

REPUBLIC OF THE PHILIPPINES  
SANDIGANBAYAN  
QUEZON CITY

SPECIAL THIRD DIVISION

PEOPLE OF THE  
PHILIPPINES,

Plaintiff,

Criminal Cases Nos. SB-13-  
CRM-0001-0046

For: Violation of Section  
3(e), Republic Act No.  
3019

- versus -

NEPTALI P. SALCEDO, EDNA  
A. PACRIM and ROEL C.  
SALCEDO

Accused.

Criminal Cases Nos. SB-13-  
CRM-0047-0092

For: Malversation of Public  
Funds through  
Falsification

Present:

**CABOTAJE-TANG, P.J.,**  
Chairperson  
**MARTIRES,<sup>1</sup> J.**  
**QUIROZ, J.**  
**LAGOS, J.<sup>2</sup> and**  
**FERNANDEZ,<sup>3</sup> J.**

Promulgated:

OCTOBER 14, 2016

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**RESOLUTION**

**CABOTAJE-TANG, PJ:**

For resolution are the following:

<sup>1</sup> The incident was submitted for resolution when J. Martires, now Chairperson of the Second Division, was still the senior member of the Third Division.

<sup>2</sup> Sitting as Special Member per Administrative Order No. 2-C-2016 dated January 4, 2016

<sup>3</sup> Sitting as Special Member per Administrative Order No. 2-C-2016 dated January 4, 2016

**Resolution**

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People vs. Salcedo, *et. al.*

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1. Urgent Motion to Set Aside with Motion to Reinstate Bail dated February 23, [2016] filed by accused Neptali P. Salcedo;<sup>4</sup> and
2. Motion to Fix Amount of Bail dated February 29, 2016 filed by accused Roel Salcedo and Edna Pacrim.<sup>5</sup>

Accused Salcedo moves for a reconsideration of the Court's Resolution dated February 12, 2016 denying his motion for reconsideration of the Court's Resolution dated January 23, 2015. Said Resolution, among others, partially granted the prosecution's motion to amend the Informations specifically indicating "no bail recommended" and to cancel the surety bond posted by accused Salcedo. Invoking **People vs. Valdez**,<sup>6</sup> accused Salcedo prays that the Court set aside the "no bail" recommendation in the Informations. Accused Salcedo further prays that the bail he posted in Criminal Cases Nos. SB-13-0047 to 0092 be reinstated.

Accused Roel Salcedo and Pacrim likewise invoke **Valdez** case and pray that the Court fix the amount of their bail.

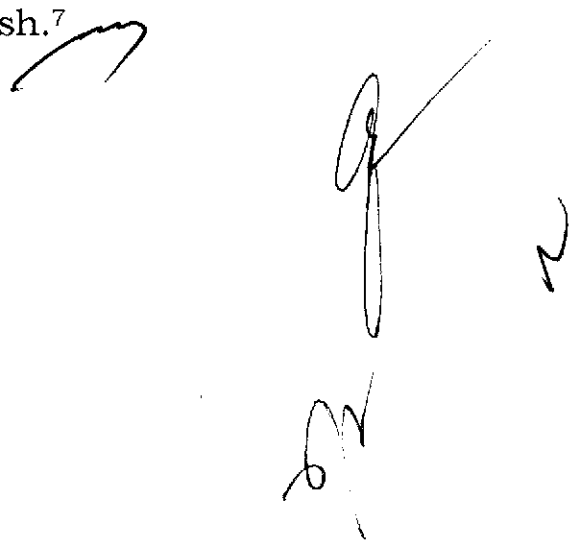
In its Consolidated Comment dated March 8, 2016, the prosecution acknowledges that pursuant to the **Valdez** case, an accused charged with malversation of public funds through falsification of public documents is entitled to bail as a matter of right but submits to the Court's sound discretion the matter of allowing the accused to post bail. It, however, argues that should the Court allow all the accused to post bail, the amount must be paid in cash.<sup>7</sup>

<sup>4</sup> pp. 202-204, Record, Vol. III

<sup>5</sup> pp. 207- 209, Record, Vol. III

<sup>6</sup> G. R. No. 216007-909, December 8, 2015

<sup>7</sup> pp. 226-279, Record, Vol. III

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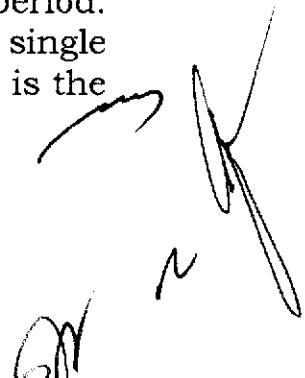
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The Court finds the accused's motions to be allowed to post bail in the cases for malversation through falsification meritorious and, accordingly, grants the same.

In the recent case of **Valdez** invoked by the accused, the Supreme Court ruled that an accused charged with malversation through falsification of public documents, where the amount involved exceeds P20,000.00, is entitled to bail as a matter of right. According to the Supreme Court, the basis for determining whether the charge isailable or not is the prescribed penalty, which refers to the initial penalty as a general prescription for the felonies defined in the Revised Penal Code consisting of a range of period of time, and not the imposable penalty, which refers to the penalty after conviction and after considering the presence of attending or modifying circumstances. The High Court ratiocinated, thus:

In Our mind, the term "punishable" should refer to prescribed, not imposable, penalty. People v. Temporada, which was even cited by petitioner, perceptibly distinguished these two concepts:

The RPC provides for an initial penalty as a general prescription for the felonies defined therein which consists of a range of period of time. This is what is referred to as the "prescribed penalty." For instance, under Article 249 of the RPC, the prescribed penalty for homicide is *reclusión temporal* which ranges from 12 years and 1 day to 20 years of imprisonment. Further, the Code provides for attending or modifying circumstances which when present in the commission of a felony affects the computation of the penalty to be imposed on a convict. This penalty, as thus modified, is referred to as the "imposable penalty." In the case of homicide which is committed with one ordinary aggravating circumstance and no mitigating circumstances, the imposable penalty under the RPC shall be the prescribed penalty in its maximum period. From this imposable penalty, the court chooses a single fixed penalty (also called a straight penalty) which is the



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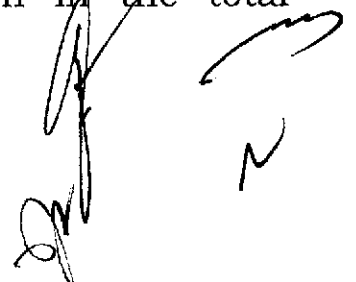
"penalty actually imposed" on a convict, i.e., the prison term he has to serve.

Petitioner contends that the imposable penalty is the one provided by the RPC before conviction to determine whether the charge is bailable or not, while the penalty actually imposed pertains to the prison sentence upon conviction. Hence, it is maintained that the penalty imposable for the offense charged against private respondent is *reclusion perpetua*, which makes Criminal Case Nos. SB-14-CRM-0321, 0322 and 0324 non-bailable.

The argument is erroneous.

Following Temporada, for the complex crime of Malversation of Public Funds thru Falsification of Official/Public Documents involving an amount that exceeds P22,000.00, the "prescribed penalty" is reclusion temporal in its maximum period to reclusion perpetua. After trial, should the commission of such crime be proven by the prosecution beyond reasonable doubt, the "imposable penalty" is reclusion perpetua in view of the RPC mandate that the prescribed penalty of reclusion temporal maximum to reclusion perpetua shall be applied in its maximum. The falsification, which is the means used to commit the crime of malversation, is in the nature of a generic aggravating circumstance that effectively directs the imposition of the prescribed penalty in its maximum period. The phrases "shall be applied" and "shall impose," found in Articles 63 and 64, respectively, of the RPC, are of similar import as the phrase "shall be imposed" found in Article 48. Both Articles 63 and 64 refer to the penalty to be imposed after considering the aggravating or mitigating circumstance/s. Finally, the "penalty actually imposed" is still *reclusion perpetua*, considering that the ISL finds no application as the penalty is indivisible.

The records of these cases show that accused Neptali Salcedo had previously posted a surety bond through Travellers Insurance and Surety Corporation in the total



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amount of one million three hundred eighty thousand pesos (P1,380,000.00) in Criminal Cases Nos. SB-13-CRM-0001 to 0046 and three million six hundred eighty thousand pesos (P3,680,000.00) in Criminal Cases Nos. SB-13-CRM-0047 to 0092.<sup>8</sup> The Certification of Accreditation and Authority of Travellers Insurance and Surety Corporation issued by the Office of the Court Administrator, however, shows that the authority was valid only until December 31, 2014.<sup>9</sup> In its Resolution dated March 14, 2016, the Court noted the Bond Renewal Certificate submitted by Travellers Insurance and Surety Corporation extending the validity of its surety bond for accused Neptali Salcedo for another year from March 3, 2016 to March 5, 2017.<sup>10</sup>

Accordingly, the accused are allowed to post bail in Cases Nos. SB-13-CRM-0047 to 0062 and 0064 to 0092 for malversation through falsification in the amount of P80,000.00 each in the said cases based on the initial recommendation of the prosecution in the original Informations.

In his Separate Opinion, however, Justice Martires votes to deny “the granting and fixing of bail,” and instead votes to “dismiss these cases against the accused on the ground of violation of their right to speedy disposition of cases.”

The record of these cases show that in its Resolution promulgated on January 23, 2015, the Court denied, among others, accused Neptali Salcedo’s motion to quash on the ground that the allegations in the Informations do not constitute an offense.<sup>11</sup> The accused filed separate motions for reconsideration of the aforesaid resolution. This time, the accused claimed a violation of their rights to speedy

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<sup>8</sup> p. 81, Record, Vol. II

<sup>9</sup> p. 101, Record, Vol. II

<sup>10</sup> pp. 230-232, Record, Vol. III

<sup>11</sup> pp. 4-11, Record, Vol. III

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disposition of cases and due process as additional grounds for the quashal of the Informations and dismissal of the present cases.<sup>12</sup> The same motions for reconsideration were denied by the Court in its Resolution promulgated on February 12, 2016.<sup>13</sup> Thereafter, the accused filed these present motions both praying that they be allowed to post bail pursuant to the **Valdez case**.<sup>14</sup> Notably, the accused are not reiterating the issue of the alleged violation of their rights to speedy disposition of cases and due process. Accused Salcedo simply prays that the Court issue an order setting aside the “no-bail recommendation” in the Informations and reinstate the bail he posted pursuant to the **Valdez case**. Accused Roel Salcedo and Pacrim likewise merely pray that the Court fix the amount of bail pursuant to the Valdez case.

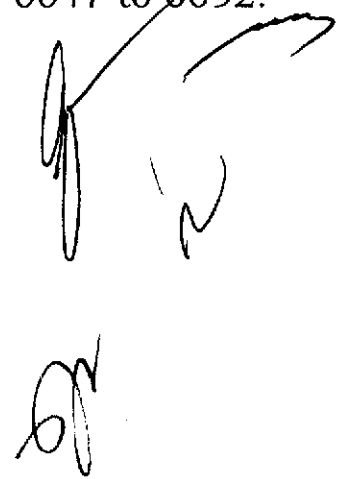
It bears underscoring that accused Neptali Salcedo received a copy of the Court’s Resolution promulgated on February 12, 2016 on February 16, 2016, while accused Roel Salcedo and Pacrim received the same on February 19, 2016. To be sure, the accused did not file any petition before the Supreme Court questioning the Court’s resolution on the issue of the alleged violation of their rights to speedy disposition of cases and due process. Such failure is an obvious concession of the propriety of the Court’s resolution on the issue of the alleged violation of their rights to speedy disposition of cases and due process. It cannot be viewed any other way.

**WHEREFORE**, the Court (1) **GRANTS** bail to the accused in the amount of P80,000.00 each in SB-13-CRM-0047 to 0062 and 0064 to 0092 to be posted within ten (10) days from notice; and (2) **REINSTATES** the bail posted by accused Neptali Salcedo in Criminal Cases Nos. SB-13-0047 to 0092.

<sup>12</sup> pp. 16-27, 28-52, Record, Vol. III

<sup>13</sup> pp. 168-199, Record, Vol. III

<sup>14</sup> *supra* note 5

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**SO ORDERED.**

Quezon City, Metro Manila



**AMPARO M. CABOTAJE-TANG**

Presiding Justice  
Chairperson

**WE CONCUR:**




**RAFAEL R. LAGOS**

Associate Justice



**ALEX L. QUIROZ**

Associate Justice



**SARAH JANE T. FERNANDEZ**

Associate Justice

**I DISSENT:**



**SAMUEL R. MARTIRES**


Associate Justice

SEPARATE OPINION

I maintain my earlier opinion in this Court's *Resolution* of February 12, 2016.

To reiterate, I hold the view that the crime of malversation through falsification of public document, as alleged in each of the forty-six (46) *Informations*, is bailable. However, this would not matter anymore considering that the circumstances surrounding these cases warrant their immediate dismissal due to inordinate delay in the disposition of cases against the accused.

Consequently, I vote to deny the granting and fixing of bail, and instead, I vote to dismiss these cases against the accused on the ground of violation of their right to speedy disposition of cases.

  
SAMUEL R. MARTIRES  
Associate Justice