

REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
QUEZON CITY

SPECIAL THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

CRIM. CASE NO. 28330

For: Malversation through
Falsification of Public
Documents

-versus-

Present:

MIGUEL D. ESCOBAR, ET AL.,
Accused.

HERNANDEZ, J.,*
MARTIRES, J.,
QUIROZ, J.,
GESMUNDO, J.,** and
CORNEJO, J.***

Promulgated on:

SEPTEMBER 22, 2015

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RESOLUTION

Quiroz, J.:

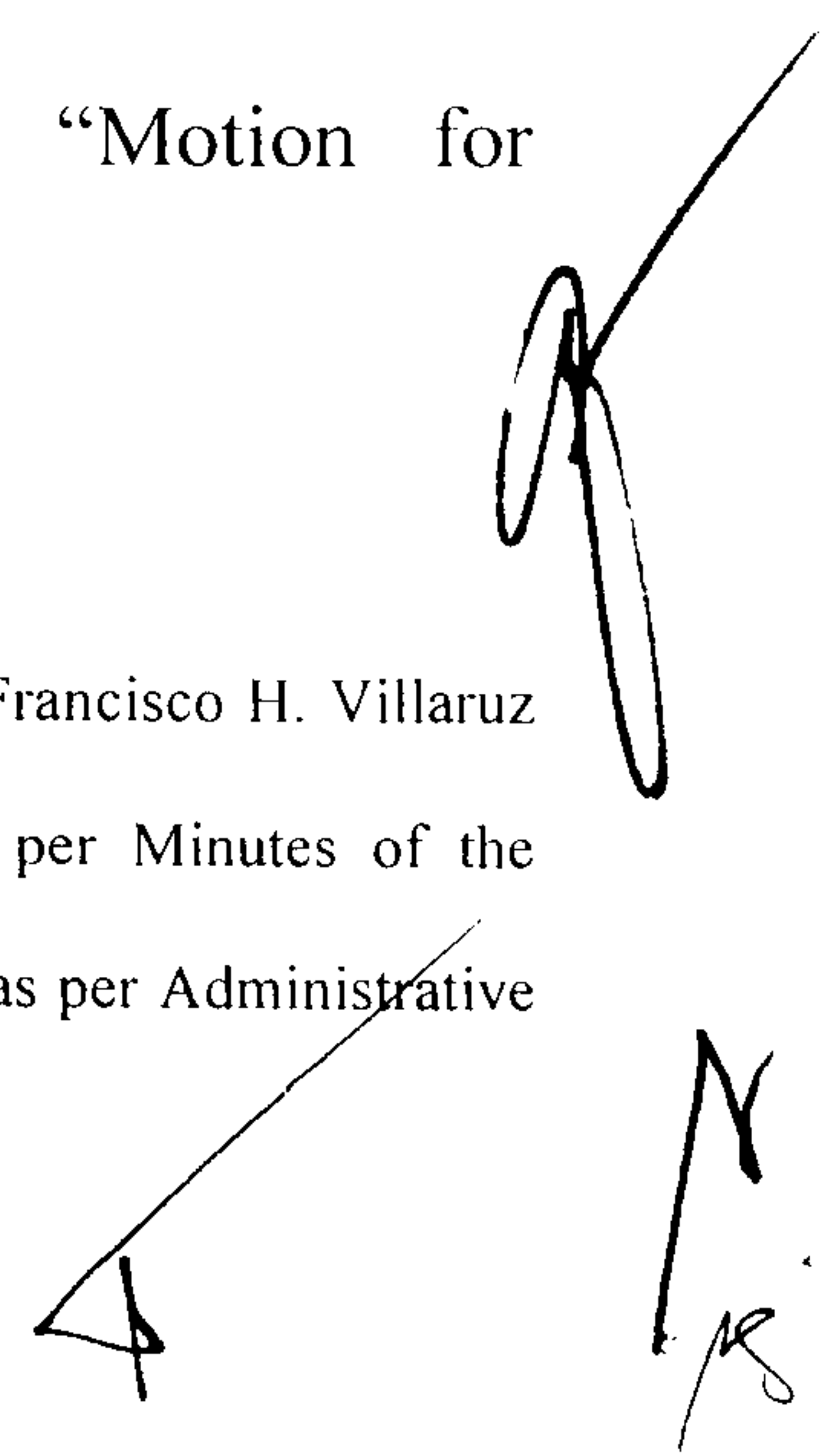
Before this Court for resolution are the following:

1. Accused Atty. Miguel D. Escobar, through counsel's "Motion for Reconsideration" filed on October 28, 2015;

* Designated as Chairperson of the Third Division upon retirement of then-Presiding Francisco H. Villaruz on June 8, 2013.

** Designated as Special Member of the Special Division of Five in this case as per Minutes of the Sandiganbayan Special En Banc Meeting dated November 17, 2014.

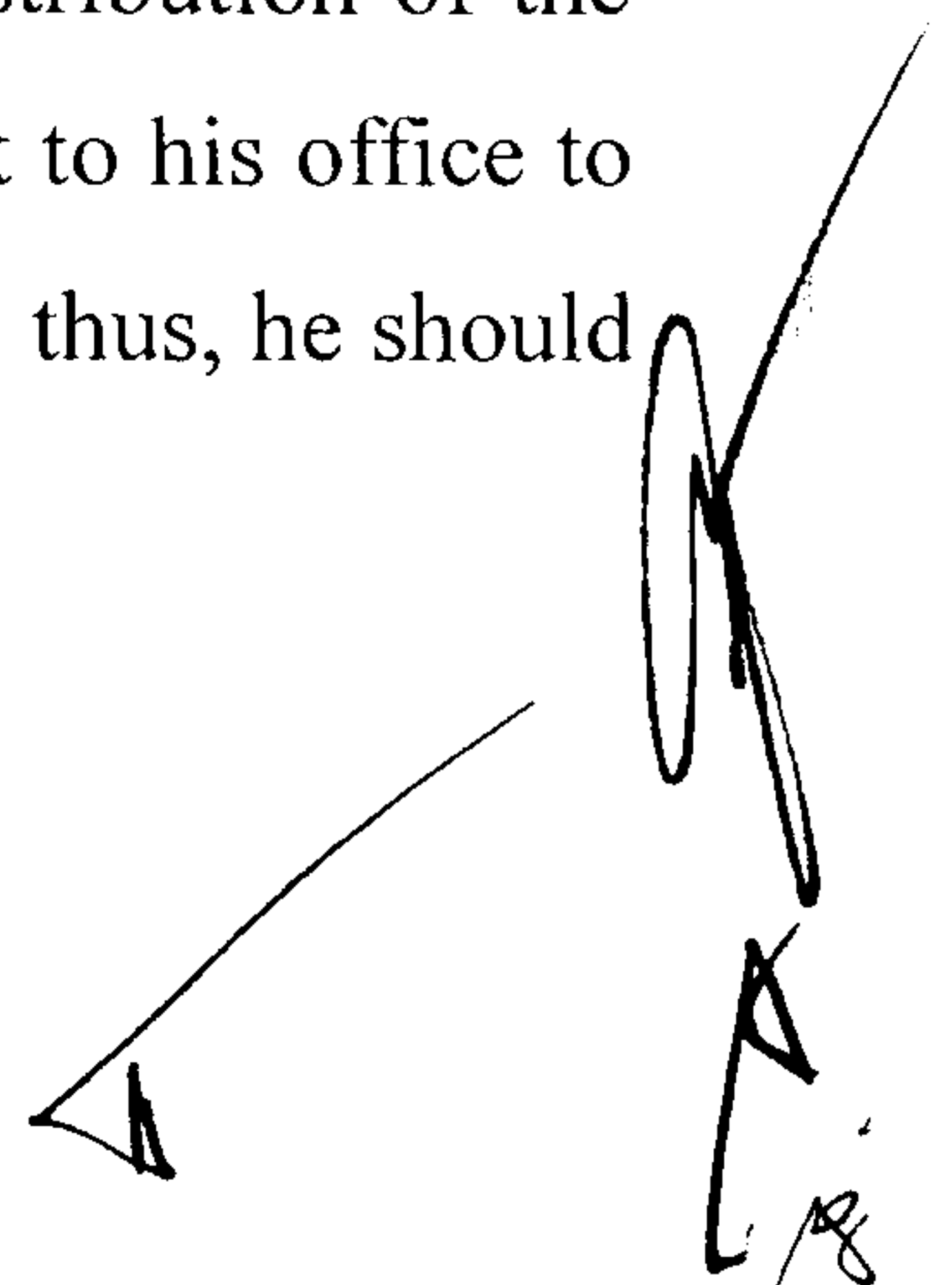
*** Designated as Special Member of the Special Division of Five in the Third Division as per Administrative Order No. 5-C-2013.



2. The Prosecution's "Comment/Opposition on Accused Escobar's Motion for Partial Reconsideration Re: Decision Promulgated on October 13, 2015" filed on November 5, 2015;
3. Accused Atty. Escobar, through counsel's "Reply (to Prosecution's Comment and Opposition)" filed on November 24, 2015;
4. The Prosecution's "Rejoinder on Accused Escobar's Motion for Partial Reconsideration Re: Decision Promulgated on 13 October 2015" filed on November 27, 2015;
5. Accused Atty. Escobar, through counsel's "Reply (to Prosecution's Rejoinder)" filed on December 22, 2015;
6. The Prosecution's "Manifestation and Comment/Opposition on Accused Escobar's 'Reply to Prosecution's Rejoinder' Re: Decision Promulgated on 13 October 2015" filed on January 4, 2016;
7. Accused Romeo Miole, through counsel's "Motion for Reconsideration (from the Decision Promulgated on 13 October 2015)" filed on December 2, 2015; and
8. The Prosecution's "Comment/Opposition on Accused Miole's Motion for Reconsideration Re; Decision Promulgated on 13 October 2015" filed on December 17, 2015.

In his Motion for Partial Reconsideration, Escobar avers that the COA Audit Report acknowledges that he was not a party to the preparation of the Requisition and Issue Vouchers (RIVs), and neither did he sign them. Also, the RIVs were all undated and unnumbered, and most had no approval by the Local Chief Executive (Escobar). Neither did he have control of, nor custody of public funds or property for which he should be held accountable, or in this case, the 1,875 sacks of rice because the RIVs that should have been signed by him were kept away from him by co-accused Miole. Escobar had also not been aware of the distribution of the sacks of rice made by co-accused Miole until tribal chieftains went to his office to ask for sacks of rice. He cites the case of *Arias v. Sandiganbayan*,¹ thus, he should

¹ G.R. No. 81563 and 82512, December 19, 1989, 180 SCRA 309.



be exonerated. Lastly, he states that he cannot be convicted for malversation by negligence because the distribution of sacks of rice was concealed from him.

In its Comment/Opposition thereto, the Prosecution, disagreeing with the contentions of the accused, alleges that it would be hard to believe that Miole, as Provincial Agriculturist of Sarangani Province, had conceptualized and implemented the Program without the knowledge of Escobar. Escobar's alleged lack of knowledge in the distribution of the sacks of rice could be considered as negligence because even after learning of the same, he did not do anything. Miole and Escobar committed malversation through negligence, as Miole accepted the sacks of rice, for which he became accountable, while Escobar approved the Project Design, Purchase Request, and Purchase Order for the transaction in question. It argues that the case of *Arias* does not apply in this case and, instead cites *Alvizo v. Sandiganbayan*² as indicative of their guilt.

In his Reply to the Comment/Opposition of the Prosecution, Escobar avers that the issue in this case is not the conceptualization of the Project Design but the release [of the sacks of rice] which he came to know of only after distribution by the Office of the Province Agriculturist. He maintains that he is not a signatory to the check for the transaction in question; thus, the Prosecution cannot accuse him as conspirator in defrauding the Government of ₱1,440,000.00, citing *Montano v. People*.³ He also states that it is erroneous to say that he may be convicted of malversation through negligence, citing *Magsuci v. Sandiganbayan*.⁴

In its Rejoinder, the Prosecution avers that Escobar's reliance on the *Montano* and *Magsuci* cases is misplaced because the facts and circumstances of these cases are different from those in the instant case.

In his Reply to the Rejoinder, counsel for Escobar asserts having received the Rejoinder on December 8, 2015, from which she had been given by this Court

² G.R. Nos. 98494-98692, July 17, 2003, 406 SCRA 311.
³ G.R. No. 188541, February 14, 2011, 642 SCRA 729.
⁴ G.R. No. 101545, January 3, 1995, 240 SCRA 13.

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a five-day period within which to reply: She explains that her mother had been sick and eventually died; hence, the late filing of the Reply. Escobar reiterates that he was not a signatory to the check payment for the transaction; and the afore-cited case of *Montano* applies; in fact, he (Escobar) is in a better position compared to accused therein, who had been exonerated. He insists that he may have been lax in relying too much on his subordinate, Miole, but states that conspiracy is not the product of negligence. Lastly, he says he did not cite the *Magsuci* case, but referred to the *Arias* doctrine in his Motion.

In its Manifestation and Comment/Opposition on accused Escobar's Reply to Rejoinder, the Prosecution avers that this Court issued an Order dated November 5, 2015, in which it directed the counsel for accused to file a reply thereto fifteen (15) days therefrom, and the Prosecution a period of five (5) days from receipt of the Reply within which to file a Rejoinder. It states that Escobar filed a Reply without leave only on December 22, 2015, and it maintains that the same should be considered a mere scrap of paper, or else there would be no end of exchanges of pleadings between the parties which would further delay the disposition of this case. It also disputes Escobar's claim that he did not cite the *Magsuci* case, reproducing verbatim paragraph 3 of his Reply dated November 23, 2015 in its Manifestation. In closing, the Prosecution believes that the assailed Decision is sufficiently supported by evidence on record and its findings were in accordance with laws and jurisprudence.

In the Motion for Reconsideration filed by Miole, he asserts that the Prosecution has not proven the element of negligence in his acts, much less in conspiracy with the other accused. He disputes the finding of this Court that he acted negligently in allowing the distribution of the sacks of rice to the municipal and *barangay* officials. He maintains that the sacks of rice did reach their intended beneficiaries. He argues that the Prosecution failed to present any witness who could categorically state that he or she as project beneficiary did not receive the aid intended for him or her from the Program.

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In its Comment/Opposition thereto, the Prosecution reiterates that according to the COA Annual Audit Report, the recipients of the sacks of rice were not the intended beneficiaries who were victims of the flashflood. It states that Miolo claimed that the manner of distribution had been changed by Congressman Chiongbian, and this admission only bolsters the former's culpability. It further alleges that Miolo cannot deny knowledge of the purpose for which the Program was created because he was the one who prepared the Project Design therefor. It maintains that Miolo and Escobar committed malversation through negligence, as Miolo accepted the sacks of rice, for which he became accountable, while Escobar approved the Project Design, Purchase Request, and Purchase Order for the transaction in question.

ANALYSIS AND DISCUSSION

In its assailed Decision, this Court found that the funds amounting to ₱1,440,000.00 as covered by Land Bank of the Philippines Check No. 37967 dated May 22, 2002 were released as payment for the 1,875 sacks of rice intended for the calamity-stricken farmers. On the contrary, the Annual Audit Report for Sarangani Province reveals that the actual recipients thereof were "mostly government officials of Sarangani Province and not the farmers and fisherfolk who were victims of the flashflood."⁵ This is also stated in the RIVs submitted by the OPAG, which show that the sacks of rice were indeed distributed to municipal and *barangay* officials last June 30, 2002, one week before the *barangay* elections.⁶

During trial, both Escobar and Miolo acknowledge having known that the sacks of rice were distributed to municipal and *barangay* officials. Neither did Miolo deny his role in the distribution of the sacks of rice although he maintained that some of the signatories in the RIVs included farmer leaders, irrigator association officials, and a tribal chieftain. On the other hand, Escobar came to

⁵ Exhibit "C"; Exhibit "4" for Escobar, p. 22.

⁶ Exhibit "G-2-a"; Exhibit "5" for Miolo.

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know of the same only after the distribution of the sacks of rice – but by his own admission, still did not do anything thereafter.

The Court maintains its ruling that Escobar and Miole acted negligently and, thus, are guilty of malversation through negligence. To reiterate, Miole conceptualized the Project Design for the Program and then implemented it. In allowing the distribution of the sacks of rice to the municipal and *barangay* officials, he consented to the appropriation thereof by persons who were not the listed beneficiaries of the Program. Escobar, despite his insistence that he knew nothing of the implementation of the Program until after the fact, is no less guilty because a project involving the distribution of 1,875 sacks of rice that took place in his province and which he was duty-bound to supervise should not have escaped his attention. It would even be considered as an admission of his negligence because even after learning of the distribution of the sacks of rice, he did not do anything. He only created a committee to investigate the matter when the provincial auditor was looking into the transaction.

Escobar also cites the case of *Arias v. Sandiganbayan*, which is a landmark case espousing the doctrine of command responsibility, such that “all heads of offices have to rely to a reasonable extent on their subordinates and on the good faith of those who prepare bids, purchase supplies, or enter into negotiations.”⁷ Additionally, it provides that “[t]here should be other grounds than the mere signature or approval appearing on a voucher to sustain a conspiracy charge and conviction.”⁸ Unfortunately, *Arias* is not on all fours with the present case. As held in *Tubola, Jr., v. Sandiganbayan*, “*Arias* involved the culpability of a final approving authority on the basis of criminal *conspiracy*, whereas [*Tubola*] involves petitioner's culpability on the basis of his being the accountable public officer.”⁹ The same can be said for the cited cases of *Montano* and *Magsuci*, both of which refer to conspiracy between public officers. This Court cannot apply the said cases here, for nowhere in the assailed Decision did this Court hold that herein accused

⁷ *Supra* note 1 at 316.

⁸ *Id.*

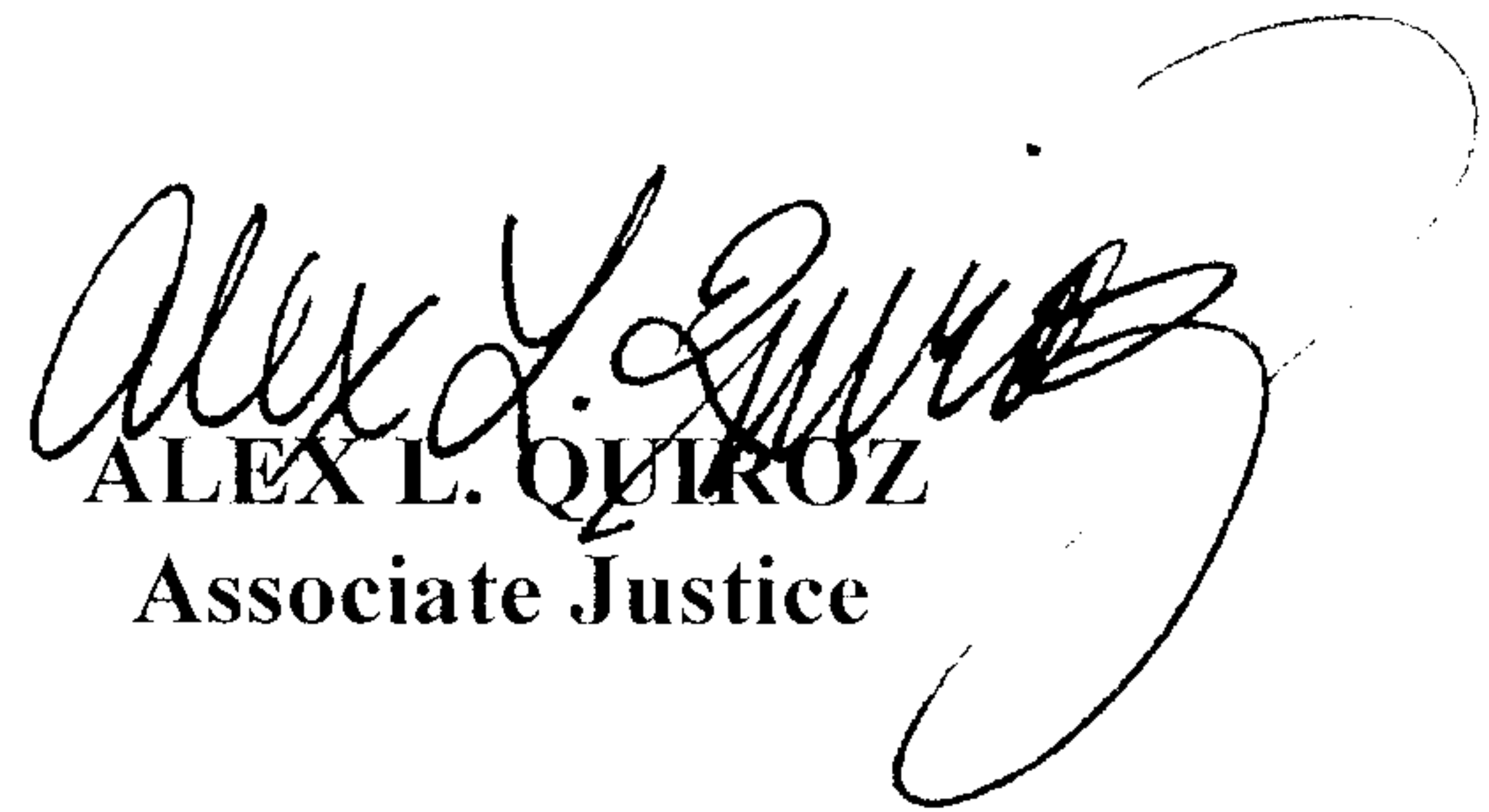
⁹ G.R. No. 154042, April 11, 2011, 647 SCRA 446, 458; italics and underscoring in the original.

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were in conspiracy with each other; instead, they were convicted for committing malversation by negligence.

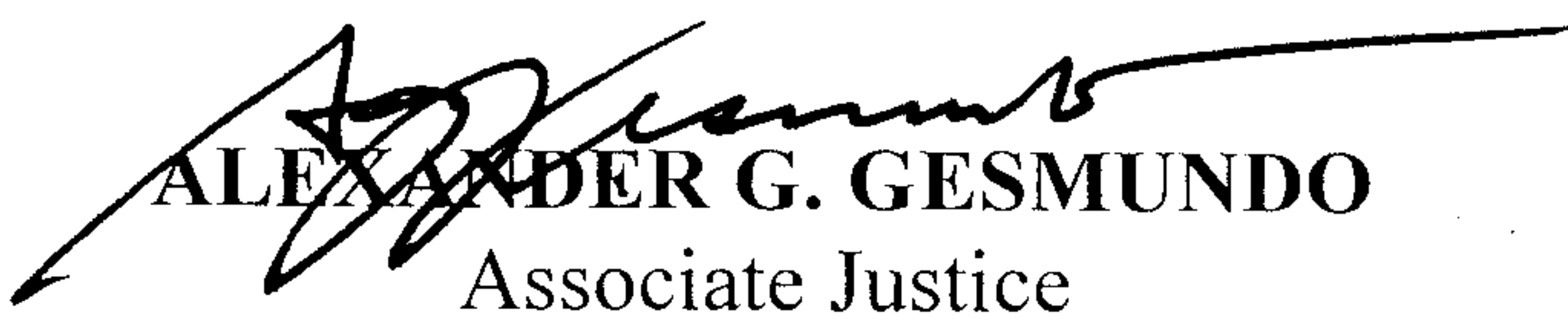
WHEREFORE, the Court hereby **DENIES** the Motions for Reconsideration filed by Escobar and Miole.

SO ORDERED.



ALEX L. QUIROZ
Associate Justice

WE CONCUR:

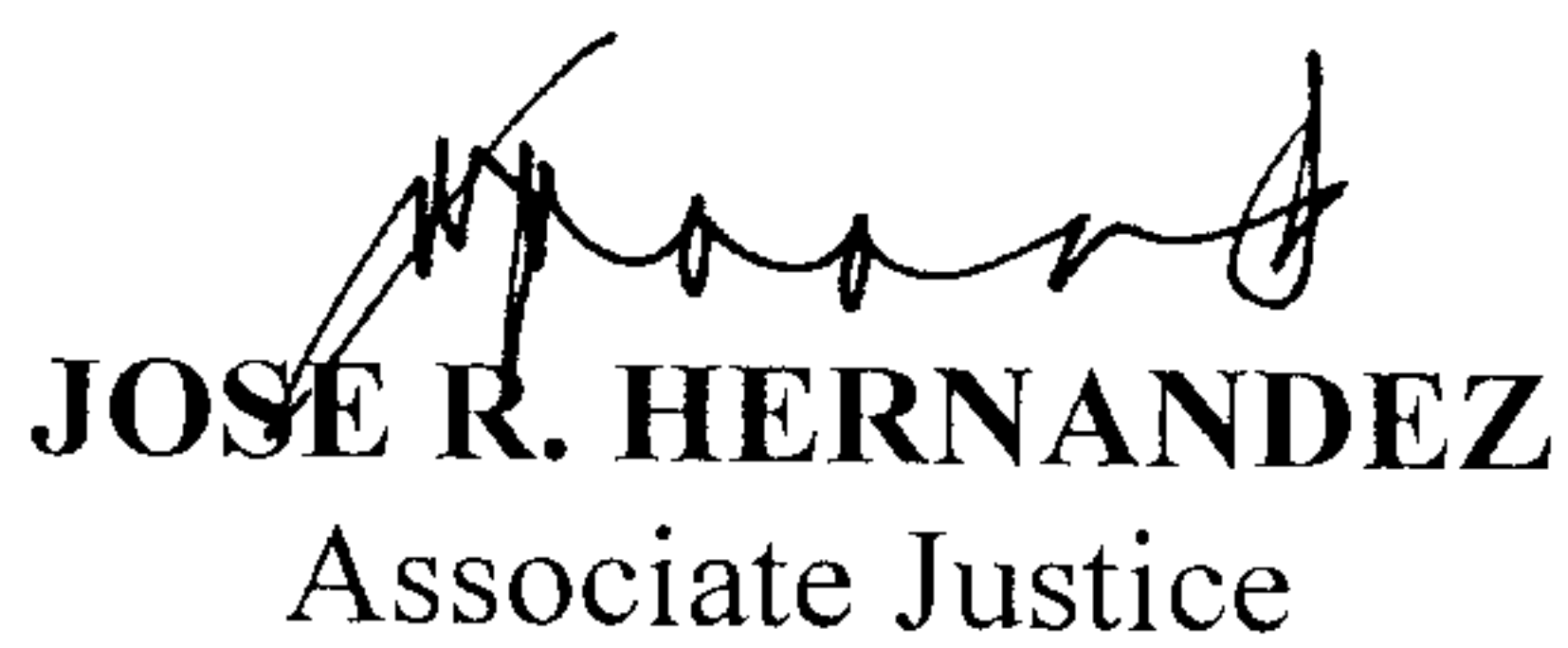


ALEXANDER G. GESMUNDO
Associate Justice

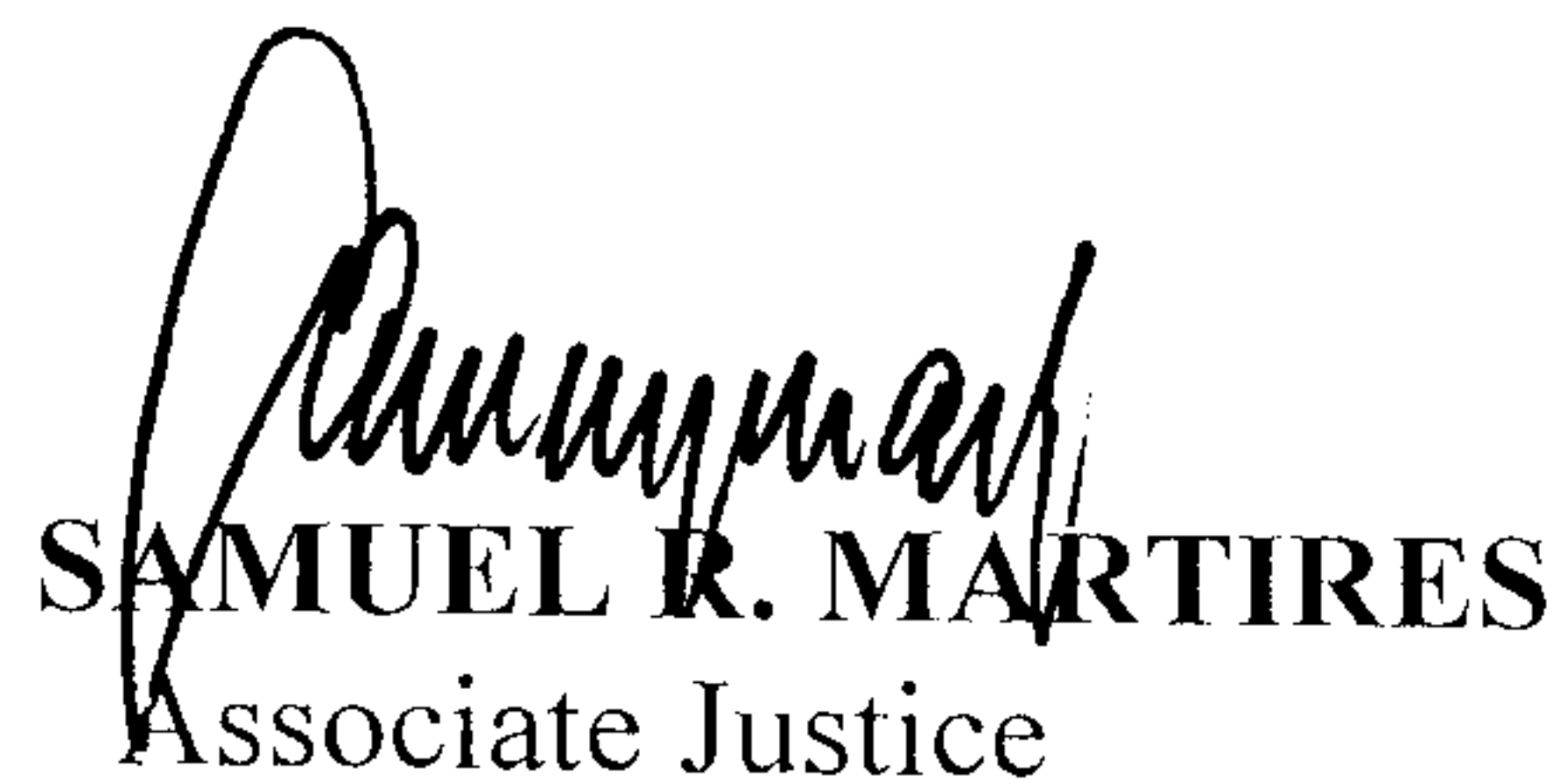


MARIA CRISTINA J. CORNEJO
Associate Justice

WE DISSENT:



JOSE R. HERNANDEZ
Associate Justice



SAMUEL R. MARTIRES
Associate Justice

Dissenting Opinion

The Audit Report of the Commission on Audit (COA) states that the Sagip Taniman Project of Sarangani Province lacks the necessary supporting documents such as the "distribution list with complete address and duly signed by the actual recipient". Hence, the Audit Report stated that "[F]ailure of the Office of the Provincial Agriculturist (OPAG) to strictly implement the SAGIPTANIMAN Program worth P4 Million based on the approved Project Design has resulted in various irregularities and deficiencies that caused wastage and misuse of government fund".

The Information, however, charges the Accused Miguel D. Escobar, Romeo S. Miole and Patricio T. Sol of committing Malversation Thru Falsification of Public Documents. Nevertheless, there is nothing in the COA Audit Report nor in the testimony of the prosecution's sole witness which avers that the accused falsified any of the supporting documents relating to the Sagip Taniman Project. At most, based on the said Audit Report, some of the accused herein could have been indicted for a different crime.

This is the story of accused Escobar, Miole and Sol who are charged of committing the complex crime of Malversation Thru Falsification of Public Documents, as defined and penalized under Articles 217, in relation to Article 171, paragraph 2 and Article 48 of the Revised Penal Code in an Amended Information¹ which reads:

That on June 30, 2002, or prior or subsequent thereto, in Sarangani, Philippines and within the jurisdiction of this Honorable Court, accused Miguel D. Escobar, Governor of the Province of Sarangani, Felipe K. Constantino², Vice Governor, Romeo S. Miole, Provincial Agriculturist, all high-ranking public officers, and Patricio T. Sol, Assistant Provincial Agriculturist, all accountable public officials of the Provincial Government of Sarangani, by reason of the duties of their office, conspiring and confederating with one another, while committing the offense in relation to office, taking advantage of their respective positions, did then and there willfully, unlawfully and feloniously take, convert and misappropriate 1,875 sacks of rice amounting to ONE MILLION FOUR HUNDRED FORTY THOUSAND PESOS

¹ Per Court Resolution dated September 7, 2006.

² Case dismissed as to Felipe K. Constantino due to the latter's death.



(P1,500,000.00), Philippine Currency, in public funds/properties under their custody, and for which they are accountable, by falsifying or causing to be falsified the corresponding Disbursement Voucher No. 101-2002-5-5502 and its supporting documents, making it appear that financial assistance had been requested pursuant to its Sagip Taniman Project as assistance to calamity stricken farmers of Sarangani province, by releasing 1,875 sacks of rice to different municipal and barangay officials a week before the 2002 Barangay Election, when in truth and in fact, the accused knew fully well that no financial assistance had been requested but was resorted to by the accused to facilitate the release of the said funds/property through the encashment by the accused of Land Bank of the Philippines (LBP) Check No. 37967, a portion of the amount of the check amounting to ONE MILLION FOUR HUNDRED FORTY THOUSAND PESOS (P1,440,000.00) was used to purchase 1,875 sacks of rice which the accused subsequently misappropriated to their personal use and benefit, and despite demand, the said accused failed to return the said amount to the damage and prejudice of the government and the public interest in the aforesaid sum.

CONTRARY TO LAW.”

EVIDENCE FOR THE PROSECUTION

To prove the allegations in the Information, the prosecution presented its lone witness, Helen M. Cailing, State Auditor IV of the Commission on Audit (COA) who testified that in 2002, by virtue of COA Office Order No. 2002-004 dated July 31, 2002, she audited the financial transactions of Sarangani Province, including the financial assistance granted by the province under its Sagip Taniman Program. According to Auditor Cailing, after she examined the Disbursement Vouchers and its supporting documents, she issued an Audit Observation Memo dated December 5, 2002 addressed to the Provincial Governor requiring the Governor to submit certain documents regarding the Sagip Taniman Project, such as the list of proponents and the names and addresses of the farmer beneficiaries in order to verify the actual recipients of the sacks of rice. She likewise required the list of the areas where the palay certified seeds and the high yield corn seeds will be planted for their inspection. Also required under the Audit Observation Memo was the submission of the Accomplishment Report of the Office of the



Provincial Agriculturist (OPAG) and the Office of the Municipal Agriculturist (OMAG) on the Sagip Taniman Project as they were the ones designated to closely monitor and evaluate the project based on the Project Design. However, according to the witness, they did not receive a reply from the Governor regarding the Audit Observation Memo but what they received was the Requisition Issue Vouchers (RIV) from the OPAG. Auditor Cailing further testified that she submitted an Annual Audit Report on Sarangani Province for the year 2002 which contained their findings on the Sagip Taniman Project that “[F]ailure of the Office of the Provincial Agriculturist (OPAG) to strictly implement the SAGIPTANIMAN Program worth P4 Million based on the approved Project Design has resulted in various irregularities and deficiencies that caused wastage and misuse of government fund”.

EVIDENCE FOR THE ACCUSED

The defense presented two (2) witnesses, accused Romeo Miolo and Miguel Escobar, whose testimonies are summarized thus:

- I. **Romeo Miolo** - Accused Miolo testified the Sagip Taniman Project was for the rehabilitation of crops of the farmers of Sarangani Province who were affected by the “la niña” phenomenon in the second and last quarter of 2001 which caused unusual and excessive rainfall. According to Mr. Miolo, they prepared a Project Design for the Sagip Taniman Project which was formulated in close coordination with the Municipal Agriculturist to answer the damage brought by excessive rainfall. Mr. Miolo likewise testified that they submitted to the COA the Requisition Issue Vouchers (RIVs) signed by the recipients of the project (Exhibit “EE” to “EE-16” of the prosecution) as proof that the OPAG made a liquidation on the Sagip Taniman Project. According to Mr. Miolo, contrary to the testimony of Auditor Cailing, not all of the signatories in the RIVs are municipal and barangay officials. Mr. Miolo explained that some of the signatories, like Mr. Tagum (Exhibit “EE-10), are farmer-leaders and irrigator association officials, while Monico Boone (Exhibit “EE-13”) is a tribal chieftain. Mr. Miolo denies that the rice was distributed for purposes of the barangay elections. According to Mr. Miolo, the Project Design was prepared in September 2001, as reflected in the rationale which



mentions "late last month of August", however, because of bureaucracy, the project was only funded in the months of April and May, hence, it was only coincidental that the project was implemented around the time of the barangay elections. The accused also clarified that the Sagip Taniman Project was not included in the Mid-Year Accomplishment Report because the project was still on-going at the time.

II. Miguel Escobar - Accused Escobar testified that his participation in the Sagip Taniman Project was only with respect to the signing of the Project Design, the Purchase Request, the Purchase Order and the Transmittal Letter of the Purchase Order to the COA. According to Mr. Escobar, it was only when he confronted the Provincial Agriculturist because a group of tribal chieftains were asking for rice did he learn that the rice was released to the municipal and barangay officials as instructed by Congressman Erwin Chiongbian. Mr. Escobar explained that he got very upset when he was not informed beforehand of the instructions of Congressman Chiongbian because, based on the Project Design of the Sagip Taniman Project, the intended beneficiaries of the rice were the victims of the flashflood in 2001. Mr. Escobar testified that, upon learning that the COA was questioning the implementation of the Sagip Taniman Project and the recommendation of the audit team for the investigation of the project, he created an investigating committee headed by the Provincial Legal Officer, Atty. Antonio Delinea. According to the accused, Atty. Delinea was updating him that they have gone around asking the municipal and barangay officials regarding the redistribution of the rice they received from the OPAG and they have validated that the victims were identified by the municipal barangay officials and the Provincial Agriculturist confirmed the receipt thereof. However, Mr. Escobar explained that the investigating committee was not able to finish the validation and make a complete report because he lost the election in 2004.



DISCUSSION

The accused are charged, in conspiracy with each other, with the complex crime of Malversation of Public Funds thru Falsification of Public Documents defined and penalized under Article 217, in relation to Article 171 of the Revised Penal Code. The elements of Malversation of Public Funds thru Falsification of Documents are as follows:

- a.) The offender is a public officer;
- b.) He has custody or control of the funds or property by reason of the duties of his office;
- c.) The funds or property are public funds or property for which he is accountable; and
- d.) He has appropriated, taken, misappropriated or consented, or through abandonment or negligence, permitted another person to take them

While under Article 171, paragraph 2 of the Revised Penal Code, the elements of falsification of public documents are:

- a) That the offender caused it to appear in a document that a person or persons participated in an act or a proceeding; and
- b) That such person or persons did not in fact so participate in the act or proceeding.

It is undisputed that at all times material to these cases, the accused Miguel D. Escobar, Romeo S. Miole and Patricio T. Sol are public officials holding the respective positions: then Provincial Governor; then Provincial Agriculturist; and then Assistant Provincial Agriculturist, all of Sarangani Province.

On the other hand, the Information alleges that the accused committed the complex crime of Malversation Thru Falsification of



Public Documents by performing the following acts in conspiracy with one another:

1. Falsifying or causing to be falsified the corresponding Disbursement Voucher No. 101-2002-5-5502 and its supporting documents by, making it appear that financial assistance had been requested pursuant to its Sagip Taniman Project as assistance to calamity stricken farmers of Sarangani province when in truth and in fact, the accused knew fully well that no financial assistance had been requested; and
2. Converting and misappropriating 1,875 sacks of rice amounting to ONE MILLION FOUR HUNDRED FORTY THOUSAND PESOS (P1,440,000.00), by releasing 1,875 sacks of rice to different municipal and barangay officials a week before the 2002 Barangay Election.

To prove these allegations, the prosecution presented its sole witness, COA State Auditor Helen M. Cailing, who audited the Sagip Taniman Project of Sarangani Province and testified that the said project was replete with irregularities and deficiencies as reflected in the Annual Audit Report on the Sarangani Province for the year 2002. It is stated in the Annual Audit Report that:

“Failure of the Office of the Provincial Agriculturist (OPAG) to strictly implement the SAGIPTANIMAN Program worth P4 Million based on the approved Project Design has resulted in various irregularities and deficiencies that caused wastage and misuse of government fund.

x x x x

“Post audit of disbursement vouchers for the implementation of the above program disclosed various deficiencies and irregularities enumerated below: (Details of deficiencies were shown per disbursement voucher as Annex “I”)

1. Project designs required that procurement of rice shall be made from accredited supplier and reputable Cooperative or Federation based in Sarangani Province but the 4,125 sacks of rice were purchased from Johnson Hardware and



Construction Supply, Inc. (Gen. Mdse.). The Supplier was not a NFA registered licensed rice dealer/wholesaler/retailer per certification dated December 9, 2002 issued by the NFA Provincial Manager Lorenzo A. Camayang (Appendix "J").

2. It was stated in the Purchase Order that "the items are to be delivered at Capitol Compound" but our verification from Inspectors revealed that the items were inspected inside the bodega of the supplier and withdrawn in installment. Status report of issuance of rice was not available as of audit date.
3. The Delivery Receipt #3981 for 2,250 sacks of rice showed that the items were received by an employee of OPAG Omar M. Mohammad but he denied the actual receipt thereof. He alleged that he, together with the inspectors only signed the charge invoice and the delivery receipt as a representative of OPAG.
4. The recipient of the 1,875 sacks of rice based on Requisition Issue Vouchers (RIVs) submitted were mostly government officials of Sarangani Province and not the farmers and fisherfolks who were victims of the flashflood.
5. Lack of supporting documents such as:
 - a. Distribution list with complete address and duly signed by the actual recipient.
 - b. All bidding documents including the business permit and Certificate of NFA as an authorized rice dealer of the interested bidders.
 - c. Bidders bond of the winning bidder.
 - d. Copy of SARO #01-03973
 - e. Listing of farmer-beneficiaries as to the number of sacks of rice received with corresponding areas planted to vegetable seeds, palay certified seeds and hybrid corn seeds.
 - f. Payroll of farmers who were victims of flashflood and who rendered service for road maintenance.



- g. Accomplishment Report of OPAG and OMAG on the result of their monitoring and evaluation efforts.
- h. RIVs for the remaining 2,250 sacks of rice have not been submitted for our audit to date.

X X X X

- 6. The SAGIPTANIMAN PROGRAM with a total project cost of P4.0M and implemented last May 2002 was not included among the projects in their Mid-Year Accomplishment Report submitted to our Office.”

Nonetheless, a careful perusal of both the testimonial and documentary evidence offered by the prosecution will show that the prosecution failed to substantiate its allegation that the accused falsified Disbursement Voucher No. 101-2002-5-5502 and its supporting documents. The information alleges that falsification was committed when the accused made it appear that financial assistance had been requested pursuant to the Sagip Taniman Project as assistance to calamity stricken farmers of Sarangani province when in truth and in fact, the accused knew fully well that no financial assistance had been requested. However, upon examination of the subject Disbursement Voucher and its supporting documents, we cannot find any statement or even a mention that the Sagip Taniman Project was created because financial assistance was requested by calamity stricken farmers. Instead, the rationale of the Sagip Taniman Program states that:

“Saragani Province has been experiencing heavy/excessive rains for the past few months. Late last month alone of August, some municipalities suffered destruction on its agricultural crops, animals, irrigation facilities and farm to market roads caused by flash floods, and eventually extended damages to fish ponds, pump boats and houses.

“Nevertheless, the Provincial government and some NGOs have participated by providing direct augmentation of food stuffs, medicines to families heavily affected. While some of the infrastructure like roads have been left unattended by the local LGU due to lack of funds specially to irrigation canals and dams which the Irrigators Association could not augment funds



for rehabilitation. Obviously second cropping for rice and corn will start on the month of October and expectedly rainfall will slow down on the quarter.

“Apparently, the need to help out rehabilitate these affected areas, the Provincial Government through the Office of the Provincial Agriculturist launched ‘SAGIP TANIMAN PROGRAM AND AUGMENTATION OF CERTIFIED SEEDS TO FARMERS or the scheme is known to be food for work.’”

Evidently, the creation of the Sagip Taniman Program was initiated by the Provincial Government through the Provincial Agriculturist in order to help the farms in the province even if there was no request from the calamity stricken farmers. What might have caused the impression that the Program was created as a response to requests for financial assistance is the entry in the Project Design under “Identifying Information” which indicates the “Irrigators Association, Cooperatives, Farmers and Family” as the “Proponent/Contact Person” for the Program. Nevertheless, such designation does not necessarily mean that the project proponents are the “Irrigators Association, Cooperatives, Farmers and Family”, it could simply mean that they are the contact persons for the project as they were the ones who were devastated by the flashfloods.

Moreover, the “various irregularities and deficiencies” enumerated in the Annual Audit Report as well as the Audit Findings and Observations contained in the “Fact Finding Investigation Report On Alleged Anomalies Committed by Sarangani Province on Financial Assistance granted to other Local Government Units (LGUs) and Non Government Organizations/Peoples Organization (NGO/Pos)” do not support the allegation that the accused falsified Disbursement Voucher No. 101-2002-5-5502 and its supporting documents. While the COA found several irregularities in the Sagip Taniman Project such as the lack of supporting documents in Disbursement Voucher No. 101-2002-5-5502, such deficiency is not tantamount to the conclusion that the said Disbursement Voucher was indeed falsified; especially in light of the fact that what is alleged in the Information is that Disbursement Voucher No. 101-2002-5-5502 and its supporting documents were falsified by making it appear that financial assistance had been requested pursuant to its Sagip Taniman Project as assistance to calamity stricken farmers of Sarangani province when in truth and in fact, the accused knew fully well that no financial assistance had been



requested. The evidence presented by the prosecution should have established this allegation in the Information of the acts constituting the crime, specifically, that accused "made it appear that financial assistance had been requested pursuant to its Sagip Taniman Project as assistance to calamity stricken farmers of Sarangani province when in truth and in fact, the accused knew fully well that no financial assistance had been requested". Absent any proof of this allegation through which the supposed falsification was committed, the accused cannot be convicted of the crime charged in the Information.

As stated by the Supreme Court in the case of *People v. Calica*³:

"In criminal prosecution, accusation is not synonymous with guilt. It is incumbent on the prosecution to prove the guilt of the accused beyond reasonable doubt. By reasonable doubt is meant that doubt engendered by an investigation of the whole proof and an inability, after such investigation, to let the mind rest easy upon the certainty of guilt. There is a need, therefore, for the most careful scrutiny of the evidence of the prosecution, both oral and documentary, independently of whatever defense the accused may offer. The prosecution must rely on the strength of its own evidence and not on the evidence of the accused. The weakness of the defense of the accused does not relieve the prosecution of its responsibility of proving the guilt of the accused beyond reasonable doubt. In every case, the overriding consideration is not whether the court doubts the innocence of the accused, but whether it entertains reasonable doubt as to his guilt. Where the pieces of evidence against the accused are insufficient or doubtful to determine the guilt of the accused with moral certainty, he should be acquitted. Speculations, surmises and probabilities cannot take the place of proof beyond reasonable doubt."

From the foregoing, it is clear that the prosecution failed to prove its allegations in the Informations that the accused falsified the official documents pertaining to the Sagip Taniman Project, hence, we no longer find any need to discuss further the elements of Malversation.


In all criminal prosecutions, without regard to the nature of the defense which the accused may raise, the burden of proof establishing the guilt of the accused beyond reasonable doubt

³ 427 SCRA 336, 347-348 (2004).



remains with the prosecution.⁴ Further, it is the duty of the prosecution to prove each and every element of the crime charged in the information.⁵ In the instant case, the prosecution failed to discharge its duty.

For the above reasons, I submit that the accused should be acquitted considering that the prosecution failed to prove their guilt beyond reasonable doubt.


SAMUEL K. MARTIRES
Associate Justice

⁴ *Monteverde v. People*, 387 SCRA 196, 212 (2002) citing *People v. Caiñgat*, 376 SCRA 387 (2002).
⁵ *Id.* at 212-213.