents as well as to confirm the receipts of the purported items distributed by GABAYMASA. However, accused Coquilla did not reply to the audit team's confirmation letter, and the letters addressed to the alleged beneficiaries were returned by the post office to the audit team on the basis that the addressees or the alleged beneficiaries were unknown in their respective given addresses. It was also mentioned that GABAYMASA did not respond to the confirmation letter sent by the team. Witness Alfafaras clarified that the funds from the DA were transferred to NABCOR upon representation of accused Coquilla although the latter is not supposed to be the implementing agency of the PDAF pursuant to the GAA for the year 2007. According to witness Alfafaras, the release of PDAF funds to NABCOR

⁶⁸ *Id.*
⁶⁹ *Id.*
⁷⁰ *Id.*

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was illegal and the subsequent release of these funds from NABCOR to GABAYMASA is also illegal on the ground that the latter is not among those authorized under the GAA for the year 2007.⁷¹

On clarification made by the Court, witness Alfafaras testified that the selection of NABCOR is illegal because the said agency is mandated to promote agri-business for small farmers by developing agri-business trading centers and facilities where farmers and fishermen can showcase or sell their products. On the other hand, the Technology and Livelihood Resource Center ("TLRC") and Technology Resource Center ("TRC") are allowed to implement livelihood projects under the GAA for the year 2007. In the special provision of the GAA for the years 2007, 2008, and 2009, the projects that can be implemented are specifically indicated therein and the corresponding Implementing Agency which could implement the said project. Under the GAAs, NGOs are not listed among those agencies allowed to implement the PDAF-funded projects.⁷²

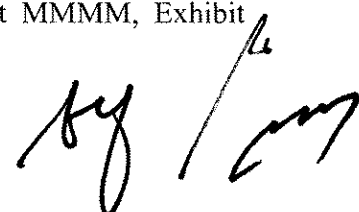
After presenting its witnesses, the prosecution filed its Formal Offer of Documentary Evidence. The Court, taking into consideration the objections of the accused, resolved to admit the following exhibits:⁷³

Exhibit G, Exhibit H, Exhibit J, Exhibit M, M-1, and M-2, Exhibit N, Exhibit O, Exhibit P, Exhibit Q (Common Exhibit; Exhibit 12 of accused Luz), Exhibit R, Exhibit S, Exhibit T, Exhibit T-1, Exhibit U, Exhibit V, Exhibit Y, Exhibit Y-1, Exhibit Z, Exhibit Z-1, Exhibit AA, Exhibit BB, Exhibit CC, Exhibit DD to DD-15, Exhibit EE to EE-15, Exhibit FF, Exhibit GG, Exhibit HH, Exhibit II, Exhibit II-1, Exhibit JJ, Exhibit KK, Exhibit PP (common exhibit; Exhibit 2 of accused Luz), Exhibit QQ to QQ-10 (common exhibit; Exhibit 3 and series of accused Luz), Exhibit RR (common exhibit; Exhibit 4 and series of accused Luz), Exhibit SS to SS-5 (common exhibit; Exhibit 5 and series of accused Luz), Exhibit TT (common exhibit; Exhibit 6 and series of accused Luz), Exhibit UU to UU-4 (common exhibit; Exhibit 7 and series of accused Luz), Exhibit VV, Exhibit WW, Exhibit XX, Exhibit YY to YY-5, Exhibit ZZ to ZZ-4, Exhibit AAA to AAA-1, Exhibit BBB, Exhibit BBB-1, Exhibits BBB-2 to BBB-3, Exhibit DDD, Exhibit DDD-1, Exhibit EEE, Exhibit FFF, Exhibit GGG, Exhibit GGG-1, Exhibit HHH, Exhibit HHH-1, Exhibit III, Exhibit III-1, Exhibit JJJ, Exhibit KKK, Exhibit LLL, Exhibit MMM, Exhibit NNN, Exhibit OOO, Exhibit PPP, Exhibit QQQ, Exhibit RRR, Exhibit SSS, Exhibit TTT, Exhibit UUU, Exhibit VVV, Exhibit VVV-1, Exhibit VVV-2, Exhibit WWW, Exhibit WWW-1, Exhibit WWW-2, Exhibit XXX, Exhibit XXX-1, Exhibit XXX-2, Exhibit YYY, Exhibit YYY-1, Exhibit ZZZ, Exhibit ZZZ-1, Exhibit AAAA, Exhibit AAAA-1, Exhibit BBBB, Exhibit BBBB-1, Exhibit CCCC, Exhibit DDDD, Exhibit DDDD-1, Exhibit EEEE, Exhibit EEEE-1, Exhibit HHHH, Exhibits IIII to IIII-10, Exhibit JJJJ, Exhibit KKKK, Exhibit LLLL, Exhibit MMMM, Exhibit

⁷¹ Decision dated September 2, 2022, p. 34. Record, Vol. X, p. 49.

⁷² Id.

⁷³ Record, Volume VIII, pp. 184-185.



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NNNN, Exhibit OOOO, Exhibit PPPP, Exhibits QQQQ to QQQQ-9, Exhibits SSSS to SSSS-4, Exhibit TTTT, Exhibit TTTT-1, Exhibit TTTT-2, Exhibit TTTT-3, Exhibit TTTT-4, Exhibit TTTT-5, Exhibit TTTT-6, Exhibit TTTT-7, Exhibit WWWW, Exhibit WWWW-1, Exhibit XXXX, Exhibit YYYYY, Exhibit ZZZZ and ZZZZ-1, Exhibit AAAAA, Exhibit BBBB, Exhibit CCCCC, Exhibit DDDDD, Exhibit DDDDD-1, Exhibits EEEEE to EEEEE-4, Exhibit FFFFF, Exhibit GGGGG, Exhibit HHHHH, Exhibit HHHHH-1, Exhibit HHHHH-2, Exhibit IIII, Exhibit IIII-1, Exhibit JJJJ to JJJJ-8-a, Exhibit MMMMM, Exhibit MMMMM-1, Exhibit MMMMM-2, Exhibit MMMMM-3 to MMMMM-7, Exhibit MMMMM-8, Exhibit MMMMM-9, Exhibit MMMMM-10 to NNNNN-2, Exhibit OOOOO, Exhibit UUUUU, Exhibit UUUUU-1, Exhibit VVVVV, Exhibit WWWW, Exhibit WWWW-1, Exhibit ZZZZ, Exhibit AAAAA, Exhibit BBBB, Exhibit BBBB-1, Exhibit BBBB-2, Exhibit BBBB-2-d, Exhibit CCCCC.

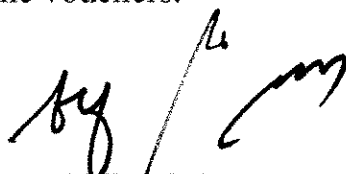
EVIDENCE FOR THE DEFENSE

The following is the evidence offered by the defense with respect to accused Munsod, Relevo, Coquilla, and Luz, derived from the Court's *Decision*⁷⁴ dated September 2, 2022:

1. Testimony of accused Encarnita Cristina P. Munsod.

On May 18, 2021, the defense presented accused Encarnita Cristina P. Munsod ("Munsod"), who testified on direct examination through her *Judicial Affidavit* dated March 10, 2021. Accused Munsod was appointed as Human Resource and Administration Manager of NABCOR on probationary status on January 16, 2007. She gained regular status on July 16, 2007. Based on Memorandum dated February 2, 2007, and Memorandum dated February 12, 2007, issued by NABCOR President Javellana, she was authorized to sign "Box A" of Disbursement Voucher. In her *Judicial Affidavit*, she identified the documents marked as *Exhibit "Munsod 1 to 6"*.⁷⁵

On cross-examination, accused Munsod admitted that she was aware that by affixing her signature on the documents, she was certifying that the expenses indicated therein were necessary, lawful, and incurred under her direct supervision. Prior to signing the said disbursement, she already signed several of these documents. During those times, she was instructed by accused Javellana to review and inspect the attached documents to the voucher and to check whether the details were correct in the attachments and on the face of the vouchers.⁷⁶



⁷⁴ Record, Vol. X, pp. 16-103.

⁷⁵ *Decision* dated September 2, 2022, pp. 35-36. Record, Vol. X, pp. 50-51.

⁷⁶ *Decision* dated September 2, 2022, p. 36. Record, Vol. X, p. 51.

Accused Munsod testified that she was not aware of the provisions of DBM NBC No. 476 and COA Circular No. 2007-001. According to her, since the disbursement vouchers and their attachments came from the accounting department of NABCOR, she made an assumption that the said department had already checked or cleared all the documents. Considering that she is not part of the accounting or finance department, she relied on good faith that these departments already checked the documents and the laws pertaining thereto.⁷⁷

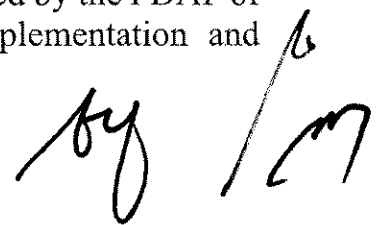
In the process of signing and certifying the said disbursement vouchers, witness Munsod testified that she did not request additional documents and that she relied on the attached project proposal, endorsement letter, and MOA. When confronted with the project proposal, she stated that she did not notice that the name GABAYMASA does not appear in the project proposal. Moreover, accused Munsod testified that she is not aware of any legal authority for NABCOR to retain One Hundred Fifty Thousand Pesos (Php150,000.00) as an administrative fee.⁷⁸

On propounding questions by the Court, accused Munsod testified that the reason why she was authorized by accused Javellana to sign the DVs related to corporate funds and project funds was that she was directly under the Administration and Finance Department. Moreover, the examination she conducted was only limited to the contents of the disbursement vouchers or the entries therein in relation to the attached documents. Furthermore, accused Munsod admitted that she was the first signatory of the Disbursement Voucher No. 08-01-00200 dated January 23, 2008. According to her, the funds that will be used as expenses or advances in the disbursement vouchers she signed were not really under her direct supervision. Despite this, she still signed box A. Lastly, accused Munsod likewise admitted that she was neither threatened nor forced nor promised regularization by accused Javellana to sign the disbursement vouchers.⁷⁹

2. Testimony of accused Romulo Relevo.

On June 1, 2021, the defense presented accused Romulo Relevo ("Relevo"), who testified on direct examination through his *Judicial Affidavit* dated May 28, 2021. At the time material to the case, accused Relevo is a former probationary employee of NABCOR, assigned as the General Services Unit Head. His function did not involve the selection of the NGO for the purpose of implementing projects funded by the PDAF of accused Coquilla. He did not participate in the implementation and

⁷⁷ Id.
⁷⁸ Id.
⁷⁹ Id.

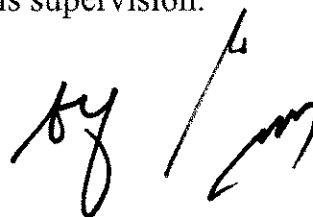


monitoring of the projects sourced from the PDAF as well as the liquidation thereof. He did not sign the MOA between NABCOR and DA which transferred the funds from DA to NABCOR. According to him, his authority to sign Disbursement Voucher was verbally given by NABCOR President, accused Javellana, after accused Munsod went on medical leave. After reviewing the relevant documents, particularly the audit reports forwarded by NABCOR's Finance Department, and after receiving the directive to sign the same from accused Javellana, accused Relevo proceeded to sign the Disbursement Voucher No. 08-07-02229 dated July 1, 2008.⁸⁰

As the General Services Unit Head, his duties were to ensure that NABCOR had sufficient office supplies for its daily operations and in its projects through the process of procurement, as well as the management of NABCOR's stockroom. He also supervised the performance of the janitorial and messenger services.⁸¹

According to accused Relevo, prior to signing the Disbursement Voucher No. 08-07-02229, he was called by accused Javellana to his office and verbally instructed him to temporarily sign the disbursement vouchers *vice* accused Munsod, who was on medical leave. The said Disbursement Voucher No. 08-07-02229 was forwarded to him by the finance department together with several attached documents (*i.e.*, a copy of Disbursement Voucher No. No. 08-01-00200 dated January 23, 2008, project proposal, the MOAs, SARO, documents pertaining to GABAYMASA, and the financial reports audited by the finance department). After receiving the said documents, he read and reviewed each of them and then asked for the guidance of accused Javellana before signing the Disbursement Voucher No. 08-07-02229. Lastly, accused Relevo denied being in conspiracy with the other accused in connection with the crimes charged. He likewise denied having custody of any public funds or the receipt of any part of the PDAF for his own use or benefit.⁸²

On cross-examination, accused Relevo mentioned that he was neither threatened nor forced by accused Javellana to sign the disbursement vouchers and that the act of signing was voluntary on his part. According to him, he knew that his signature on "Box A" of the disbursement voucher had the effect of certifying that the expenses indicated therein were necessary, lawful, and under his supervision.⁸³



⁸⁰ Decision dated September 2, 2022, p. 37. Record, Vol. X, p. 52.

⁸¹ *Id.*

⁸² Decision dated September 2, 2022, p. 38. Record, Vol. X, p. 53.

⁸³ *Id.*

3. Testimony of accused Margie T. Luz.

On July 23, 2021, the defense presented accused Margie T. Luz (“Luz”), who testified on direct examination through her Judicial Affidavit dated July 21, 2021. Accused Luz was the president of GABAYMASA in the years 2007 and 2008. GABAYMASA was a legally registered non-stock and non-profit foundation with a legitimate Certificate of Registration issued by the SEC. GABAYMASA was chosen and endorsed by then-accused Coquilla to NABCOR to conduct the implementation of the Livelihood Project in his Legislative District in Eastern Samar through his PDAF for the year 2007. GABAYMASA submitted all the requirements and diligently followed the rules and procedures as given and directed by NABCOR, through Javellana, and the Livelihood Projects were fully delivered, completed, and accomplished.⁸⁴

Accused Luz testified she did not receive the amounts from NABCOR. According to her, another officer of GABAYMASA, by the name of accused Ma. Cristina Vizcarra, was tasked to collect and accept the funds or payments in favor of the organization.⁸⁵

On cross-examination, accused Luz testified knowing that GABAYMASA was not designated as an implementer of the PDAF-funded projects under the GAA for the year 2007. She likewise admitted that GABAYMASA was not chosen through public bidding conducted by NABCOR. Despite such knowledge, she did not inquire with accused Coquilla why he chose GABAYMASA as the “project partner” of his PDAF-funded livelihood project. In fact, she mentioned that this was the first time that GABAYMASA became an implementer of accused Coquilla’s PDAF-funded livelihood project. Nevertheless, she admitted that prior to the questioned transaction, GABAYMASA became an implementer of PDAF-funded projects for other legislators.⁸⁶

Accused Luz also testified that she cannot recall being asked by NABCOR to submit audited financial statements for the past three (3) years and a list of similar projects undertaken in the past.⁸⁷

As to the required capitalization, accused Luz testified having recalled that GABAYMASA put up capitalization or participation equivalent to twenty percent (20%) of the total project or One Million Pesos (Php1,000,000.00), which was spent for mobilization and other purposes required by NABCOR. The capitalization was not recorded in the liquidation made by GABAYMASA but accused Luz certified, as

⁸⁴

Id.

⁸⁵

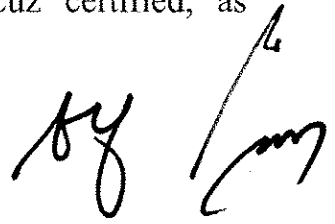
Decision dated September 2, 2022, p. 39. Record, Vol. X, p. 54.

⁸⁶

Id.

⁸⁷

Id.

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President of GABAYMASA, that twenty percent (20%) was spent for personal services. According to her, since the capitalization is considered a government fund, GABAYMASA did not report it to NABCOR.⁸⁸

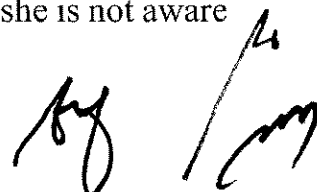
When confronted with the Project Proposal attached to the MOA between NABCOR and GABAYMASA (*"Exhibit AAA"*), accused Luz testified that aside from her signature appearing in the bottom left portion as president of GABAYMASA, the name of GABAYMASA does not appear anywhere in the said document. Moreover, she admitted that on the budget proposal she prepared, no budget was indicated for the fruit-bearing seedlings and alleged that the budget thereof is already integrated into the budget for textbooks and instructional materials.⁸⁹

Accused Luz testified having a meeting with accused Coquilla after the call. During the meeting, accused Coquilla gave the information and a copy of the SARO to accused Luz. Accused Coquilla instructed her that an officer of NABCOR would contact GABAYMASA in connection to the PDAF-funded project. Thereafter, accused Javellana called accused Luz and informed her that there were funds for the livelihood project and that, as the "project partner", GABAYMASA would be under the instruction of NABCOR, as the implementing agency. During the meeting, accused Javellana also discussed the requirements and the compliance thereof, for GABAYMASA to be the implementing arm of the PDAF-funded livelihood project. After the submission of the requirements, GABAYMASA conducted its canvassing among suppliers. After the canvassing, a GABAYMASA representative entered into an agreement with the supplier that the latter would allocate a certain number of seedlings for the project. As an assurance thereof, the supplier issued a sales invoice.⁹⁰

After the issuance of the sales invoice, accused Luz recalled that the seedlings were delivered partly to her residence and partly to the headquarters of GABAYMASA. Thereafter, the seedlings were picked up by the staff of accused Coquilla to be distributed to Eastern Samar.⁹¹

As proof of the completion of the project accused Luz and Coquilla both signed an undated Certificate of Acceptance (*"Exhibit UUU"*) in the latter's office in the House of Representatives. Based on her recollection, the certificate was signed a day or two after the staff of accused Coquilla inspected and counted the items. Accused Luz admitted that she was not present when the fruit-bearing seedlings were distributed to the intended beneficiaries in Eastern Samar. She likewise admitted that she is not aware

⁸⁸ *Id.*
⁸⁹ *Decision* dated September 2, 2022, p. 40. Record, Vol. X, p. 55.
⁹⁰ *Id.*
⁹¹ *Id.*

Two handwritten signatures are visible in the bottom right corner of the page. The signature on the left appears to be 'Luz' and the signature on the right appears to be 'Coquilla'.

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that some of the beneficiary barangays listed in the Certificate of Acceptance are coastal communities.⁹²

As President of GABAYMASA, accused Luz testified that she supervised the process towards the completion of the PDAF-funded livelihood project of accused Coquilla. As part of her supervision, she delegated accused Vizcarra to conduct dealings with GABAYMASA concerning the project. Accused Luz admitted that she relied on the reports made to her by accused Vizcarra and did not conduct her own due diligence anymore. Accused Luz admitted that the canvassing and the choice of the suppliers were upon her instruction.⁹³

As part of her supervision, accused Luz also confirmed that GABAYMASA submitted several purchase orders, sales invoices, delivery receipts, and official receipts as liquidation of the project. However, she was not aware that the receipts show expenses from establishments in Metro Manila. Moreover, she was not aware that the winning bidder for the supplier of the fruit-bearing seedlings was an ornamental shop and that the winning bidder for supplying instructional materials was a seller of car batteries.⁹⁴

On re-direct, accused Luz explained that the reason why the sales invoices for the seedlings and instructional materials were executed by GABAYMASA even before the execution of the MOA, was because accused Coquilla wanted to fast track the project. As to the requirement of twenty percent (20%) equity, accused Luz recalled that it was spent for the mobilization of the seedlings (i.e. tracking, transfer, or shipping to Eastern Samar, and delivery from the shop to the GABAYMASA headquarters and accused Luz' residence), maintenance of the seedlings, salaries, and food of the gardener hired to maintain the plants.⁹⁵

On recross, accused Luz testified that it was the first time for GABAYMASA to start sourcing the materials even before the signing of the MOA with the implementing agency.⁹⁶

After presenting their witnesses, the accused filed *their Formal Offer of Documentary Evidence*. The Court, taking into consideration the objections of the prosecution, resolved to admit the following exhibits:⁹⁷

⁹² *Id.*
⁹³ *Decision* dated September 2, 2022, p. 41. Record, Vol. X, p. 56.
⁹⁴ *Id.*
⁹⁵ *Id.*
⁹⁶ *Id.*
⁹⁷ *Id.*

Handwritten signatures and initials. On the left, a signature that appears to be 'Sy'. To its right, a large, stylized initial 'L' with a long vertical stroke extending upwards. Further right, another signature or set of initials.

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For accused Munsod:

Exhibits 1-Munsod, 2-Munsod, 3-Munsod, 4-Munsod, 5-Munsod,
and 6-Munsod.

For accused Relevo:

Exhibits 1-Relevo, 2-Relevo, 3-Relevo, 4-Relevo, and 4-A-Relevo.

For accused Luz:

Exhibits 1 (Exhibit OO), 2 (Exhibit PP), 3 and series (Exhibit QQ
and series), 4 (Exhibit RR), 5 and series (Exhibit SS and series), 6 (Exhibit
TT), 7 and series (Exhibit UU to UU-4), 8 (Exhibit UUU), 9 (Exhibit JJJJ),
10 Exhibit (KKKK), 11 and 11-a.

Court's Decision dated September 2, 2022

In the Court's *Decision* promulgated on September 2, 2022,⁹⁸ accused Munsod, Relevo, and Luz were convicted on two (2) counts for violation of Section 3 (e) of R.A. No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, in SB-17-CRM-0663-0664, and two (2) counts for the crime of Malversation of Public Funds, defined and penalized under Article 217 of the Revised Penal Code, as amended, in SB-17-CRM-0665-0666. The cases against accused Coquilla were dismissed on account of his death.⁹⁹ The said *Decision* was upheld by the Court in its *Resolution* dated December 19, 2022.¹⁰⁰

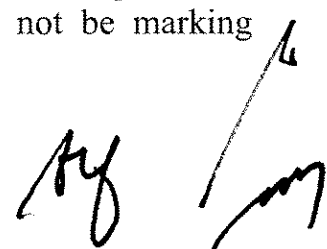
Proceedings with regards to Accused Vizcarra

On October 24, 2022, accused Vizcarra voluntarily surrendered to the Court's Sheriff and Security Division, pursuant to the *Order of Arrest* dated May 10, 2017.¹⁰¹ She was allowed provisional liberty after posting her cash bail bond in the total amount of One Hundred Forty Thousand Pesos (P140,000.00)¹⁰²

During her arraignment, accused Vizcarra pleaded not guilty to the amended *Informations* in SB-17-CRM-0663, SB-17-CRM-0663, SB-17-CRM-0665, and SB-17-CRM-0666.¹⁰³

In the scheduled Pre-Trial for accused Vizcarra, the prosecution manifested that it is adopting the documentary evidence earlier presented with respect to the other accused and that they will not be marking

⁹⁸ *Supra.*
⁹⁹ Record, Vol. X, p. 140.
¹⁰⁰ Record, Vol. X, pp. 104-115.
¹⁰¹ Record, Vol. X, p. 121.
¹⁰² Record, Vol. X, p. 125.
¹⁰³ Record, Vol. X, pp. 143-144.

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additional documents. Atty. Calugay, counsel for accused Vizcarra, then manifested that he is not asking for the recall of the witnesses earlier presented by the prosecution for the purpose of their cross-examination, but he is adopting the cross-examinations, the recross-examination, and manifestations of the other defense counsels during the past hearings.¹⁰⁴

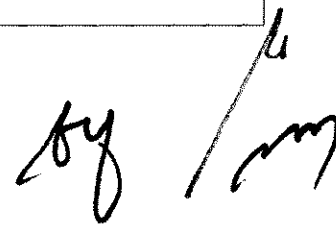
The prosecution likewise manifested that it is adopting the *Judicial Affidavits* of its earlier witnesses, their direct examination, the prosecution's manifestations, and the stipulations made during the past hearings. The prosecution also requested and was granted, a period of ten (10) days within which to file a *Supplemental Formal Offer of Exhibits*. Atty. Calugay similarly requested the same period within which to file accused Vizcarra's comment or opposition thereto.¹⁰⁵

Prosecution's Supplemental Formal Offer of Evidence

In addition to all the documentary exhibits and their corresponding purposes stated in the *Formal Offer*, the prosecution offers the following specific exhibits, with respect to accused Vizcarra in particular, for the additional purposes enumerated in the *Supplemental Formal Offer of Evidence*,¹⁰⁶ to wit:

Exhibit	Description
"N"	Certified True Copy of NABCOR Disbursement Voucher No. 08-01-00200 dated January 23, 2008 (1 page)
Additional Purposes: 1. To prove that accused Vizcarra signed the same, as shown by her signature in "Box D" thereof; 2. To prove accused Vizcarra's role or participation in the conspiracy, and in the overall scheme by which the PDAF of accused Coquilla was disbursed and misappropriated; and 3. To prove that accused Vizcarra is part of the criminal conspiracy, and participated therein by receiving the amount of Php4,365,000.00 from NABCOR on behalf of GABAYMASA.	
"P"	Certified True Copy of GABAYMASA Official Receipt No. 0609 dated January 26, 2008 (1 page)
Additional Purposes: 1. To prove that accused Vizcarra signed the same, as shown by her signature on top of the "Authorized Signature" line; 2. To prove accused Vizcarra's role or participation in the conspiracy, and in the overall scheme by which the PDAF of accused Coquilla was disbursed and misappropriated; and 3. To prove that accused Vizcarra is part of the criminal conspiracy, and participated therein by receiving the amount of Php4,365,000.00 from NABCOR on behalf of GABAYMASA.	

¹⁰⁴ Record, Vol. X, pp. 185-186.
¹⁰⁵ *Id.*
¹⁰⁶ Record, Vol. X, pp. 198-206.



Decision

People v. Coquilla, et al.

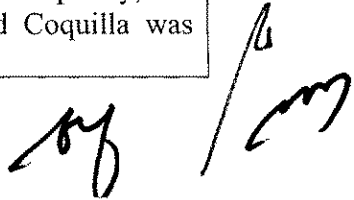
SB-17-CRM-0663-66

Page 33 of 71

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"Q"	Certified True Copy of NABCOR Disbursement Voucher No. 08-07-02229 dated July 1, 2008 (1 page)
Additional Purposes: 1. To prove that accused Vizcarra signed the same, as shown by her signature in "Box D" thereof; 2. To prove accused Vizcarra's role or participation in the conspiracy, and in the overall scheme by which the PDAF of accused Coquilla was disbursed and misappropriated; and 3. To prove that accused Vizcarra is part of the criminal conspiracy, and participated therein by receiving the amount of Php485,000.00 from NABCOR on behalf of GABAYMASA.	
"R"	Certified True Copy of GABAYMASA Official Receipt No. 0561 dated July 14, 2008 (1 page)
Additional Purposes: 1. To prove that accused Vizcarra signed the same, as shown by her signature on top of the "Authorized Signature" line; 2. To prove accused Vizcarra's role or participation in the conspiracy, and in the overall scheme by which the PDAF of accused Coquilla was disbursed and misappropriated; and 3. To prove that accused Vizcarra is part of the criminal conspiracy, and participated therein by receiving the amount of Php485,000.00 from NABCOR on behalf of GABAYMASA.	
"T"	Certified True Copy of Abstract of Canvass signed by accused Vizcarra (1 page)
"T-1"	Certified True Copy of the Photocopy on File of Abstract of Canvass signed by accused Vizcarra (1 page)
Additional Purposes: 1. To prove that accused Vizcarra signed the same, as shown by her signature in the lower lefthand portions thereof (under the words "Prepared by"); 2. To prove accused Vizcarra's role or participation in the conspiracy, and in the overall scheme by which the PDAF of accused Coquilla was disbursed and misappropriated; and 3. To prove that accused Vizcarra is part of the criminal conspiracy, and participated therein, by preparing an Abstract of Canvass and price quotations, in order to make it appear that canvassing was done with various suppliers purportedly for seedlings and instructional materials when in fact such canvassing was not done.	
"Y"	Certified True Copy of Purchase Order signed by accused Vizcarra (KP Enterprises) (1 page)
"Y-1"	Certified True Copy of the Photocopy on File of Purchase Order signed by accused Vizcarra (KP Enterprises) (1 page)
"Z"	Certified True Copy of Purchase Order signed by accused Vizcarra (Marinduqueño's Garden Shop) (1 page)
"Z-1"	Certified True Copy of the Photocopy on File of Purchase Order signed by accused Vizcarra (Marinduqueño's Garden Shop) (1 page)
Additional Purposes: 1. To prove that accused Vizcarra signed the same, as shown by her signature in the lower portions thereof (under the words "Very truly yours");	

2. To prove accused Vizcarra’s role or participation in the conspiracy, and in the overall scheme by which the PDAF of accused Coquilla was disbursed and misappropriated; and	
3. To prove that accused Vizcarra is part of the criminal conspiracy, and participated therein, by preparing Purchase Orders, in order to make it appear that purchase transactions were entered into with various suppliers purportedly for seedlings and instructional materials when in fact no such purchases were made.	
“SS to SS-5”	Certified Machine Copy of GABAYMASA Articles of Incorporation (6 pages)
“TT”	Certified Machine Copy of Certificate of Incorporation of GABAYMASA (1 page)
“UU to UU-4”	Certified Machine Copy of GABAYMASA By-Laws (5 pages)
“VV”	Certified Machine Copy of Certificate of Filing of Amended Articles of Incorporation of Pagwadan Foundation (formerly GABAYMASA) (1 page)
“WW”	Certified Machine Copy of Payment Assessment Form of Pagwadan Foundation (formerly GABAYMASA) (1 page)
“XX”	Certified Machine Copy of Coversheet of GABAYMASA (1 page)
“YY to YY-5”	Certified Machine Copy of Pagwadan Foundation (formerly GABAYMASA) Amended Articles of Incorporation (6 pages)
“ZZ to ZZ-4”	Certified Machine Copy of Pagwadan Foundation (formerly GABAYMASA) General Information Sheet (5 pages)
Additional Purposes:	
1. To prove that accused Vizcarra signed the same, as shown by her signatures appearing in Exhibit “SS-3”, Exhibit “UU-4”, and Exhibit “YY-5”;	
2. To prove that accused Vizcarra performed the following roles in GABAYMASA: incorporator (see Exhibits “SS-1” and “YY-1”), trustee (see Exhibits “SS-1” to “SS-2”, and “YY-1”), capital contributor (see Exhibits “SS-2” and “YY-2”), one of the members who approved the by-laws (see Exhibit “UU-4”) contact person (see Exhibit “XX”), and member of the board and corporate secretary(Exhibits “ZZ-2” to “ZZ-4”);	
3. To prove accused Vizcarra’s role or participation in the conspiracy, and in the overall scheme by which the PDAF of accused Coquilla was disbursed and misappropriated; and	
3. To prove that accused Vizcarra is part of the criminal conspiracy, and participated therein, by performing all the corporate roles and functions as indicated in paragraph 2 above, thereby allowing GABAYMASA to use its corporate personality to participate in the fictitious transactions and receive the misappropriated funds subject of the instant cases.	
“DDD”	Certified True Copy of Price Quotation by Marinduqueño’s Garden Shop (1 page)
“DDD-1”	Certified True Copy of the Photocopy on File of Price Quotation by Marinduqueño’s Garden Shop (1 page)
Additional Purposes:	
1. To prove that accused Vizcarra signed the same, as shown by her signature in the lower portions thereof (above the word “Conforme”);	
2. To prove accused Vizcarra’s role or participation in the conspiracy, and in the overall scheme by which the PDAF of accused Coquilla was disbursed and misappropriated; and	



3. To prove that accused Vizcarra is part of the criminal conspiracy, and participated therein, by preparing liquidation documents to make it appear that GABAYMASA implemented livelihood projects funded by accused Coquilla's PDAF when in fact such livelihood projects were never implemented.

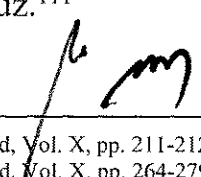
In its *Minute Resolution*¹⁰⁷ dated March 10, 2023, the Court admitted the prosecution's exhibits and their purposes as described in its formal offer of evidence filed on July 8, 2020, which consists of Exhibits "G" to "CCCCC". With respect to accused Vizcarra, the Court ruled to admit the additional purposes as enumerated above.

Evidence for accused Vizcarra

On September 5, 2023, accused Vizcarra was called to the witness stand and was able to identify her *Judicial Affidavit*¹⁰⁸ dated September 2, 2023, the signature appearing thereon, and the documents attached thereto. Her *Judicial Affidavit* constituted as her direct testimony. The testimony of accused Vizcarra was offered to prove the following: (1) that during the time material to the present cases, she was the Corporate Secretary of GABAYMASA; (2) that she does not personally know all her other co-accused except for accused Luz, thus, she could not have conspired with them to commit the criminal acts nor or to make use of her position to secure the commission of any crime; (3) that she never received any financial consideration or benefit from her certification appearing on several documents offered by the prosecution; and (4) that she did not commit the criminal acts or conspired with any other co-accused in committing the alleged violations of Section 3(e) of R.A. No. 3019 and Malversation of Public Funds.¹⁰⁹

According to accused Vizcarra, the accusations against her are not true because she merely obeyed the instructions of then GABAYMASA President, accused Luz. As such, she was not aware of any irregularities attending the subject transactions.¹¹⁰

Accused Vizcarra likewise recounted that she became acquainted with GABAYMASA, because her mother, who was then a Clerk of the Property Division in the Province of Ilocos Sur, knew Atty. Mariano Tajon, then Governor of the said Province and father of accused Luz. Upon recommendation from Atty. Tajon, accused Vizcarra applied as staff of accused Luz.¹¹¹


107 Record, Vol. X, pp. 211-212.
108 Record, Vol. X, pp. 264-279.
109 *Id.*
110 TSN dated September 5, 2023.
111 *Id.*



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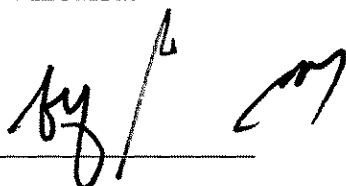
As narrated by accused Vizcarra, her duties as the Corporate Secretary of GABAYMASA include the preparation of all documents and performing all such other duties and work as the Board may assign to her. As the corporate secretary, she was paid Php10,000 as her monthly salary. Aside from being the Corporate Secretary, she was also an Incorporator of GABAYMASA.¹¹²

It was only in September or October 2022 when accused Vizcarra learned that she was one of the accused in these cases. When confronted with DV No. 08-01-00200 (Exhibit "N") and DV No. 08-07-02229 (Exhibit "Q"), accused Vizcarra admitted that the signatures appearing in those vouchers were hers. Her signature signified that she received the checks on behalf of GABAYMASA. After receiving the corresponding checks, she handed them over to accused Luz. Accused Vizcarra likewise admitted that she prepared and signed the Abstract of Canvass (Exhibit "T" and "T-1"), Purchase Order dated December 4, 2007 (Exhibit "Y" and "Y-1"), and the Purchase Order dated December 15, 2007 (Exhibit "Z" and "Z-1"), under the instructions of accused Luz. Moreover, she denied having received any consideration for signing the said documents.¹¹³

On cross-examination, accused Vizcarra admitted that she cannot recall the basis for the price quotations as stated in the Abstract of Canvass (Exhibit "T" and "T-1"). Moreover, she did not personally verify the existence and the line of business of the suppliers indicated therein. She also disclosed that she became an incorporator and a trustee of GABAYMASA through her own volition and without any force or threat from accused Luz. Accused Vizcarra also admitted that she signed the Abstract of Canvass (Exhibit "T" and "T-1"), Purchase Order dated December 4, 2007 (Exhibit "Y" and "Y-1"), and the Purchase Order dated December 15, 2007 (Exhibit "Z" and "Z-1") voluntarily and with authority from accused Luz.¹¹⁴

On clarificatory questions asked by the Court, accused Vizcarra testified that she saw the instructional materials and seedlings enumerated in the Purchase Orders in the garage of accused Luz and not in the GABAYMASA office.¹¹⁵

Thereafter, the case was re-submitted for Decision with respect to accused Vizcarra.¹¹⁶



112

Id.

113

Id.

114

Id.

115

Id.

116

Record, Vol. X, p. 344.

RULING OF THE COURT

I. Criminal Case Nos. SB-17-CRM-0063-64 for violation of Section 3(e) of Republic Act No. 3019, as amended.

Accused Vizcarra had been charged, together with her co-accused in Criminal Case Nos. SB-17-CRM-0063-64 for violation of Section 3(e) of Republic Act No. 3019, as amended, which reads:

Section 3. Corrupt practices of public officers. In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

X X X

(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 elements of violation under this provision require that: (1) the accused is a public officer discharging administrative, judicial, or official functions; (2) the accused acted with manifest partiality, evident bad faith, or gross inexcusable negligence; and (3) the accused caused undue injury to any party including the Government, or giving any private party unwarranted benefits, advantage or preference in the discharge of his functions. As will be discussed *in seriatim*, all essential elements of the offense charged against Vizcarra are present in the case at bar.¹¹⁷

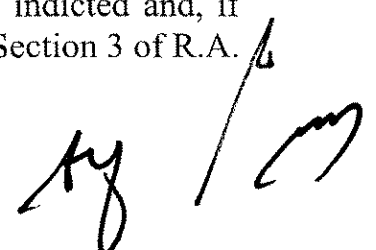
A. First element of the violation of Section 3(e) of R.A. No. 3019, as amended.

The first element is present having been stipulated during the *Pre-Trial* that accused Coquilla, Munsod, and Revelo were public officers at the time material to these cases, being the then Congressman of the Lone District of Eastern Samar, Human Resources and Administrative Manager, and Human Resources and Administrative Manager of NABCOR, respectively.

It is a settled rule that private persons, such as accused Vizcarra, when acting in conspiracy with public officers, may be indicted and, if found guilty, held liable for the pertinent offenses under Section 3 of R.A.

¹¹⁷

Limbo v. People, G.R. Nos. 204568-83 & 207028-30, April 26, 2023.



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No. 3019, as amended, 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.¹¹⁸

B. The second element of the violation of Section 3(e) of R.A. No. 3019: the accused acted with manifest partiality and evident bad faith.

The second element provides the modalities by which a violation of Section 3(e) of R.A. No. 3019 may be committed. "*Manifest partiality*," "*evident bad faith*," or "*gross inexcusable negligence*" are not separate offenses, and proof of the existence of any of these three (3) "in connection with the prohibited acts is enough to convict."¹¹⁹

The terms partiality, bad faith, and gross negligence have been explained as follows:

"*Partiality*" is synonymous with "bias" which "excites a disposition to see and report matters as they are wished for rather than as they are." "*Bad faith* does not simply connote bad judgment or negligence; it imputes a dishonest purpose or some moral obliquity and conscious doing of a wrong; a breach of sworn duty through some motive or intent or ill will; it partakes of the nature of fraud." "*Gross negligence* has been so defined as negligence characterized by the want of even slight care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but wilfully and intentionally with a conscious indifference to consequences in so far as other persons may be affected. It is the omission of that care which even inattentive and thoughtless men never fail to take on their own property."¹²⁰

As found by the Court in its *Decision*¹²¹ dated September 2, 2022, the modalities of manifest partiality and evident bad faith are both present in the questioned transactions. The Court found that the grant of accused Coquilla's PDAF-drawn funds to NABCOR, and its subsequent transfer to GABAYMASA, as well as the utilization of the said funds, were flawed with irregularities and illegalities. The Court's findings as detailed in the *Decision* are herein reproduced below:

"a. The transfer of accused Coquilla's PDAF-drawn funds to NABCOR and its subsequent transfer to GABAYMASA is a violation of the GAA for the year 2007, GPPB Resolution No. 12-2007, and NBC Circular No. 476.

 118 *People v. Henry G. Coquilla*, G.R. No. 168539, March 25, 2014.

119 *Farouk AB. Abungcar v. People of the Philippines*, G.R. Nos 202408, 202409, and 202412, June 27, 2018; citations omitted.

120 *Fuentes v. People*, G.R. No. 186421, April 17, 2017, 808 PHIL 586-600.

121 *Supra*.

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Article XLVII of the GAA of 2007 (“PDAF Article”) was brief and upfront as it contained a single special provision requiring the release of the PDAF directly to the implementing agency specifically indicated in the program menu concept. The program menu is essentially a list of the general programs and implementing agencies from which a particular PDAF project may be subsequently chosen by the identifying authority.¹²² The special provision of the PDAF Article provides:

Special Provision(s)

1. Use and Release of the Fund. The amount appropriated herein shall be used to fund priority program and projects under the Ten Point Legacy Agenda of the national government and shall be released directly to the implementing agencies as indicated hereunder, to wit:

PARTICULARS	PROGRAM/PROJECT	IMPLEMENTING AGENCY
C. Livelihood/CIDSS	Small & Medium Enterprise/Livelihood	DIT/TLRC/LIVECOR/CDA/ OMA
	Comprehensive Integrated Delivery of Social Services	DSWD

As observed by the COA Audit Team in its Notice of Disallowance No. DA-2014-019-PDAF (07-09) dated May 4, 2014 (“*Exhibit WWW*”),¹²³ the release of the SARO ROCS-07-00743 dated October 10, 2007, was disallowed as it was undertaken without due regard to the GAA for the year 2007, to wit:

“The result of the audit of this transaction are discussed below and under SAO Report No. 2012-03:

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The fund received by DA was transferred to NABCOR. Such transfer was, likewise, not compliant with the provisions of the GAA for the year and DBM NBC No. 476:

DA should have implemented the projects itself as it was among the identified implementing agencies in the GAA for the year. On the other hand, NABCOR is not among the implementing agencies of PDAF as identified in the GAA for the year. xxx”

Considering the foregoing, the Court finds, with moral certainty, that manifest partiality and evident bad faith are present in the grant of accused Coquilla’s PDAF-drawn funds to NABCOR, and the subsequent transfer thereof to GABAYMASA.

First, the Five Million Pesos (Php5,000,000.00) pertaining to the PDAF allocated to accused Coquilla under the GAA for the year 2007 and covered by SARO ROCS No. 07-07743 dated October 10, 2007, were transferred to NABCOR at the behest of accused Coquilla allegedly “for the implementation and closer monitoring.” This fact is apparent in the letter dated September 10, 2007, signed by accused Coquilla and

¹²² Greco Belgica, et al. v. Hon. Executive Secretary Ochoa, et al., G.R. No. 208566, November 19, 2013.
¹²³ Record, Vol. VII, pp. 205-206.

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addressed to Speaker Joe De Venecia, Jr. (*"Exhibit TTTT-6"*).¹²⁴ This was also indicated in the MOA dated December 28, 2007 entered into by the DA and NABCOR (*"Exhibit YYYY"*)¹²⁵, to wit:

WHEREAS, it is now the desire of Congressman Teodulo "Doloy" M. Coquilla to transfer his allocation to NABCOR for faster implementation and closer monitoring.

In support, thereto, the prosecution presented the Certified True Copy of Journal Entry Voucher of NABCOR No. 08-00626 dated August 13, 2008, (*"Exhibit G"*)¹²⁶ and the Certified True Copy of Disbursement Voucher No. 07-12-6779 dated December 28, 2007 (*"Exhibit H"*).¹²⁷ These vouchers proved that the DA indeed transferred the amount covered by SARO ROCS No. 07-07743 to NABCOR. The transfer of the funds from DA to NABCOR is a clear violation of the GAA for the year 2007.

Second, accused Coquilla unilaterally chose and indorsed GABAYMASA as the cooperating non-government organization in the implementation of his PDAF-funded livelihood project despite the fact that it is not specifically included in the list of authorized implementing bodies under the GAA for 2007. The prosecution formally offered the certified true copy of the letter to accused Javellana, President of NABCOR, signed by accused Coquilla (*"Exhibit J"*).¹²⁸ In the said letter, accused Coquilla informed NABCOR, that GABAYMASA has been selected as the cooperating non-government organization in the implementation of various livelihood projects in the amount of Five Million Pesos (Php5,000,000.00) covered by SARO ROCS No. 07-07743.

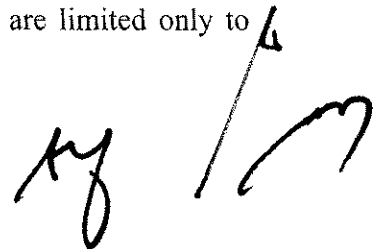
In support, thereto, the prosecution also offered the Certified True Copy of the MOA dated January 16, 2008, signed by accused Javellana (for NABCOR) and accused Luz (for GABAYMASA) (*"Exhibits M, M-1, and M-2"*).¹²⁹

The foregoing actions of accused Coquilla were downright illegal and in blatant violation of the special provision of the PDAF Article in the GAA for the year 2007. While he is the then-Congressman of the lone district of Samar, he is not authorized by law to request or participate in the implementation of the programs for the use of his PDAF. Moreso, he is not allowed to request to change the implementing agency of his livelihood project with an entity not included in the list provided for in the special provision of the PDAF Article. This was clarified in the following exchanges during the trial:

XXX

Under the terms of the GAA for the year 2007, the entities allowed to implement the PDAF-funded livelihood projects are limited only to

¹²⁴ Record, Vol. VII, p. 202.
¹²⁵ Record, Vol. VII, pp. 672-673.
¹²⁶ Record, Vol. VII, p. 46.
¹²⁷ Record, Vol. VII, p. 47.
¹²⁸ Record, Vol. VII, p. 48.
¹²⁹ Record, Vol. VII, pp. 49-51.

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those specifically enumerated therein. It is very apparent in the special provision of the PDAF Article that NABCOR and GABAYMASA are not included in the list of the implementing agencies.

It is an elementary rule of statutory construction that the express mention of one person, thing, act, or consequence excludes all others. This rule is expressed in the familiar maxim "*expressio unius est exclusio alterius*." Where a statute, by its terms, is expressly limited to certain matters, it may not, by interpretation or construction, be extended to others. The rule proceeds from the premise that the legislature would not have made specified enumerations in a statute had the intention been not to restrict its meaning and to confine its terms to those expressly mentioned.¹³⁰ As a legislator himself accused Coquilla ought to know the very intent of the GAA in limiting the list of the implementing agencies in the program menu.

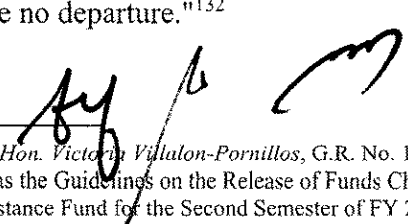
In addition, Annex "A" of the Government Procurement Policy Board (GPPB) Resolution No. 12-2007, dated June 29, 2007, states that all government procurement shall be done through competitive public bidding unless the appropriation law earmarks an amount for the project to be specifically contracted out to NGOs, thus:

As a general rule, all procurement shall be done through competitive public bidding. However, when an appropriation law earmarks an amount for projects to be specifically contracted out to NGOs, it is the intent of congress to give due preference to NGOs.

xxx

Moreover, the National Budget Circular (NBC) No. 476 dated September 20, 2001,¹³¹ which prescribes the guidelines on the release of funds for PDAF authorized under the GAA, states that the national government agencies and GOCCs shall implement only those programs and projects which fall within their mandated function.

Here, there is no provision in the GAA for the year 2007 which specifically earmarks accused Coquilla's PDAF-drawn funds of the livelihood projects to be specifically contracted out to NGOs. A cardinal rule in statutory construction is that when the law is clear and free from any doubt or ambiguity, there is no room for construction or interpretation. There is only room for application. As the statute is clear, plain, and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation. This is what is known as the plain-meaning rule or *verba legis*. It is expressed in the maxim, *index animi sermo*, or "speech is the index of intention." Furthermore, there is the maxim *verba legis non est recedendum*, or "from the words of a statute there should be no departure."¹³²


¹³⁰ *Martin Centeno v. Hon. Victoria Villalon-Pornillos*, G.R. No. 113092, September 1, 1994.
¹³¹ Otherwise known as the Guidelines on the Release of Funds Chargeable Against the Priority Development Assistance Fund for the Second Semester of FY 2001 and Thereafter.
¹³² *Cynthia Bolos v. Danilo Bolos*, G.R. No. 86400, October 20, 2010.

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Prescinding therefrom, it is clear that the GAA for the year 2007, the GPPB Resolution No. 12-2007, and NBC No. 476, do not authorize the direct release of funds to other government agencies or NGOs not specifically enumerated in the list of implementing agencies; or the direct contracting of NGOs to implement the PDAF-funded programs.

A perusal of the special provision of the PDAF Article in the GAA for 2007 would lead anyone, more so a legislator like accused Coquilla, to conclude that NABCOR and GABAYMASA are not authorized to implement any items in the project menu. Despite such clear and unambiguous prohibition in the law and the relevant rules and regulations, accused Coquilla nevertheless allowed the participation of NABCOR and GABAYMASA in the implementation of his PDAF-funded projects, all at his behest. Indeed, what cannot be legally done directly cannot be done indirectly. This rule is basic and, to a reasonable mind, does not need explanation. Certainly, if acts that cannot be legally done directly can be done indirectly, then all laws would be illusory.¹³³

b. The subsequent transfer of accused Coquilla's PDAF-drawn funds from NABCOR to GABAYMASA is also a violation of the COA Circular No. 2007-001.

Aside from the violation of the GAA for the year 2007, GPPB Resolution No. 12-2007, and NBC No. 476, the Court finds that the grant of the PDAF to GABAYMASA in the total amount of Four Million Eight Hundred Fifty Thousand Pesos (Php4,850,000.00) also violated COA Circular No. 2007-001 dated October 25, 2007. Assuming arguendo that the transfer of funds from DA to NABCOR and thereafter to GABAYMASA is not illegal, accused Coquilla, NABCOR officials, and GABAYMASA officials could still be faulted for failing to follow the provisions of COA Circular on the guidelines in the granting of funds to GABAYMASA.

COA Circular No. 2007-001 governs the guidelines in the granting, utilization, accounting, and auditing of the funds released to NGOs and POs. Considering that the PDAF funds of accused Coquilla were released to GABAYMASA, which is an NGO, COA Circular No. 2007-001 is applicable.

As observed by the COA Audit Team in their Audit Observation Memorandum No. 2008-17 dated July 28, 2009 ("*Exhibit HHHH*"), the following are the deviations from COA Circular No. 2007-001, as mentioned, to wit:¹³⁴

(1) One of the requisites for entitlement of NGOs to government funds is that the NGO must be based in the community where the project shall be implemented.¹³⁵ According to the SEC Cover Sheet ("*Exhibit 2*" for accused Luz)¹³⁶ and the

¹³³ *Tawang Multi-Purpose Cooperative v. La Trinidad Water District*, G.R. No. 16647, March 22, 2011.

¹³⁴ Record, Vol. VII, p. 159.

¹³⁵ COA Circular No. 2007-001, item 4.4.1.

¹³⁶ Record, Vol. VIII, p. 593.

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Articles of Incorporation of GABAYMASA (*"Exhibit 5"* for accused Luz)¹³⁷, the indicated business address of GABAYMASA is in Quezon City;

(2) The United Coconut Planters Bank Check Nos. 407937 (*"Exhibit O"*)¹³⁸ and 417265 (*"Exhibit S"*)¹³⁹, covering the PDAF of accused Coquilla in the aggregate amount of Php 4,850,000.00 were not crossed for deposit to GABAYMASA's savings or current accounts contrary to Item 6.1 of the COA Circular;

(3) GABAYMASA only submitted its audited financial reports for two (2) years contrary to Item 4.4.3 of the COA Circular which requires the submission of three years financial report preceding the date of project implementation;

(4) GABAYMASA did not submit the Sources and Details of Proponents Equity Participation in the Project contrary to Item 4.4.5 of the COA Circular;

(5) GABAYMASA did not submit the Project Proposal with the required approval or signatures of its officers (*"Exhibit AAA to AAA-1"*)¹⁴⁰ contrary to Item 4.4.6 of the COA Circular; and

(6) The MOA between NABCOR and GABAYMASA did not contain the terms of reference as required in Item 4.5.3 of the COA Circular.

Moreover, the audit disclosed the following observations:

(1) GABAYMASA did not submit a simple bidding or canvass to ensure the best terms and quality of the purchase from at least three (3) suppliers for the 32,887 pieces of various seedlings and 10,470 pieces of instructional materials for a total amount of Php4,739,075.00 contrary to item 4.5.3 (f) of COA Circular;

(2) GABAYMASA did not submit an inspection report to ensure that the seedlings and instructional materials were found to be in order as to quantity and specifications contrary to Item 5.5.4 of the COA Circular;

(3) The list of recipients of the various livelihood projects only contains the signature of one person representing each barangay or municipality which received the projects; and

(4) GABAYMASA did not provide an equity equivalent to 20% of the total project cost.

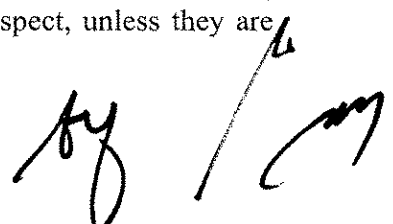
Here, a perusal of the records reveals that the parties did not comply with the provisions of the COA Circular No. 2007-001. Moreover, COA's findings are accorded great weight and respect, unless they are

¹³⁷ Record, Vol. VIII, p. 595.

¹³⁸ Record, Vol. VII, p. 53.

¹³⁹ Record, Vol. VII, p. 57.

¹⁴⁰ Record, Vol. VII, pp. 123-124.



clearly shown to be tainted with grave abuse of discretion; the COA is the agency specifically given the power, authority, and duty to examine, audit, and settle all accounts pertaining to the revenue and receipts of, and expenditures or uses of fund and property owned by or pertaining to, the government. It has the exclusive authority to define the scope of its audit and examination and to establish the required techniques and methods. An audit is conducted to determine whether the amounts allotted for certain expenditures were spent wisely, in keeping with official guidelines and regulations. Under the Rules on Evidence and considering the COA's expertise on the matter, the presumption is that official duty has been regularly performed unless there is evidence to the contrary.¹⁴¹

c. The transfer of the PDAF-drawn funds from NABCOR to GABAYMASA is a violation of the public bidding requirements under GPPB Resolution No. 012-2007.

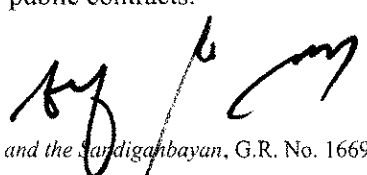
To be clear, the mere transfer of the PDAF-drawn funds from the DA to NABCOR and its subsequent transfer from NABCOR to GABAYMASA are already violations of the law and relevant rules and regulations, indicative of manifest partiality and evident bad faith. Nevertheless, this Court finds it apt to discuss the violation of the said transfers under the GPPB Resolution No. 012-2007.

Assuming arguendo that the GAA for the year 2007 specifically earmarks the PDAF-funded livelihood project to be specifically contracted out to an NGO, the engagement of GABAYMASA by NABCOR is still considered a violation of the public bidding requirement under the GPPB Resolution No. 012-2007. the relevant provision of the Resolution states:

4.1. When an appropriation law or ordinance specifically earmarks an amount for projects to be specifically contracted out to NGOs, the procuring entity may select an NGO through competitive public bidding or negotiated procurement under Section 53 (j) of the IRR-A.

The general rule requiring public bidding is not without essence. The Supreme Court in *Subic Bay Metropolitan Authority v. Commission on Audit*,¹⁴² has acknowledged the importance of public bidding, to wit:

Public bidding as a method of government procurement is governed by the principles of transparency, competitiveness, simplicity and accountability. By its very nature and characteristic, a competitive public bidding aims to protect the public interest by giving the public the best possible advantages through open competition. Another self-evident purpose of public bidding is to avoid or preclude suspicion of favoritism and anomalies in the execution of public contracts.



¹⁴¹ See *Edna J. Jaca v. People of the Philippines and the Sardiganbayan*, G.R. No. 166967, January 28, 2013.

¹⁴² *Subic Bay Metropolitan Authority v. COA*, G.R. No. 230566, January 22, 2019.

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Alternative methods of procurement, however, are allowed under Republic Act No. 9184,¹⁴³ which would enable dispensing with the requirement of open, public, and competitive bidding, but only in highly exceptional cases and under the conditions set forth in Article XVI thereof. In a negotiated procurement, the procuring entity directly negotiates a contract with a technically, legally, and financially capable supplier, contractor, or consultant. Section 53 of the IRR of R.A. No. 9184 lays down the specific grounds when a negotiated procurement may be availed of; while Section 54 of the same IRR provides the additional requirements that must be complied with.¹⁴⁴

The Court finds that the accused failed to comply with the prescribed requisites for public bidding or negotiated bidding. The records reveal that the selection of GABAYMASA as the “project partner” in the implementation of the PDAF-funded livelihood project was at the behest of accused Coquilla himself and without following the prescribed guidelines under R.A. No. 9184 and its implementing rules and regulations.

The accused offered no sufficient justification or adequate reasons why GABAYMASA was favorably chosen. GABAYMASA was selected as a project partner without the benefit of a fair system in determining the best possible price for the government. And the only way to ascertain the best possible price advantageous to the government is through competitive public bidding. Indeed, public bidding is the accepted method for arriving at a fair and reasonable price and it ensures that overpricing and favoritism, and other anomalous practices are eliminated or minimized. To circumvent this requirement outside the valid exceptions is evidence of bad faith. Moreover, by choosing GABAYMASA without public bidding, the accused evidently gave unwarranted benefits, advantage, or preference in favor of private persons, through manifest partiality.¹⁴⁵

d. The legal and physical existence of GABAYMASA is highly questionable.

In addition to the above-mentioned violations of relevant laws and regulations, the records also reveal that the legal and physical existence of GABAYMASA turned out to be questionable. The Notice of Disallowance No. DA-2014-024-PDAF(07-09) dated November 24, 2014 (“*Exhibit WWWWW-1*”)¹⁴⁶ noted the following reasons for the disallowance on the said ground: (1) the address given by GABAYMASA is a residential unit and at the time of the delivery of confirmation letter, there was no person available to receive the letter; (2) GABAYMASA was not issued business permits to operate by the City Government of Quezon City; (3) GABAYMASA did not submit written confirmation on the subject transactions and additional documentation requested by the COA Audit Team.


¹⁴³ Otherwise known as the Government Procurement Reform Act.

¹⁴⁴ *Subic Bay Metropolitan Authority v. COA, Supra.*

¹⁴⁵ See *Librado Cabrera et al. v. People*, G.R. No. 191611-14, July 29, 2019.

¹⁴⁶ Record, Vol. VII, pp. 208-212.

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To note, the Indorsement dated March 9, 2011, issued by the BPLO of Quezon City ("*Exhibit GGGGG*")¹⁴⁷ reveals that GABAYMASA has the latest renewal of business registration on March 17, 2003. This means that in the years 2007 and 2008 when GABAYMASA was unilaterally selected as the project partner and on the implementation of the PDAF-funded livelihood project of accused Coquilla, it was not authorized by the City Government of Quezon City to conduct and transact business.

The questionable legal and physical existence of GABAYMASA was further bolstered by the fact that it was not evaluated by NABCOR or the DA, through the Bid and Awards Committee (BAC) to meet the minimum qualification requirements and the specifications for the project, in violation of items 4.5.1 and 4.5.2 of the COA Circular No. 2007-001.

e. The utilization of accused Coquilla's PDAF-drawn funds was undertaken irregularly and illegally.

Aside from the release of SARO ROCS-07-07743 which was marred with illegality, the Court finds that the utilization of accused Coquilla's PDAF-drawn funds was irregularly and illegally undertaken by NABCOR and GABAYMASA. To iterate, while the selection of GABAYMASA as the project partner is already considered a violation of the GAA for 2007 and GPPB Resolution No. 12-2007, the further use of the PDAF-drawn funds was also found to be questionable, evidencing evident bad faith.

Under the Advice of NCA Issued ("Fund 101") dated December 19, 2007 ("*Exhibit TTTT-3*")¹⁴⁸, which authorized the release of the PDAF-drawn funds from DBM to DA, the actual utilization and disbursements out of the cash allocation issued shall be subject to existing budgeting, accounting, and auditing rules and regulations. The Court finds that there were deviations from existing budgeting, accounting, and auditing rules and regulations in the utilization of the PDAF which were also observed by the COA Audit Team in the Notice of Disallowance dated NAB-2014-024-PDAF(07-09) dated November 24, 2014 ("*Exhibit WWW-1*")¹⁴⁹, to wit:

First, the prosecution was able to prove that the alleged suppliers of the seedlings of agricultural crops and the instructional materials did not transact with GABAYMASA in relation to the PDAF-funded livelihood projects of accused Coquilla.

In the procurement of the seedlings for the livelihood projects, an undated Abstract of Canvass signed by accused Vizcarra of GABAYMASA ("*Exhibit T*")¹⁵⁰ and Price Quotations ("*Exhibits U and V*")¹⁵¹ show that three suppliers purportedly submitted price quotations

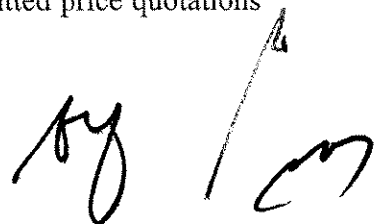
¹⁴⁷ Record, Vol. VII, pp. 689-690.

¹⁴⁸ Record, Vol. VII, p. 200.

¹⁴⁹ Record, Vol. VII, pp. 208-211.

¹⁵⁰ Record, Vol. VII, p. 58.

¹⁵¹ Record, Vol. VII, pp. 60-61.

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for the fruit-bearing seedlings, namely: Mangopina Trading Corporation, Lilia Dapuran Marketing, and Marinduqueño's Garden Shop. Moreover, the same canvass also named the following entities as the alleged suppliers of the instructional materials: BT Mangrubang Enterprises, KP Enterprises, and MJ Mores Enterprises.

During the trial, the prosecution proved that these alleged quotations are fictitious based on the testimony of Gaspay, Felipe, and Tesorero, who testified that: (1) Mangopina Trading Corporation, Lilia Dapuran Marketing, Marinduqueño's Garden Shop, BT Mangrubang Enterprises, and MJ Mores Enterprises are not registered with the DTI; (2) KP Enterprises was registered with the DTI only on January 25, 2011, or four (4) years after the purported procurements of the instructional materials; (3) there is no business name Lila Dapuran Marketing registered in the Business Permits and Licenses Division, Tacloban City as proved by the Original Certification signed by witness Gaspay, the Licensing Officer III of the Business Permits and Licenses Division, Office of the City Mayor, Tacloban City ("*Exhibit BBBBBB*"),¹⁵² which was also corroborated in her *Judicial Affidavit* dated November 6, 2019, and identified during the hearing on January 22, 2020; (4) that based on official records of the BPLO of San Mateo, Rizal there is no registered business establishment in the name of MJ Mores Enterprises owned by Josephine Mores as evidenced by the Original Certification signed by witness Felipe, the Municipal Government Department Head I assigned to the BPLO of San Mateo, Rizal ("*Exhibit BBBBBB-1*")¹⁵³; (5) that based on official records of the BPLO of Quezon City, while there is a proprietorship registered as BT Mangrubang, its business information is different from those appearing in the price quotation submitted by GABAYMASA, evidenced by the Original Certification signed by witness Africa, of the Business Permits and Licensing Department of Quezon City ("*Exhibit BBBBBB-2 to Exhibit BBBBBB-2-d*")¹⁵⁴; and (6) KP Enterprises Inc. and Marinduqueño's Garden Shop did not transact with GABAYMASA in relation to the PDAF-funded livelihood projects of accused Coquilla.

Aside from the concocted canvass and quotations, the prosecution was also able to prove that the alleged winning bidders were also fabricated. During the trial, the proprietors of KP Enterprises Inc. and Marinduqueño's Garden Shop both denied having transacted with GABAYMASA and issuing the receipts and invoices, and receiving the corresponding payments thereto. Aside from the testimony of Associate Graft Investigation Officer I Matthews who conducted the ocular inspection and investigation of KP Enterprises Inc. and Marinduqueño's Garden Shop, the prosecution was also able to present witnesses Fietas and Aurellano, the proprietors of the establishments who categorically denied having entered into the transaction with GABAYMASA with regard to the purchase of seedlings and instructional materials. Moreover, the prosecution, through its witnesses was able to prove that KP Enterprises, Inc. is not engaged in the business of selling instructional

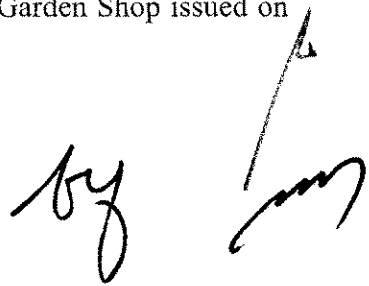
¹⁵² Record, Vol. VII, p. 884.
¹⁵³ Record, Vol. VII, p. 885.
¹⁵⁴ Record, Vol. VII, pp. 886-889.

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materials while Marinduqueño’s Garden Shop is not engaged in the business of selling seedlings of agricultural crops.

The prosecution was able to corroborate the testimonies of Matthews, Fietas, Sultan, Tesorero, and Aurellano with the presentation of the following evidence: Original Official Business Slip dated April 17, 2012 (“*Exhibit CC*”);¹⁵⁵ Original photographs of the premises of Marinduqueño’s Garden Shop (“*Exhibits DD to DD-15*”);¹⁵⁶ Original photographs of the premises of KP Enterprises (“*Exhibits EE to EE-15*”);¹⁵⁷ Certified True Copy of Sales Invoice No. 17561 dated December 15, 2007 (“*Exhibit FF*”);¹⁵⁸ Certified True Copy of Delivery Receipt dated December 17, 2007 (“*Exhibit GG*”);¹⁵⁹ Photocopies of Business Permits of Marinduqueño’s Garden for 2004 and 2005 (“*Exhibits ZZZZ to ZZZZ-1*”);¹⁶⁰ Certified True Copy of Response Letter of Fietas dated January 7, 2011 (“*Exhibit HHHHH*”);¹⁶¹ Certified True Copy of Letter of Fietas to Director Garcia (“*Exhibit HHHHH-1*”);¹⁶² Certified True Copy of Response letter of Aurellano dated December 3, 2010 (“*Exhibit IIII*”);¹⁶³ Photocopy of Letter dated June 1, 2015 signed by Fietas and addressed to Silverio (“*Exhibit MMMMM*”);¹⁶⁴ Photocopy of Letter of Fietas to Garcia (“*Exhibit MMMMM-1*”);¹⁶⁵ Photocopy of Response Letter of Fietas to Garcia dated January 7, 2011 (“*Exhibit MMMMM-2*”);¹⁶⁶ Photocopy of Official Receipts of Marinduqueño’s Garden Shop (“*Exhibits MMMMM-3 to MMMMM-7*”);¹⁶⁷ Photocopy of Price Quotation of Marinduqueño’s Garden Shop (“*Exhibit MMMMM-8*”);¹⁶⁸ Photocopy of GABAYMASA’s Purchase Order for seedlings, addressed to Marinduqueño’s Garden Shop (“*Exhibit MMMMM-9*”);¹⁶⁹ Photocopy of Official Receipt of Marinduqueño’s Garden Shop (“*Exhibit OOOOO*”);¹⁷⁰ Photocopy of Certificate of Registration of Business Name of KP Enterprises issued on March 12, 1998 (“*Exhibit UUUUU*”);¹⁷¹ Photocopy of Certificate of Registration of Business Name of KP Enterprises issued on April 23, 2003 (“*Exhibit UUUUU-1*”);¹⁷² Photocopy of Sales Invoices of KP Enterprises (“*Exhibit VVVVV*”);¹⁷³ Photocopy of Application for Sole Proprietorship of Marinduqueño’s Garden Shop (“*Exhibit WWWW*”);¹⁷⁴ Photocopy of Certificate of Business Name Registration of Marinduqueño’s Garden Shop issued on

155 Record, Vol. VII, p. 69.
156 Record, Vol. VII, pp. 70-73.
157 Record, Vol. VII, pp. 74-77.
158 Record, Vol. VII, p. 78.
159 Record, Vol. VII, p. 79.
160 Record, Vol. VII, pp. 674-675.
161 Record, Vol. VII, p. 691.
162 Record, Vol. VII, p. 692.
163 Record, Vol. VII, p. 694.
164 Record, Vol. VII, pp. 743-746.
165 Record, Vol. VII, p. 747.
166 Record, Vol. VII, p. 748.
167 Record, Vol. VII, pp. 749-752.
168 Record, Vol. VII, p. 753.
169 Record, Vol. VII, p. 754.
170 Record, Vol. VII, p. 757.
171 Record, Vol. VII, p. 758.
172 Record, Vol. VII, p. 759.
173 Record, Vol. VII, pp. 760-810.
174 Record, Vol. VII, p. 811. Faithful reproduction of the original; original copies were produced during the trial.



September 21, 2004 ("*Exhibit WWWW-1*");¹⁷⁵ Photocopy of Delivery Receipts of KP Enterprises ("*Exhibit ZZZZ*");¹⁷⁶ and Photocopy of Collection Receipts of KP Enterprises ("*Exhibit AAAAAA*").¹⁷⁷

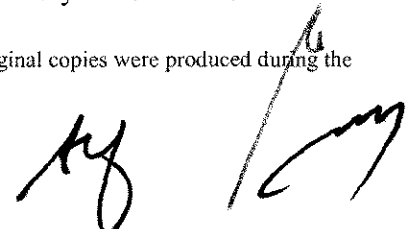
Second, the prosecution was able to prove that the listed barangays and municipalities in the province of Samar did not receive the seedlings of agricultural crops and the instructional materials in connection to the PDAF-funded livelihood project, contrary to the undated Certificate of Acceptance signed by accused Luz and Coquilla.

An undated Certificate of Acceptance ("*Exhibit HH*")¹⁷⁸ indicates that the seedlings and the instructional materials procured by GABAYMASA had been received by accused Coquilla. Likewise, an undated Acknowledgment Receipt ("*Exhibit II*")¹⁷⁹ purports to prove that all these items were received by the selected beneficiaries of the selected municipalities and barangays of Eastern Samar. However, the records reveal that the reported distribution of the seedlings and instructional materials to the intended beneficiaries is highly questionable considering that none of the thirteen (13) selected beneficiaries confirmed receipt of the items. Moreover, eight (8) of these purported beneficiaries were either unknown at their given addresses or did not claim their confirmation letters. While other intended beneficiaries did not respond to the COA Audit Team.

On this particular matter, the prosecution was able to present the following witnesses: Padullo, former Punong Barangay of Barangay Taytay, Guiuan, Eastern Samar; Padriquez, the Punong Barangay of Barangay Campoyong, Guiuan, Eastern Samar; Remojo, former Punong Barangay of Barangay Victory, Eastern Samar; Opriasa, former Punong Barangay of Barangay Hagna, Guiuan, Eastern Samar; Lacasa, former Punong Barangay of Barangay Bulawan, Eastern Samar; Naves, former Punong Barangay of Barangay Malobago, Maslog, Eastern Samar; and Rebato, former Punong Barangay of Barangay San Miguel, Maslog, Eastern Samar. These former and incumbent Punong Barangays of the alleged beneficiaries of the PDAF-funded Livelihood project of accused Coquilla categorically denied having received any seedlings and instructional materials on behalf of their respective Barangays or knowing any of their constituents who benefited from the said project.

In the implementation of livelihood projects of NGOs in the barangays, we are guided by the relevant provisions of the R.A. No. 7160 or the Local Government Code of the Philippines. Under Section 384 of the Code, the barangay serves as the primary planning and implementing unit of government policies, plans, programs, projects, and activities in the community. In relation to NGOs, Section 35 of the Code states that local government units, including the barangay, may enter into joint ventures and other cooperative arrangements with people's and non-governmental organizations to engage in the delivery of certain basic

¹⁷⁵ Record, Vol. VII, p. 812. Faithful reproduction of the original; original copies were produced during the trial.
¹⁷⁶ Record, Vol. VII, pp. 813-882.
¹⁷⁷ Record, Vol. VII, p. 883.
¹⁷⁸ Record, Vol. VII, p. 80.
¹⁷⁹ Record, Vol. VII, p. 81.



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services, capability-building, and livelihood projects, and to develop local enterprises designed to improve productivity and income, diversity agriculture, spur rural industrialization, promote ecological balance, and enhance the economic and social well-being of the people.

The Court agrees that being the Punong Barangay during the time of the alleged distribution of the livelihood project, the witnesses are in the position to receive and to know who among their constituents received the items distributed. Besides, it is highly irregular for any government project involving government funds to be implemented without the proper coordination of the local government units involved.

Moreover, as admitted by accused Luz during her testimony on July 23, 2021, she was not present when the fruit-bearing seedlings were distributed to the intended beneficiaries in Easter Samar and that the undated Certificate of Acceptance was immediately signed by accused Luz and Coquilla after the inspection made by the latter's staff, to wit:

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Third, the amounts transferred to GABAYMASA were purportedly used to pay fuel, meals, and representation expenses from various suppliers and to procure assorted office supplies, instructional materials, and fruit-bearing seedlings from KP Enterprises and Marinduqueño's Garden Shop as evidenced by the Certified True Copy of List of Expenses prepared and submitted by GABAYMASA ("*Exhibits EEEEE to EEEEE-4*").¹⁸⁰

Based on the Summary of Expenses prepared by GABAYMASA, out of the Four Million Eight Hundred Fifty Thousand Pesos (Php4,850,000.00) PDAF-drawn funds transferred from NABCOR to GABAYMASA, they spent a total of Four Million Eight Hundred Forty-Nine Thousand Nine Hundred Ninety-Five Pesos and Eighty-Seven Centavos (Php4,849,995.87) in the implementation of accused Coquilla's PDAF-funded livelihood project. The records disclose that the difference of Two Pesos and Thirty-three Centavos (Php2.33) was returned to NABCOR per JEV No. 08-00497 dated July 14, 2008.¹⁸¹ However, the prosecution was able to prove that the Liquidation Report was supported by Official Receipts and Sales Invoices bearing dates from November 7, 2007, to January 15, 2008, all before the execution of the MOA on January 16, 2008, and the issuance of the UCPB Check No. 407937 on January 23, 2008.

The records disclose that GABAYMASA, through accused Luz and Vizcarra, received the sum of Four Million Three Hundred Sixty-Five Thousand Pesos (Php4,365,000.00) and Four Hundred Eighty-Five Thousand Pesos (Php485,000.00) only on January 26, 2008, and July 14, 2008, respectively. Hence, it is highly irregular and illogical that GABAYMASA spent the money prior to these dates.

¹⁸⁰ Record, Vol. VII, pp. 681-685.
¹⁸¹ Record, Vol. I, p. 17.

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In support, thereto, the prosecution offered the following evidence: Certified True Copy of Purchase Order signed by accused Vizcarra for KP Enterprises (*"Exhibit Y"*);¹⁸² Certified True Copy of the Photocopy on File of Purchase Order signed by Vizcarra for KP Enterprises (*"Exhibit Y-1"*);¹⁸³ Certified True Copy of Purchase Order signed by accused Vizcarra for Marinduqueño's Garden Shop (*"Exhibit Z"*);¹⁸⁴ Certified True Copy of the Photocopy on File of Purchase Order signed by Vizcarra for Marinduqueño's Garden Shop (*"Exhibit Z-1"*);¹⁸⁵ Certified True Copy of Sales Invoice No. 1035 dated December 21, 2007 (*"Exhibit AA"*);¹⁸⁶ Certified True Copy of Delivery Receipt dated December 27, 2007 (*"Exhibit BB"*);¹⁸⁷ Certified True Copy of Sales Invoice No. 17561 dated December 15, 2007 (*"Exhibit FF"*);¹⁸⁸ Certified True Copy of Delivery Receipt dated December 27, 2007 (*"Exhibit GG"*);¹⁸⁹ Certified True Copy of the Official Receipt No. 1026 dated December 21, 2007 of Marinduqueño's Garden Shop (*"Exhibit EEE"*);¹⁹⁰ Certified True Copy of the Official Receipt No. 1029 dated January 5, 2008 of Marinduqueño's Garden Shop (*"Exhibit FFF"*);¹⁹¹ Sales Invoice No. 17550 dated December 12, 2007 of KP Enterprises (*"Exhibit JJJ"*);¹⁹² Official Receipt No. 16650 dated December 12, 2007 of KP Enterprises (*"Exhibit KKK"*);¹⁹³ Official Receipt No. 16582 of KP Enterprises (*"Exhibit LLL"*);¹⁹⁴ Certified True Copy of Charge Invoice No. 9394 (*"Exhibit VVV"*);¹⁹⁵ Certified True Copy of Invoice No. 14689 (*"Exhibit VVV-1"*);¹⁹⁶ Certified True Copy of Cash Invoice No. 3862 (*"Exhibit VVV-2"*);¹⁹⁷ Certified True Copy of Cash Invoice No. 0266 of 5-U Service Station dated December 12, 2007 (*"Exhibit WWW"*);¹⁹⁸ Certified True Copy of Cash Invoice No. 2270 of 5-U Service Station dated December 17, 2007 (*"Exhibit WWW-1"*);¹⁹⁹ Certified True Copy of Cash Invoice No. 597539 of Citimar Motorist CE dated January 8, 2008 (*"Exhibit WWW-2"*);²⁰⁰ Certified True Copy of Petron Cash Invoice No. 840769 B dated January 17, 2008 (*"Exhibit XXX"*);²⁰¹ Certified True Copy of 5-U Service Station Cash Invoice No. 10721 (*"Exhibit XXX-1"*);²⁰² Certified True Copy of Polloso Enterprises, Inc. Cash Invoice No. 100376 dated November 15, 2004 (*"Exhibit XXX-2"*);²⁰³ Certified True Copy of Makati Shangri-la Official Receipt No. 186492 A dated November 7, 2004 (*"Exhibit YYY"*);²⁰⁴ Certified True Copy of Harmony

182 Record, Vol. VII, p. 62.
183 Record, Vol. VII, p. 63.
184 Record, Vol. VII, p. 64.
185 Record, Vol. VII, p. 65.
186 Record, Vol. VII, p. 66.
187 Record, Vol. VII, p. 68.
188 Record, Vol. VII, p. 78.
189 Record, Vol. VII, p. 79.
190 Record, Vol. VII, p. 131.
191 *Id.*
192 Record, Vol. VII, p. 138.
193 *Id.*
194 Record, Vol. VII, p. 139.
195 Record, Vol. VII, p. 149.
196 *Id.*
197 *Id.*
198 Record, Vol. VII, p. 150.
199 *Id.*
200 *Id.*
201 Record, Vol. VII, p. 151.
202 *Id.*
203 *Id.*
204 Record, Vol. VII, p. 152.

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Dance Palace, Inc. Cash Invoice No. 50667 dated November 18, 2004 (*"Exhibit YYY-1"*);²⁰⁵ Certified True Copy of Mocha Blends Official Receipt No. 00046550 dated January 4, 2008 (*"Exhibit ZZZ"*);²⁰⁶ Certified True Copy of Don Henricos-Ristorante Mall of Asia Official Receipt No. 01003581 dated January 5, 2008 (*"Exhibit ZZZ-1"*);²⁰⁷ Certified True Copy of IRION Foods Concepts Corp. Official Receipt No. 0586 (*"Exhibit AAAA"*);²⁰⁸ Certified True Copy of Serye Restaurant, Grill & Café Guest Check No. 200748 dated November 26, 2007 (*"Exhibit AAAA-1"*);²⁰⁹ Certified True Copy of Chili's Receipt dated January 10, 2008 (*"Exhibit BBBB"*);²¹⁰ Certified True Copy of California Pizza Kitchen Official Receipt No. 0010033532 dated January 11, 2008 (*"Exhibit BBBB-1"*);²¹¹ Certified True Copy of Office Warehouse, Inc. Receipt dated January 8, 2008 (*"Exhibit CCCC"*);²¹² Certified True Copy of National Bookstore Receipt dated January 2, 2008 (*"Exhibit DDDD"*);²¹³ Certified True Copy of National Bookstore Receipt dated January 15, 2008 (*"Exhibit DDDD-1"*);²¹⁴ Certified True Copy of Choi Garden Official Receipt No. 1347 dated January 14, 2008 (*"Exhibit EEEE"*);²¹⁵ and Certified True Copy of Jose Antonio Crepes Restaurant Official Receipt No. 3040 dated January 23, 2008 (*"Exhibit EEEE-1"*);²¹⁶

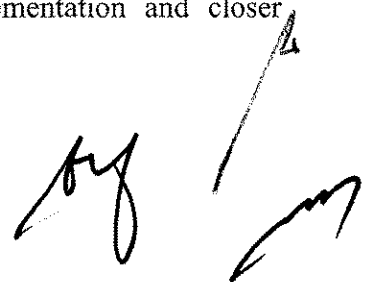
Fourth, the balance of One Hundred Fifty Thousand Pesos (Php150,000.00) retained by NABCOR allegedly as an administrative cost does not have a basis in law and is not duly accounted for considering that the said amount formed part of NABCOR's income. As admitted by accused Munsod during her cross-examination on May 18, 2021, NABCOR charged an administrative fee on the Five Million (Php5,000,000.00) PDAF of accused Coquilla. The retention of the said amount is neither supported by any law nor the MOA. The following exchanges point to that effect:

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Considering that NABCOR is not included in the list of the implementing agencies under the GAA for the year 2007, it is not authorized by law to charge an administrative cost on the PDAF of accused Coquilla.

Assuming arguendo that the One Hundred Fifty Thousand Pesos (Php150,000.00) administrative charge is lawful, it was not actually used for the purpose intended. Under the MOA dated December 28, 2007 (*Exhibit "YYYY"*),²¹⁷ the PDAF allocation of accused Coquilla was transferred to NABCOR for the "faster implementation and closer

²⁰⁵ *Id.*
²⁰⁶ Record, Vol. VII, p. 153.
²⁰⁷ *Id.*
²⁰⁸ Record, Vol. VII, p. 154.
²⁰⁹ *Id.*
²¹⁰ Record, Vol. VII, p. 155.
²¹¹ *Id.*
²¹² Record, Vol. VII, p. 156.
²¹³ Record, Vol. VII, p. 157.
²¹⁴ *Id.*
²¹⁵ Record, Vol. VII, p. 158.
²¹⁶ *Id.*
²¹⁷ Record, Vol. VII, pp. 672-673.

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monitoring.” However, as discussed above, NABCOR was not able to perform its obligation under the MOA, which includes the duties to review the qualifications of GABAYMASA and monitor the implementation of the PDAF-funded livelihood project.

The foregoing deviations of pertinent laws and regulations in the grant of accused Coquilla’s PDAF to NABCOR and its subsequent transfer to GABAYMASA are clear manifestations of manifest partiality in favor of the latter. Likewise, evident bad faith was also established in the utilization of the PDAF considering that the PDAF-funded livelihood project was proved to be spurious and non-existent.”²¹⁸

C. The third element of the violation of Section 3(e) of R.A. No. 3019: the acts of the accused caused undue injury to the government and gave unwarranted benefit, advantage, or preference to GABAYMASA, accused Vizcarra and Luz.

As to the third element, there are two (2) ways by which Section 3(e) of R.A. No. 3019 may be violated—the first, by causing undue injury to any party, including the government, or the second, by giving any private party any unwarranted benefit, advantage or preference. Although neither mode constitutes a distinct offense, an accused may be charged under either mode or both. The use of the disjunctive “or” connotes that the two modes need not be present at the same time. In other words, the presence of one would suffice for conviction.²¹⁹

The first punishable act is that the accused is said to have caused undue injury to the government or any party when the latter sustains actual loss or damage, which must exist as a fact and cannot be based on speculations or conjectures. The loss or damage need not be proven with actual certainty. However, there must be “some reasonable basis by which the court can measure it.” Aside from this, the loss or damage must be substantial. It must be “more than necessary, excessive, improper or illegal.”²²⁰

The second punishable act is that the accused is said to have given unwarranted benefits, advantage, or preference to a private party. Proof of the extent or quantum of damage is not thus essential. It is sufficient that the accused has given “unjustified favor or benefit to another.”²²¹

²¹⁸ Decision, September 2, 2022, pp. 44-64; Record, Vol. X, pp. 61-81.

²¹⁹ *Ampil v. Office of the Ombudsman*, G.R. No. 192685, July 31, 2013.

²²⁰ *People v. Caballes*, G.R. Nos. 250367 & 250400-05, August 31, 2022.

²²¹ *Id.*



Here, the Court found that the accused are guilty beyond reasonable doubt of committing both modes. The pertinent portions of the *Decision* are herein reproduced, *to wit*:

“The Informations charge the accused under both modes. Under the first, mode, the Court finds that the prosecution was able to prove that the scheme designed and executed by the accused caused undue injury to the Government in the aggregate amount of Five Million Pesos (Php5,000,000.00). The injury to the government is apparent considering that the prosecution was able to prove that the PDAF-funded livelihood projects are spurious and non-existent.

As to the second mode, the Court finds that the prosecution has sufficiently proved that accused Coquilla gave unwarranted benefits and advantages to NABCOR and GABAYMASA. Based on the documentary evidence and testimony of the prosecution’s witnesses, accused Coquilla used his official function as the Congressman of the Lone District of Eastern Samar to directly participate in the implementation of his PDAF-funded livelihood project by unilaterally selecting NABCOR as the “implementing agency” and GABAYMASA as the “project partner” despite the clear and unambiguous special provision in the PDAF Article of the GAA for the year 2007 and the GPPB Resolution No. 12-2007. Despite being excluded from the list of implementing agencies in the appropriation law, NABCOR and GABAYMASA were given participation in the grant and utilization of the PDAF-drawn public funds and the implementation of the spurious PDAF-funded livelihood projects.²²²

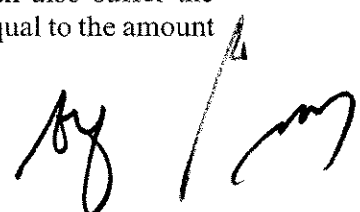
II. Criminal Case Nos. SB-17-CRM-0065-66 for violation of Article 217 of the Revised Penal Code, as amended.

All the accused had been charged in Criminal Case Nos. SB-17-CRM-0065-66 for violation of Article 217 of the Revised Penal Code, as amended, which reads:

Article 217. Malversation of public funds or property; Presumption of malversation. - Any public officer who, by reason of the duties of his office, is accountable for public funds or property, shall appropriate the same or shall take or misappropriate or shall consent, through abandonment or negligence, shall permit any other person to take such public funds, or property, wholly or partially, or shall otherwise be guilty of the misappropriation or malversation of such funds or property, shall suffer:

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In all cases, persons guilty of malversation shall also suffer the penalty of perpetual special disqualification and a fine equal to the amount

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of the funds malversed or equal to the total value of the property embezzled.

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 facie evidence that he has put such missing funds or property to personal use.²²³

The felony involves breach of public trust, and whether it is committed through *dolo* or *culpa* the law makes it punishable and prescribes a uniform penalty therefor. Even when the information charges willful malversation, conviction for malversation through negligence may still be adjudged if the evidence ultimately proves that mode of commission of the offense.²²⁴

Parenthetically, the elements of malversation of public funds are that: (1) the offender is a public officer; (2) he has custody or control of the 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, most importantly; (4) he has appropriated, taken, misappropriated or consented, or, through abandonment or negligence, permitted another person to take them.²²⁵

In the *Decision* dated September 2, 2022,²²⁶ the Court found that all the elements of malversation of public funds are present. The relevant portions of the said decision provide the following findings of the Court:

“A. The first element of the violation of Article 217 of the Revised Penal Code: accused are public officers.

The first element of the offense under Article 217 of the RPC is undisputed, as the parties stipulated that accused Coquilla, Relevo, and Munsod are public officers, being the Congressman of the Lone District of Eastern Samar, and officials of NABCOR, respectively.

In respect of accused Luz of GABAYMASA she is likewise liable with the accused public officers under Article 222 in relation to Article 217 of the RPC. While Article 217 of the RPC only punishes the public officer involved, Article 222 of the RPC provides that “*private individuals who, in any capacity whatever, have charge of any national, provincial, or municipal funds, revenues or property*” may be held liable under Article 217 of the same code. In conjunction thereto, the Supreme Court has also ruled that malversation of public funds can also be

²²³ As amended by R.A. No. 1060.

²²⁴ *Milagros Diaz v. Sandiganbayan*, G.R. No. 125213, January 26, 1999; citations omitted.

²²⁵ *Manuel Venezuela v. People of the Philippines*, G.R. No. 205693, February 14, 2018.

²²⁶ *Supra*.

committed by any private individual who acted in conspiracy with an accountable public officer found guilty of malversation.²²⁷

At issue are the second, third, and fourth elements of the offense. Verily, 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 he failed to account for the said funds upon demand without offering a justifiable explanation for the shortage.²²⁸

B. The second and third elements of the violation of Article 217 of the Revised Penal Code: accused are accountable officers, having control and custody of the PDAF-drawn funds.

For the second and third elements, the Court finds that the accused are considered accountable officers under our jurisdiction. An accountable officer under Article 217 of the RPC is a public officer who, by reason of his office, is accountable for public funds or property. Sec. 101(1) of the Presidential Decree No. 1445 or the Government Auditing Code of the Philippines defines an accountable officer to be every officer of any government agency whose duties permit or require the possession or custody of government funds or property and who shall be accountable therefor and for the safekeeping thereof in conformity with the law. In the determination of who is an accountable officer, it is the nature of the duties which he performs - the fact that, as part of his duties, he received public money for which he was bound to account, and not the nomenclature or the relative importance the position held - which is the controlling factor.²²⁹

The Court finds accused Coquilla as an accountable officer. In the landmark case of *Belgica v. Hon. Executive Secretary*,²³⁰ the Supreme Court held that legislators, either individually or collectively, have control over certain aspects of the PDAF's utilization through various post-enactment measures and/or practices.

In the cases at bar, the records reveal that accused Coquilla has control over the release and implementation of the PDAF allocated to him. As evidenced by the letter dated September 10, 2007, signed by accused Coquilla and addressed to Speaker Joe De Venecia, Jr., ("*Exhibit TTTT-6*").²³¹ This particular letter triggered and set into motion the grant of the PDAF to NABCOR and its subsequent transfer to GABAYMASA.

Accused Relevo and Munsod of NABCOR are deemed similarly situated as they are likewise government officials being then the Human Resources and Administrative Manager and Head of General Services Unit of NABCOR, respectively. Section 51, Chapter 9 of Executive No. 292 or the Administrative Code of 1987 states that "persons entrusted with

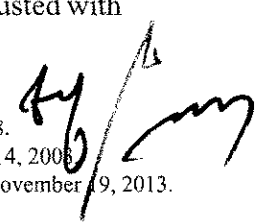
²²⁷ *People v. Licerio Sandaydiego, et al.*, G.R. Nos. L-33252-54, January 20, 1978.

²²⁸ *Manuel Venezuela v. People of the Philippines*, G.R. No. 205693, February 14, 2018.

²²⁹ *Flordeliza F. Querijero v. People and Sandiganbayan*, G.R. No. 153483, February 14, 2008.

²³⁰ *Greco Belgica, et al. v. Hon. Executive Secretary Ochoa, et al.*, G.R. No. 208566, November 19, 2013.

²³¹ Record, Vol. VII, p. 202.



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the possession or custody of the funds or property under the agency head shall be immediately responsible to him, without prejudice to the liability of either party to the Government.” To reiterate, both accused admitted that when they signed box “A” of the disbursement vouchers, they were aware that they are certifying that the expenses indicated therein are necessary, lawful, and incurred under their direct supervision.²³²

As for accused Luz, being the President of GABAYMASA, she is also considered as an accountable officer pursuant to the MOA entered into between NABCOR and GABAYMASA dated January 16, 2008. Being selected as the “project partner”, GABAYMASA became a partner who has been delegated to undertake the PDAF-funded livelihood project for NABCOR. The MOA entered into and the funds granted become the authority for such delegation. Under the said MOA, GABAYMASA shall “administer, manage, and disburse the FUND in accordance with accounting and auditing rules and regulations.”²³³

Anent the third element, considering that accused Coquilla’s PDAF is sourced from the GAA for the year 2007, there is no denying that the same is considered a public fund. The nature of the PDAF as a public fund remains to be so even after they are released and distributed to different projects or programs identified by the legislation for actual implementation.

C. The fourth element of the violation of Article 217 of the Revised Penal Code: accused misappropriated or consented or allowed accused Luz, Vizcarra, and GABAYMASA to take or misappropriate PDAF-drawn public funds

As for the fourth element, the Court finds that the accused misappropriated or consented or allowed accused Luz, Vizcarra, and GABAYMASA to take or misappropriate PDAF-drawn public funds, instead of implementing the PDAF projects, which turned out to be non-existent or fictitious. Under Article 217 of the RPC, there is *prima facie* evidence of malversation where the accountable public officer fails to have duly forthcoming any public funds with which he is chargeable upon demand by a duly authorized officer. As jurisprudence has pointed out, this presumption *juris tantum* is founded upon human experience and shall be *prima facie* evidence that he/she has put such missing funds or property to personal use.²³⁴

In the case at bar, the prosecution was able to prove by moral certainty that the accused, in conspiracy with one another, misappropriated the PDAF-drawn public funds. Aside from the fact that the accused is not allowed under the law to transfer the funds to NABCOR or GABAYMASA, the prosecution was also able to prove that the alleged PDAF-funded livelihood projects of accused Coquilla are fictitious. Moreover, when required to account for the expenses allegedly incurred by GABAYMASA

²³² TSN dated May 18, 2021 and June 1, 2021.

²³³ Record, Vol. VII, p. 50.

²³⁴ *Lucilyn T. Zambrano v. Sandiganbayan*, G.R. No. 82067, April 10, 1992.

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in connection with the said project, they supplied irrelevant, outdated, and fabricated invoices.

Verily, the elements of the crime imputed to the accused in the Informations were duly established not only by the testimony of the persecution's witnesses but also by the documentary evidence offered. Under the foregoing circumstances, it is evident that the accused have not successfully rebutted the *prima facie* presumption of malversation. The evidence of the prosecution is overwhelming and has not been overcome by the accused. The presumed innocence of the accused must yield to the positive finding that they malversed Four Million Three Hundred Sixty-Five Thousand Pesos (Php4,365,000.00) in Criminal Case Nos. SB-17-CRM-006 and Four Hundred Eighty-Five Thousand Pesos (Php485,000.00) Criminal Case Nos. SB-17-CRM-0065-66 to the prejudice of the public whose confidence they have breached."²³⁵

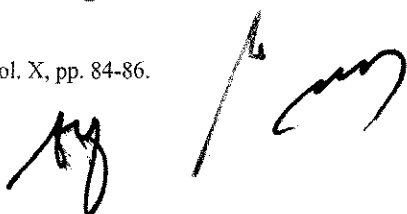
III. Accused Vizcarra acted in conspiracy with the other accused in committing the crimes charged in Criminal Case Nos. SB-17-CRM-0063-64 and Criminal Case Nos. SB-17-CRM-0065-66.

A conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. While conspiracy to commit a crime must be established by positive evidence, direct proof is not essential to show conspiracy. Since by its nature, conspiracy is planned in utmost secrecy, it can seldom be proved by direct evidence. Consequently, competent and convincing circumstantial evidence will suffice to establish conspiracy. If it is proved that two or more persons aimed by their acts towards the accomplishment of the same unlawful object, each doing a part so that their acts, though apparently independent, were in fact connected and cooperative, indicating a closeness of personal association and a concurrence of sentiment, a conspiracy may be inferred though no actual meeting among to concert means is proved.

In the *Decision* dated September 2, 2023,²³⁶ the Court found that the accused conspired to violate Section 3 (e) of R.A. No. 3019, as amended and Article 217 of the RPC, as amended. The Court, in the said pronouncement, stated that the accused willingly went along with the ignoble scheme of accused Coquilla by completing the act of embezzling the PDAF-drawn funds through the implementation of a fictitious and non-existent livelihood project. The relevant portions of the *Decision* are hereunder quoted:

"The prosecution was able to prove with documentary and testimonial evidence the following overt acts of the accused, which completed the grand scheme to embezzle the government:

²³⁵ *Decision*, September 2, 2022, pp. 67-70; Record, Vol. X, pp. 84-86.
²³⁶ *Supra*.



Accused Coquilla triggered the illegal and irregular release of his PDAF-drawn funds, through the letter addressed to Speaker Joe De Venecia, Jr. Without the said letter, NABCOR would not have been selected as the implementing agency, in violation of the GAA for the year 2007. It was also through the letter of accused Coquilla addressed to NABCOR that GABAYMASA was selected as the project partner in the implementation of the livelihood projects, in violation of the GAA for the year 2007, GPPB Resolution No. 12-2007, and COA Circular No. No. 2007-001. It was also accused Coquilla who signed the undated Certificate of Acceptance and undated Acknowledgement Receipt to make it appear that the items were delivered to the intended beneficiaries in his congressional district.

On the other hand, accused Relevo and Munsod signed the box A of the Disbursement Voucher Nos. 08-01-00200 and 08-07-02229, respectively, thus certifying that the documents are complete and proper. Without their signatures, the UCPB Check Nos. 407937 and No. 417265 would not have been issued to GABAYMASA. Their certification as the first signatories of the disbursement vouchers made it appear that the disbursements were indeed necessary and lawful despite the glaring deficiencies in the attached supporting documents. While both accused made assumption that the accounting department of NABCOR already cleared the documents attached to the disbursement vouchers, they admitted that they did not make their own confirmation that the disbursements were indeed necessary and lawful. Corollary, when an authorized person approves a disbursement voucher, he certifies to the correctness of the entries therein, among others: that the expenses incurred were necessary and lawful, the supporting documents are complete, and the availability of cash therefor. He also attests that the person who performed the services or delivered the supplies, materials, or equipment is entitled to payment.²³⁷

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Accused Relevo, in his cross-examination, observed many irregularities but remained silent and worse, allowed accused Coquilla's scheme to perpetuate. xxx

The same holds true with regard to accused Munsod. Despite the apparent irregularities in the face of the disbursement voucher as against its attachments, she remained silent and proceeded to execute the overt act of certifying that the disbursement was necessary and lawful. xxx

The Supreme Court, in *Bacasmás v. Sandiganbayan*, further affirmed the existence of conspiracy among the accused through their unified acts of approving the disbursement vouchers and their silence to report the various irregularities.²³⁸ Hence, this Court finds that accused Relevo and Munsod acted in conspiracy with the accused Coquilla and Luz by turning a blind eye to the irregularities surrounding the disbursement of funds.

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See *Amelia Zoleta v. The Honorable Sandiganbayan*, G.R. No. 185224, July 29, 2015.
Supra.

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As for accused Luz, the record shows that she was the signatory of the MOA dated January 16, 2008, entered into and between NABCOR and GABAYMASA. Without such MOA, the PDAF-drawn fund would not have been illegally transferred from NABCOR to GABAYMASA, in violation of the GAA for the year 2007, GPPB Resolution No. 12-2007, and COA Circular No. No. 2007-001. Moreover, it was also accused Luz who led GABAYMASA during the time material to the cases, which presupposes that she had the participation or knowledge in the issuance of fictitious documents and invoices in support of the non-existing livelihood project. Accused Luz also signed the Certificate of Acceptance to conceal the fictitious and non-existing livelihood project. Moreover, it was accused Luz who issued the Certificate of Authority to accused Vizcarra to claim the check on behalf of GABAYMASA.

Despite being selected as the "project partner" of accused Coquilla's PDAF-funded Livelihood project, GABAYMASA through accused Luz, did not perform its obligation under the MOA to implement the said project. Moreover, as admitted by accused Luz during her cross-examination on July 23, 2021, as the President of GABAYMASA, she exercises supervision over the employees and officers of the organization, thus:

PROS. BALISACAN:

Of course, Madam Witness.

Q: But for everything that your staff does, can you tell the Court whether you reasonably supervised them?

ACCUSED LUZ:

A: Yes, sir.

Q: Now, as part of your supervision on what your staff is doing, you confirm that GABAYMASA submitted several purchase orders, sales invoices, delivery receipts and official receipts as liquidation of the project to NABCOR?

A: Yes, sir.

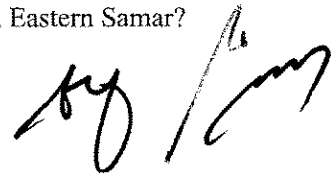
Q: And as President, were you aware, Madam Witness, that the purchase orders, sales invoices, delivery receipts and official receipts, all of them were dated prior to the execution of the MOA?

A: Yes, sir.

Q: Were you also aware that the receipts show expenses from establishments that were all based in Metro Manila?

A: No, sir.

Q: Are you aware of any sales invoice, purchase orders, delivery receipts or official receipts that you submitted to NABCOR from an establishment based on Eastern Samar?

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A: No, sir.

Q: Were you aware that the winning bidder for the supplier for the seedlings is an ornamental shop?

A: No, sir.

Q: Are you aware that KP Enterprises, the Marikina based winning bidder for supplying instructional materials was a seller of car batteries?

A: No, sir.²³⁹

Under these given facts, there can be no question that the accused acted in concert to attain a common purpose. Their respective actions, although some appear to be innocent acts, summed up to collective efforts to achieve the common objective. As the Supreme Court ruled, the character and effect of conspiracy are not to be adjudged by dismembering it and viewing its separate parts but only by looking at it as a whole—acts done to give effect to the conspiracy may be, in fact, wholly innocent acts. Once proved, the act of one becomes the act of all. All the conspirators are answerable as co-principals regardless of the extent or degree of their participation.²⁴⁰

In sum, a conspiracy among accused Coquilla, Relevo, Munsod, and Luz has been proved beyond reasonable doubt by the prosecution. Consequently, these co-principals are adjudged guilty beyond reasonable doubt of violation of Section 3(e) of R.A. No. 3019, as amended and Article 217 of the RPC.²⁴¹

As to accused Vizcarra, the Court likewise finds that she acted in conspiracy with the other accused in the commission of the offenses as charged. The prosecution was able to prove beyond reasonable doubt that accused Vizcarra acted in furtherance of the conspiracy to commit the offenses as charged.

First, accused Vizcarra signed “Box D” of Disbursement Voucher No. 08-01-00200 dated January 23, 2008 (*Exhibit “N”*), allowing GABAYMASA to receive the check amounting to Four Million Three Hundred Sixty-Five Thousand Pesos (Php4,365,000.00) from NABCOR. As admitted by accused Luz, she authorized accused Vizcarra to claim the check on behalf of GABAYMASA.²⁴²

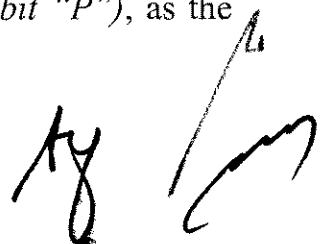
Second, accused Vizcarra prepared and signed GABAYMASA Official Receipt No. 0609 dated January 26, 2008 (*Exhibit “P”*), as the

²³⁹ TSN dated July 23, 2021, pp. 40-41.

²⁴⁰ See *Juanita A. Aquino v. Teresita B. Paiste*, G.R. No. 147782, June 25, 2008.

²⁴¹ *Decision*, September 2, 2022, pp. 70-79; Record, Vol. X, pp. 87-96.

²⁴² *Id.*, p. 77; ; Record, Vol. X, p. 94.

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authorized signatory, signifying the receipt of the check amounting to Four Million Three Hundred Sixty-Five Thousand Pesos (Php4,365,000.00).

Third, accused Vizcarra prepared and signed the fictitious Abstract of Canvass (*Exhibit "T"*), making it appear that canvassing was done with various suppliers of seedlings and instructional materials, when in fact such canvassing was not done.

Fourth, accused Vizcarra prepared and signed the Purchase Order dated December 4, 2007 (*Exhibit "Y"*) and Purchase Order dated December 15, 2007 (*Exhibit "Z"*), in order to make it appear that GABAYMASA purchased seedlings from Marinduqueño's Garden Shop and instructional materials from KP Enterprises, when in fact no such transactions were made.

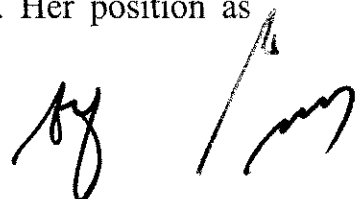
Fifth, as part of the liquidation documents, accused Vizcarra signed the Price Quotation by Marinduqueño's Garden Shop (*Exhibit "DDD"*), making it appear that GABAYMASA implemented the PDAF-funded livelihood project of accused Coquilla when in fact such livelihood projects were never implemented.

Sixth, accused Vizcarra signed Box "D" of Disbursement Voucher No. 08-07-02229 dated July 1, 2008 (*Exhibit "Q"*), allowing GABAYMASA to receive the check amounting to Four Hundred Eighty-Five Thousand Pesos (Php485,000.00) from NABCOR.

Lastly, accused Vizcarra prepared and signed GABAYMASA Official Receipt No. 0561 dated July 14, 2008 (*Exhibit "R"*), as the authorized signatory, signifying the receipt of the check amounting to Four Hundred Eighty-Five Thousand Pesos (Php485,000.00) from NABCOR.

Aside from mere denial, accused Vizcarra offered no proof to controvert her participation in the commission of the offenses. In fact, she even admitted in her *Judicial Affidavit* that she was the one who prepared the Abstract of Canvass (*Exhibit "T"*) Purchase Order dated December 4, 2007 (*Exhibit "Y"*) and Purchase Order dated December 15, 2007 (*Exhibit "Z"*), which turned out to be fictitious.

Contrary to the assumption that her duties as the Corporate Secretary of GABAYMASA only involved ministerial functions, the Court finds that her functions as the Corporate Secretary were essential in the completion of the conspiracy. As admitted by accused Luz, she delegated to accused Vizcarra the duty to conduct dealings with GABAYMASA concerning the PDAF-funded livelihood projects of accused Coquilla. Her position as



Corporate Secretary enabled accused Luz and GABAYMASA to withdraw the PDAF-drawn public funds using fictitious documents.

The spurious implementation of the PDAF-funded livelihood projects was further emphasized by the seemingly conflicting admissions made by accused Luz and Vizcarra with respect to the delivery of the seedlings. In her testimony, accused Luz recalled that the seedlings were delivered partly to her residence and partly to the headquarters of GABAYMASA. On the other hand, during the clarificatory questions propounded by the Court, accused Vizcarra testified that the seedlings were delivered to accused Luz's residence and not in the office of GABAYMASA.²⁴³

Moreover, accused Vizcarra cannot escape liability by invoking the good faith defense. "Good faith" is ordinarily used to describe a state of mind denoting "honesty and freedom from knowledge of circumstances which ought to put the holder upon inquiry; an honest intention to abstain from taking any unconscientious advantage of another, even through technicalities of law, together with the absence of all information, notice, or benefit or belief of facts which render transaction unconscientious." Nevertheless, this presumption of good faith is overturned when an explicit law, rule, or regulation has been violated.²⁴⁴

Here, accused Vizcarra admitted that she did not perform the proper due diligence when she prepared the Abstract of Canvass (*Exhibit "T"*) Purchase Order dated December 4, 2007 (*Exhibit "Y"*) and Purchase Order dated December 15, 2007 (*Exhibit "Z"*). As found by the Court, accused Vizcarra prepared the foregoing documents without verifying the truthfulness and accuracy of the statements narrated therein. The following exchanges during her cross-examination point to the foregoing matter:

PROS. BALISACAN:

When you prepared the abstract of canvas, do you confirm that your basis were the price quotations submitted by all of those six (6) suppliers?

WITNESS:

Hindi ko na po matandaan, Sir eh.

Q: As far as you can recall, Ma'am, what was the basis for the amounts that you input there in the abstract of canvas?

WITNESS:

Ang alam ko lang po may mga dumating na mga papel or something, tapos ginawa ko nalang po.

²⁴³

TSN dated September 5, 2023, pp. 29-30.

²⁴⁴

Social Security System v. Commission on Audit, G.R. No. 244336, October 6, 2020.

Decision

People v. Coquilla, et al.

SB-17-CRM-0663-66

Page 64 of 71

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PROS. BALISACAN:

And what are those papers Ma'am, if you can recall?

WITNESS:

Mga ano po, parang, anong tawag po doon, parang nakalagay po doon iyong mga ano nila, iyong mga magkano mga presyo nila.

PROS. BALISACAN:

And you personally received these documents?

A: No, Sir.

Q: From where did you get these documents?

WITNESS:

Nakita ko po sa office.

PROS. BALISACAN:

I'm sorry, Ma'am?

WITNESS:

Dumating po sa office pero hindi po ako ang nakatanggap.

Q: *Dumating sa office*, who gave that to you?

A: *Nandoon na lang po sa table.*

Q: When you arrived at the office they are just there on the table?

A: *Opo.*

XXX

PROS. BALISACAN:

And there are names of suppliers indicated in the abstract of canvas. Did you personally verify the existence of those suppliers?

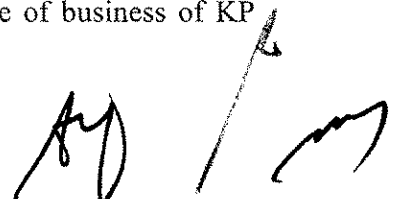
A: *No, po.*

Q: Did you personally verify the line of business of the winning suppliers? For example, for the seedlings, it was Marinduqueño's Garden Shop? Were you able to personally verify the line of business of Marinduqueño's Garden Shop?

A: *Hindi, po.*

PROS. BALISACAN:

What about the winning supplier for the instructional materials, KP Enterprises, did you personally verify the line of business of KP Enterprises?



X-----X

WITNESS:

Hindi, po.

Q: Were you able to visit personally the shops of Marinduqueño Garden Shop or KP Enterprises?

WITNESS:

Hindi, po.

PROS. BALISACAN:

Were you able to meet the proprietors of Marinduqueño Garden Shop and KP Enterprises?

WITNESS:

Hindi, po.

PROS. BALISACAN:

How were you able to give them the purchase orders?

A: *Hindi po kasi ako ang gumawa ng mga iyon.*

Q: So you were the one who prepared and signed the purchase orders to Marinduqueño Garden Shop and KP Enterprises, correct, Ma'am?

A: *Ako lang po ang gumawa, pero hindi ko po alam.*

Q: So, you were the one. And then, after preparing and signing them, what did you do with them?

A: *Ano po ito eh, ang alam ko po sinubmit na po ito sa Office ng NABCOR.*²⁴⁵

Accused Vizcarra's acquiesce to the conspiracy was further confirmed by the Court during its clarificatory question, to wit:

JUSTICE BERNELITO R. FERNANDEZ:

So, ang sinasabi mo sa Korte ngayon which you want us to believe you that you just signed and prepared documents blindly without verifying or asking any questions?

WITNESS:

Opo.

JUSTICE BERNELITO R. FERNANDEZ:

On the instruction of Margie Luz?

WITNESS:

*Opo.*²⁴⁶

²⁴⁵

TSN dated September 5, 2023, pp. 12-15.

²⁴⁶

TSN dated September 5, 2023, p. 31.

In both cases, the Court appreciates in favor of accused Vizcarra, the mitigating circumstance of voluntary surrender. Under Article 64(2) of the Revised Penal Code, when there is only a mitigating circumstance present, the Court shall impose the penalty in its minimum period. Thus, the penalties imposable are as follows: in SB-17-CRM-0665, the minimum of *reclusion temporal* medium and maximum periods, ranging from fourteen (14) years, eight (8) months, and one (1) day to sixteen (16) years, five (5) months and ten (10) days; and in SB-17-CRM-0666, the minimum of *prision mayor* in its minimum and medium periods, ranging from six (6) years and one (1) day to seven (7) years and four (4) months.²⁴⁸

Applying the Indeterminate Sentence Law, the minimum term, or the penalty next lower to the prescribed penalties are as follows: *prision mayor* in its maximum period to *reclusion temporal* in its minimum period, which ranges from ten (10) years and one (1) day to fourteen (14) years and eight (8) months in SB-17-CRM-0665; and *prision correccional* in its medium and maximum periods, ranging from two (2) years, four (4) months, and one (1) day to six (6) years in SB-17-CRM-0666.²⁴⁹

On the basis of the foregoing, accused Vizcarra should be sentenced to suffer the following penalties of imprisonment: ten (10) years and one (1) day of *prision mayor*, as minimum, to fourteen (14) years, eight (8) months and one (1) day of *reclusion temporal*, as maximum in SB-17-CRM-0665; and two (2) years, four (4) months and one (1) day of *prision correccional* as minimum, to six (6) years and one (1) day of *prision mayor*, as maximum in SB-17-CRM-0666.

In addition, accused Vizcarra should be sentenced to suffer perpetual disqualification from holding any public office and loss of all retirement and gratuity benefits under existing laws.

Further, accused Vizcarra should be ordered to pay a fine of Four Million Three Hundred Sixty-Five Thousand Pesos (Php4,365,000.00) in SB-17-CRM-0665 and Four Hundred Eighty-Five Thousand Pesos (Php485,000.00) in SB-17-CRM-0666. The said amount shall earn legal interest at the rate of six percent (6%) *per annum* from the date of the finality of this Decision until fully paid.²⁵⁰

C. Civil Liability.

Article 100 of the RPC provides that every person criminally liable for a felony is also civilly liable. Corollary, R.A. No. 10660 provides that

²⁴⁸ Manolito Gil Z. Zafra v. People of the Philippines, G.R. No. 176317, July 23, 2014.

²⁴⁹ Nida Corpuz v. People of the Philippines, G.R. No. 241383, June 8, 2020.

²⁵⁰ Id.

Based on the foregoing, it is clearly established that accused Vizcarra actively participated in the actual commission of the offenses, by performing overt acts, without which, the offenses could not have been consummated.

IV. The Proper Penalty.

A. In SB-17-CRM-0663-64 for Violation of Section 3(e) of Republic Act No. 3019 (Anti-Graft and Corrupt Practices Act), as amended.

On the appropriate penalty, a person guilty of violating Section 3(e) of R.A. No. 3019, as amended, is punishable with imprisonment for not less than six (6) years and one (1) month nor more than fifteen (15) years and perpetual disqualification from public office.

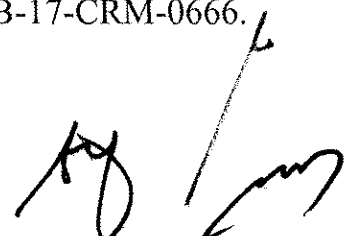
Under the Indeterminate Sentence Law, if the offense is punishable by a special law, as in the present case, an indeterminate penalty shall be imposed on the accused, the maximum term of which shall not exceed the maximum fixed by the law, and the minimum not less than the minimum prescribed therein.

Accordingly, the Court finds it proper to impose an indeterminate penalty of six (6) years and one (1) month, as minimum, to ten (10) years, as maximum, for each count.

In addition, accused Vizcarra shall suffer perpetual disqualification from holding public office and loss of all retirement or gratuity benefits under existing laws.

B. In SB-17-CRM-0665-66 for Violation of Article 217 of the Revised Penal Code.

The amount malversed in SB-17-CRM-0665 is Four Million Three Hundred Sixty-Five Thousand Pesos (Php4,365,000.00) while in SB-17-CRM-0666 the amount malversed is Four Hundred Eighty-Five Thousand Pesos (Php485,000.00). Under R.A. No. 10951,²⁴⁷ the proper imposable penalties corresponding to the amount malversed are as follows: *reclusion temporal*, in its medium and maximum periods in SB-17-CRM-0665; and *prision mayor* in its minimum and medium periods in SB-17-CRM-0666.



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recovery of civil liability shall be simultaneously instituted with, and jointly determined in the same proceeding. Considering that conspiracy has been proved with moral certainty in these cases, the Court holds that all the accused shall be liable severally among themselves to reimburse the whole of the amount malversed.

WHEREFORE, in light of the foregoing, the Court hereby renders judgment as follows:

1. In **Criminal Case No. SB-17-CRM-0663**, the Court finds accused MA. CRISTINA JIMENO VIZCARRA ("VIZCARRA") **GUILTY** beyond reasonable doubt of violation of Section 3(e) of R.A. No. 3019, as amended, and pursuant to Section 9 thereof, is hereby sentenced to suffer an indeterminate penalty of imprisonment of six (6) years and one (1) month, as minimum, to ten (10) years, as maximum.

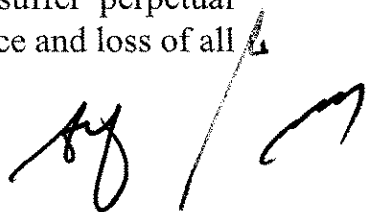
In addition, accused Vizcarra shall suffer perpetual disqualification from holding any public office and loss of all retirement or gratuity benefits under the law.

2. In **Criminal Case No. SB-17-CRM-0664**, the Court finds accused MA. CRISTINA JIMENO VIZCARRA ("VIZCARRA") **GUILTY** beyond reasonable doubt of violation of Section 3(e) of R.A. No. 3019, as amended, and pursuant to Section 9 thereof, is hereby sentenced to suffer an indeterminate penalty of imprisonment of six (6) years and one (1) month, as minimum, to ten (10) years, as maximum.

In addition, accused Vizcarra shall suffer perpetual disqualification from holding any public office and loss of all retirement or gratuity benefits under the law.

3. In **Criminal Case No. SB-17-CRM-0665**, the Court finds accused MA. CRISTINA JIMENO VIZCARRA ("VIZCARRA") **GUILTY** beyond reasonable doubt of the crime of Malversation of Public Funds, as defined and penalized under Article 217 of the Revised Penal Code, as amended, and is hereby sentenced to suffer an indeterminate penalty of imprisonment of ten (10) years and one (1) day of *prision mayor*, as minimum, to fourteen (14) years, eight (8) months and one (1) day of *reclusion temporal*, as maximum.

In addition, accused Vizcarra shall suffer perpetual disqualification from holding any public office and loss of all

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retirement or gratuity benefits under the law. Further, accused Vizcarra is ordered to pay a fine of Four Million Three Hundred Sixty-Five Thousand Pesos (Php4,365,000.00). The said amount shall earn legal interest at the rate of six percent (6%) *per annum* from the date of the finality of this Decision until fully paid.

Accused Vizcarra is likewise held liable, jointly, and severally, with her co-accused, to return and reimburse to the government, through the Bureau of Treasury, the amount of Four Million Three Hundred Sixty-Five Thousand Pesos (Php4,365,000.00) which shall earn legal interest at the rate of six percent (6%) *per annum* computed from the finality of this Decision until paid.

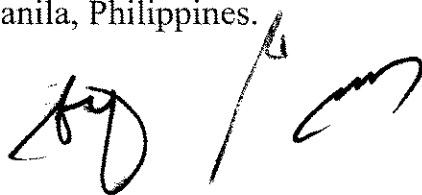
4. In **Criminal Case No. SB-17-CRM-0666**, the Court finds accused MA. CRISTINA JIMENO VIZCARRA ("VIZCARRA") **GUILTY** beyond reasonable doubt of the crime of Malversation of Public Funds, as defined and penalized under Article 217 of the Revised Penal Code, as amended, and is hereby sentenced to suffer an indeterminate penalty of imprisonment of two (2) years, four (4) months and one (1) day of *prision correccional* as minimum, to six (6) years and one (1) day of *prision mayor*, as maximum.

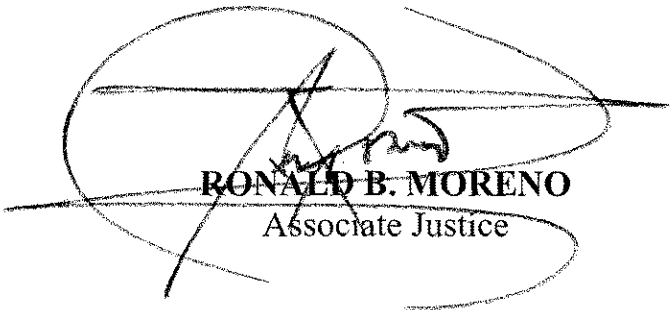
In addition, accused Vizcarra shall suffer perpetual disqualification from holding any public office and loss of all retirement or gratuity benefits under the law. Further, accused Vizcarra is ordered to pay a fine of Four Hundred Eighty-Five Thousand Pesos (Php485,000.00). The said amount shall earn legal interest at the rate of six percent (6%) *per annum* from the date of the finality of this Decision until fully paid.

Accused Vizcarra is likewise held liable, jointly, and severally, with her co-accused, to return and reimburse to the government, through the Bureau of Treasury, the amount of Four Hundred Eighty-Five Thousand Pesos (Php485,000.00) which shall earn legal interest at the rate of six percent (6%) *per annum* computed from the finality of this Decision until paid.

SO ORDERED.

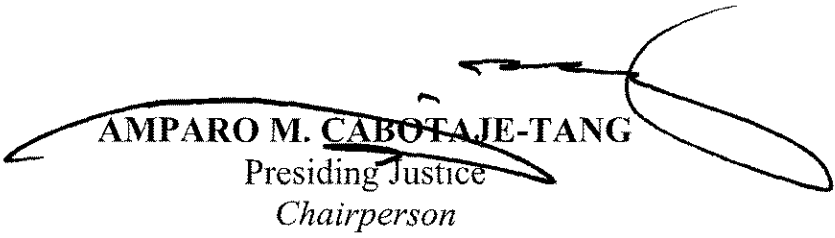
Quezon City, Metro Manila, Philippines.



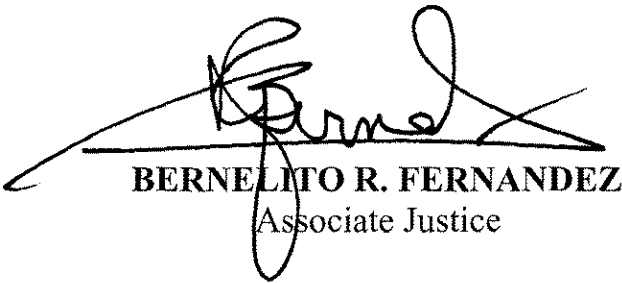


RONALD B. MORENO
Associate Justice

WE CONCUR:



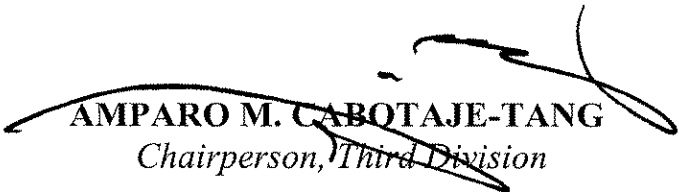
AMPARO M. CABOTAJE-TANG
Presiding Justice
Chairperson



BERNELITO R. FERNANDEZ
Associate Justice

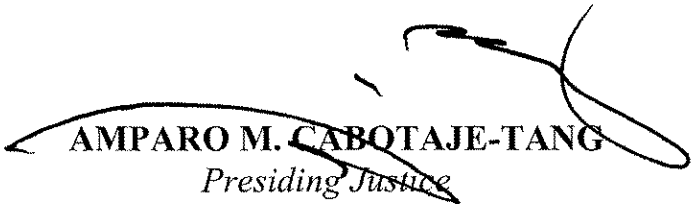
ATTESTATION

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.


AMPARO M. CABOTAJE-TANG
Chairperson, Third Division

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairman's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


AMPARO M. CABOTAJE-TANG
Presiding Justice

