

REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
Quezon City

SECOND DIVISION

**PEOPLE OF THE
PHILIPPINES,**

Plaintiff,

**CRIM. CASE NO. SB-10-CRM-
0237**

*For: Violation of Par. 2[a] of
Article 213 of the Revised Penal
Code (Illegal Exaction)*

- versus -

MANUEL R. MOLINA, ET AL.,
Accused.

Present:

HERRERA, JR., J., Chairperson
MUSNGI, J., Associate Justice
PAHIMNA, J., Associate Justice

July 3, 2017

Promulgated

RESOLUTION

MUSNGI, J.:

The Court resolves the following:

1. *Demurrer to Evidence*¹ filed by accused Manuel R. Molina (“**Molina**”) on 15 November 2016;
2. *Comment/Opposition (To Accused Molina’s Demurrer to Evidence)*² filed by the prosecution on 28 November 2016;
3. *Demurrer to Evidence*³ filed by accused Fulgencio V. Paña (“**Paña**”) on 09 December 2016; and
4. *Comment/Opposition (To Accused Pana’s Demurrer to Evidence)*⁴ filed by the prosecution on 22 December 2016.

¹ Sandiganbayan Records Vol. II, pp. 832-853.

² *Ibid.*, pp. 863-879.

³ *Ibid.*, pp. 881-890.

⁴ *Ibid.*, pp. 894-916.

W *Cañ*

On 24 November 2010, the Office of the Ombudsman filed an *Information*⁵ charging accused Molina and Paña with the crime of Illegal Exaction, defined and penalized under paragraph 2(a), Article 213 of the Revised Penal Code (RPC). The *Information* reads, thus:

“That in or about the period from the month of January 2009 to the month of February 2009, and for sometime prior or subsequent thereto, in the Municipality of Carmen, Province of Bohol, Philippines, and within the jurisdiction of this Honorable Court, above-named accused Manuel R. Molina and Fulgencio V. Paña, all public officers, being the Municipal Mayor and Municipal Treasurer, respectively, of Carmen, Bohol, and as such were entrusted with the collection of taxes, licenses, fees and other imposts, in such capacity and committing the offense in relation to office, taking advantage of their public positions, conspiring, conniving and confederating with each other, with deliberate intent and with intent to defraud, did then and there willfully, unlawfully, and feloniously demand, exact and receive the payment of the amount of THREE HUNDRED (P300.00) PESOS, Philippines Currency, from every applicant of a municipal business permit (business plate fee), or in the aggregate amount of more or less ONE HUNDRED ELEVEN THOUSAND SEVEN HUNDRED (P110,700.00) PESOS, which sum is different from those authorized by law as there is no approved municipal ordinance authorizing the collection thereof, to the damage and prejudice of the public service.’

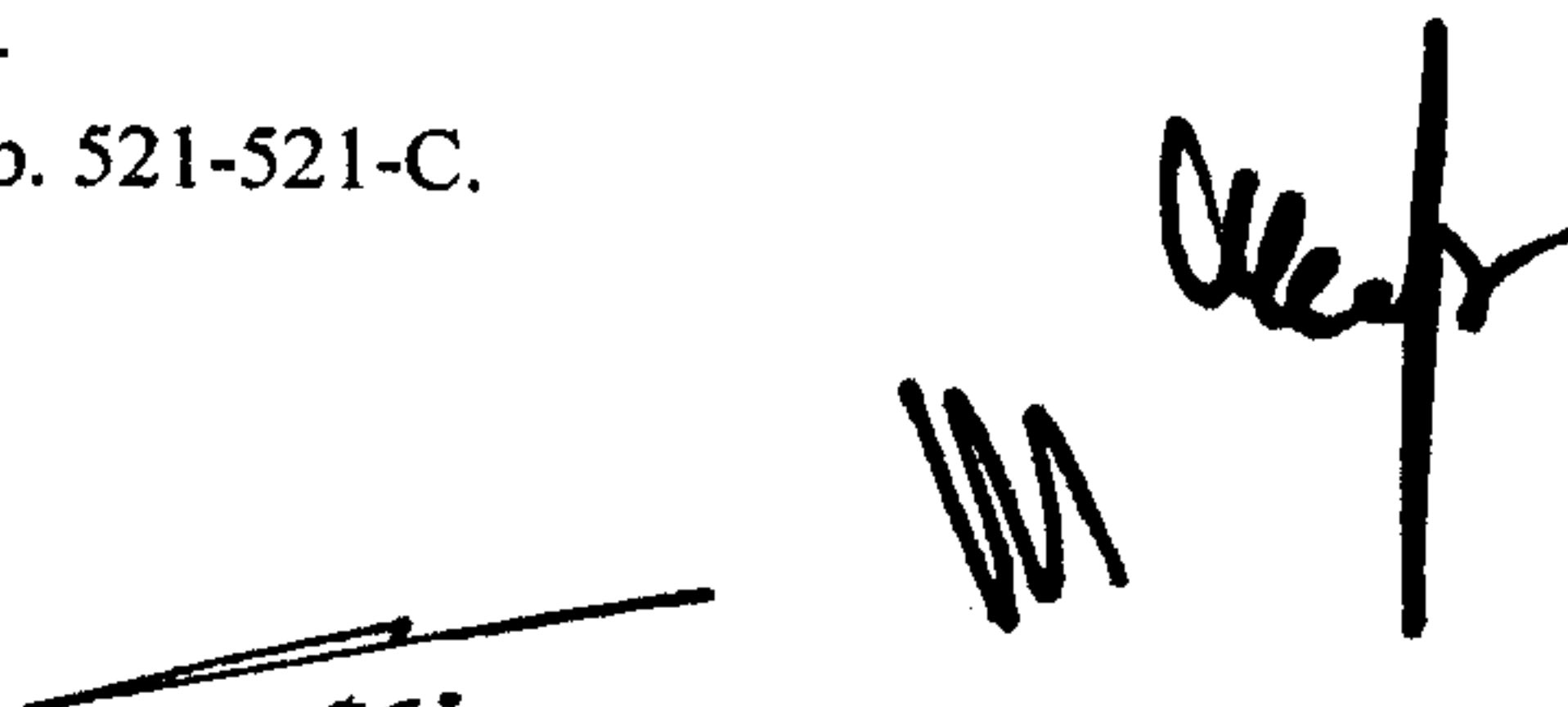
‘CONTRARY TO LAW’

Accused Molina and Paña move for the dismissal of the case against them by way of their respective *Demurrers to Evidence* on the ground that the prosecution allegedly failed to overcome the constitutionally guaranteed presumption of innocence in favor of an accused.

Essentially, they assert that the prosecution failed to present sufficient evidence to prove their guilt beyond reasonable doubt, arguing that there is no proof that they personally demanded, solicited, or collected payment for the business plate fee and that the prosecution witnesses have no personal knowledge of their alleged acts which supposedly constitute the crime of Illegal Exaction.

Accused Molina likewise asserts that the testimony of private complainant Raquel O. Rejas (that the collection of the business plate fee was made through his verbal order) is mere hearsay because the same was just relayed to her by accused Paña. No documentary evidence was ever presented showing that the collection was made at his directive.

⁵ Sandiganbayan Records Vol. II, pp. 521-521-C.

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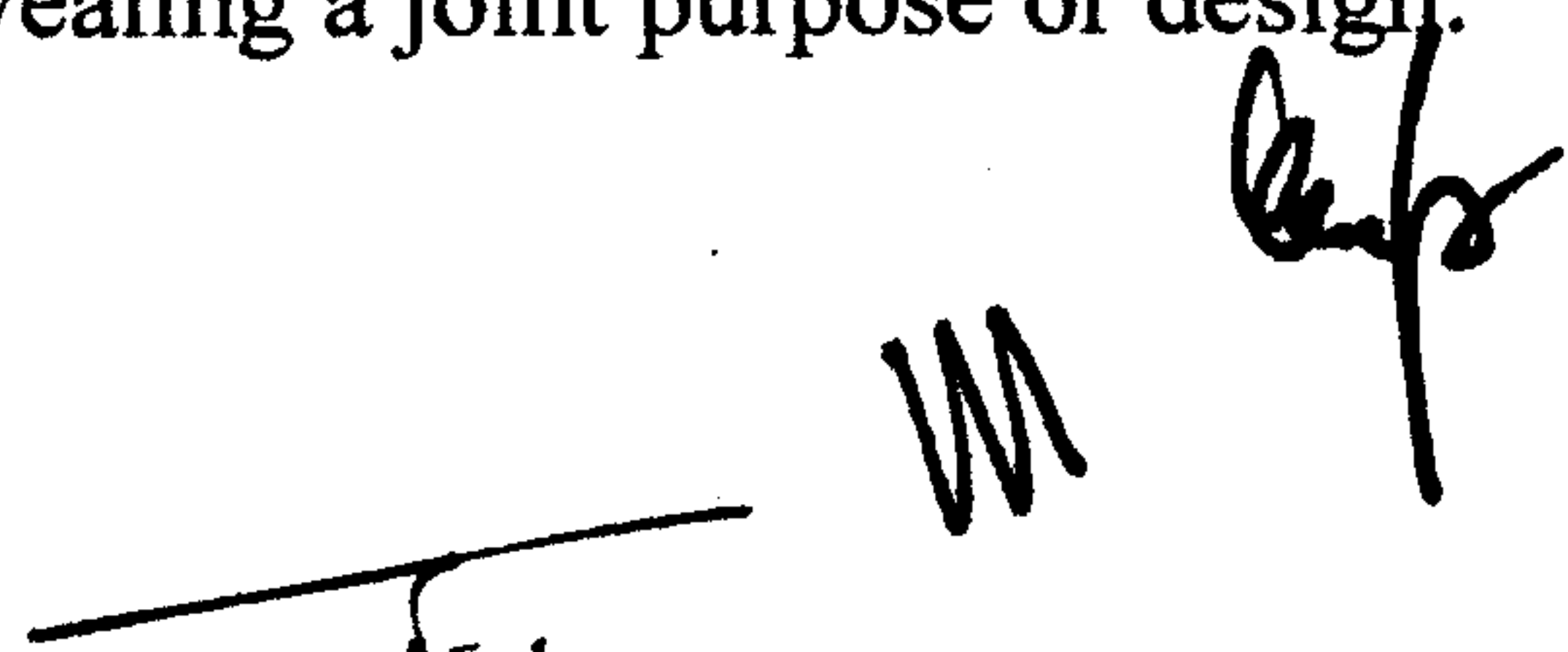
For his part, accused Paña emphasizes the absence of any evidence which shows his direct participation in the offense charged. The Official Receipts intended to attest to his alleged participation do not even bear his signature. These pieces of evidence merely indicate the handwritten name of accused Paña, but nothing has been shown that such was indeed written by said accused.

Accused Molina and Paña further argue that the prosecution evidence do not establish their alleged intent to defraud. Neither do the records show that they personally benefited from the collection of the business plate fee. They emphasize that the fees collected from business permit applicants inured to the benefit of the Municipality of Carmen, Bohol because these amounts were deposited straight to the coffers of the municipal government. Furthermore, accused Paña explains that upon discovery of the mistake in their assessment and collection of the business plate fees, the same were refunded to the applicants who paid therefor.

Lastly, accused Molina and Paña aver that the allegation of conspiracy between them was not sufficiently established by the prosecution. Accused Molina argues that the mere appearance of his photograph on the business plates in question is not a badge of conspiracy. For his part, accused Paña contends that he only performed his duties as Municipal Treasurer of Carmen, Bohol.

The prosecution submits in both of its *Comment/Opposition* that it had presented sufficient evidence to convict the accused for Illegal Exaction defined and penalized under Paragraph 2(a), Article 213 of the RPC. The prosecution asserts that the testimonies of the witnesses for the prosecution indisputably show that it was accused Molina who gave the directive to collect the business plate fee as a requirement for the approval, renewal, and issuance of the Mayor's Permit, and that it was accused Paña who consequently assessed and collected the same as the municipality's collecting officer. Moreover, the prosecution expounds that proof of intent to defraud on the part of an accused charged with violation of Paragraph 2 of Article 213 of the RPC is unnecessary because the said offense is classified as *malum prohibitum*. Hence, proof of damage is also unnecessary because the mere demand for or collection of sums different from or larger than those provided by law already consummates the crime.

Furthermore, the prosecution reiterates that accused Molina and accused Paña conspired to consummate the offense charged. The prosecution witnesses categorically described the respective participations of the accused which consist of concerted actions revealing a joint purpose or design.

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Ruling

The instant motion is denied for lack of merit.

Section 23, Rule 119 of The Revised Rules of Criminal Procedure provides in part, thus:

“Sec. 23. *Demurrer to evidence.* – After the prosecution rests its case, the court may dismiss the action on the ground of insufficiency of evidence (1) on its own initiative after giving the prosecution the opportunity to be heard or (2) upon demurrer to evidence filed by the accused with or without leave of court.”

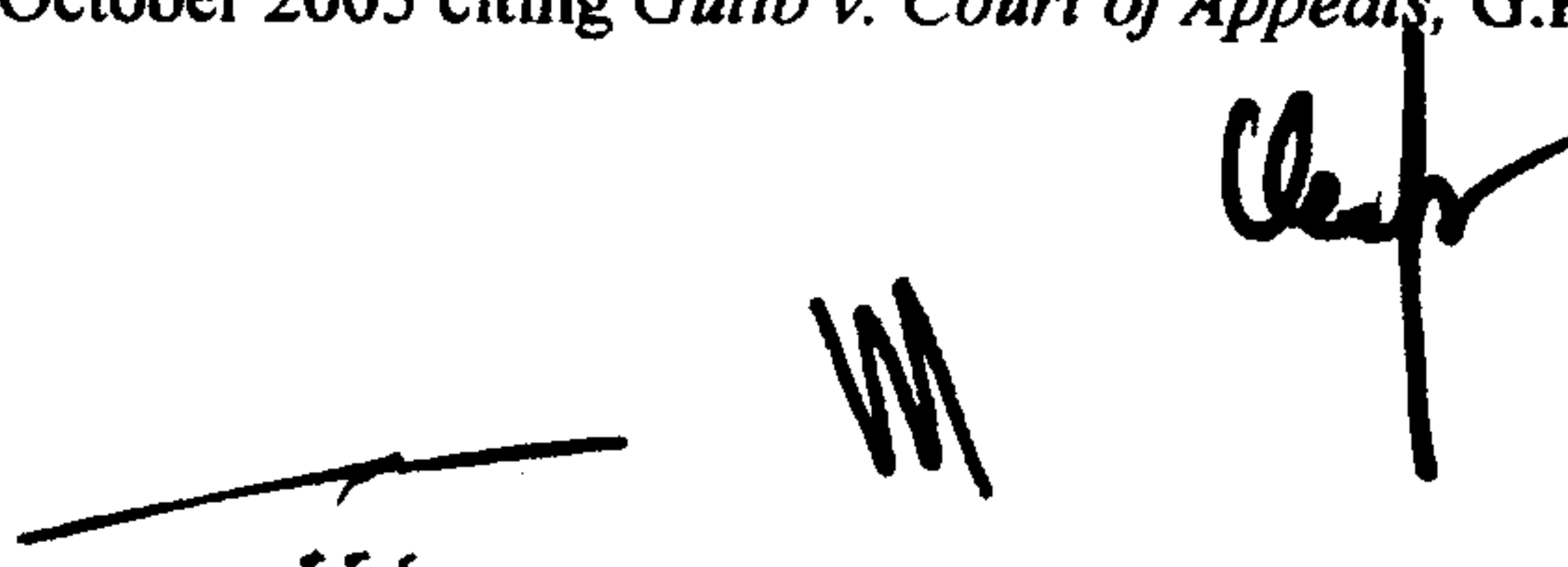
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Essentially, a demurrer to evidence “is an objection by one of the parties in an action, to the effect that the evidence which his adversary produced is insufficient in point of law, whether true or not, to make out a case or sustain the issue. The party demurring challenges the sufficiency of the whole evidence to sustain a verdict.”⁶ In making its determination, the Court simply ascertains whether the evidence presented by the prosecution is competent or sufficient to support a finding of guilt.

In order to prove the commission of the offense charged, the prosecution presented the testimony of the following witnesses: (a) Raquel O. Rejas, Revenue Collection Clerk III of the Municipality of Carmen, Bohol; (b) Apolinar V. Malig-on, habal-habal operator in Lapaz, Municipality of Carmen, Bohol; (c) Socorro Painagan-Torre Franca, Local Revenue Collection Officer II of the Municipality of Carmen, Bohol; (d) Susan P. Racoma, Officer-In-Charge, Municipal Treasurer of Carmen, Bohol, (e) Pablita C. Abellana, State Auditor II of the Commission on Audit; (f) Agutsina D. Montajes, proprietor of Buloy Montajes Grain Buyer; and (g) Analisa C. Folinar, seller of various dry goods at the Carmen Public Market. The parties agreed to dispense with the presentation of and to stipulate on the matters subject of the testimonies of Bonifacio M. Quirog, Jr., *Sangguniang Panlalawigan* Secretary of the Province of Bohol, and Dexter S. Chan, Municipal Accountant of Carmen, Bohol.

On 03 June 2016, the Court resolved to admit the following exhibits offered by the prosecution: “A” to “A-15,” “B,” “B-1,” “C,” “D,” “E,” “E-1,” “F” to “F-6,” “G,” “H,” “H-1,” “I” to “I-2,” “J,” “K” to “K-2,” “L,” “M,” “O,” “P,” “Q,” “Q-1,” “R” to “R-2,” and “S” to “S-2,” subject to the Court’s

⁶ *Soriquez v. Sandiganbayan*, G.R. No. 153526, 25 October 2005 citing *Gutib v. Court of Appeals*, G.R. No. 131209, 13 August 1999.

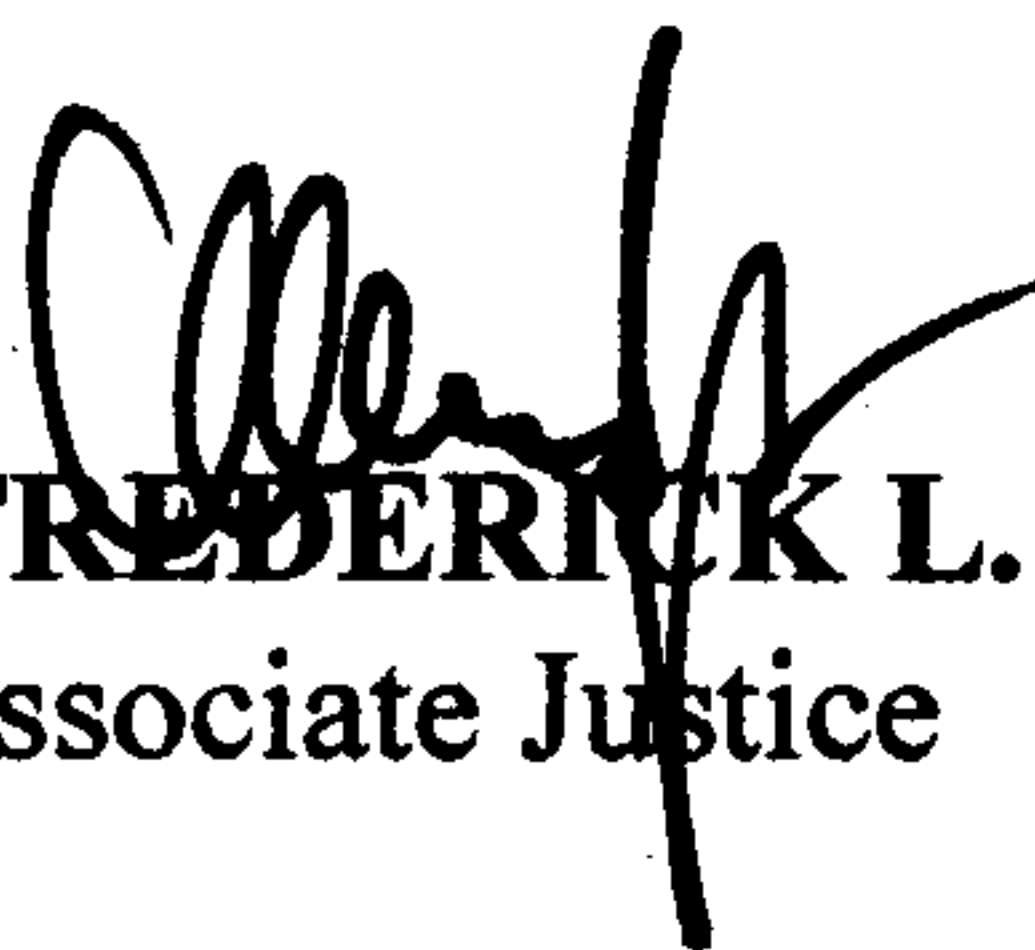
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appreciation of their probative value and merit. Exhibit "N" was excluded on the ground that the original document was not submitted and was not identified by the proper person.

After a careful perusal of the records of this case, the Court is convinced that the prosecution presented *prima facie* competent and sufficient evidence to sustain the conviction of accused Molina and Paña for the offense charged, unless evidence to the contrary proves otherwise. Hence, the presentation of defense evidence is in order.

WHEREFORE, in light of the foregoing, the *Demurrers to Evidence* filed by accused Manuel R. Molina and Fulgencio V. Paña are hereby **DENIED** for lack of merit.

SO ORDERED.



MICHAEL FREDERICK L. MUSNGI

Associate Justice

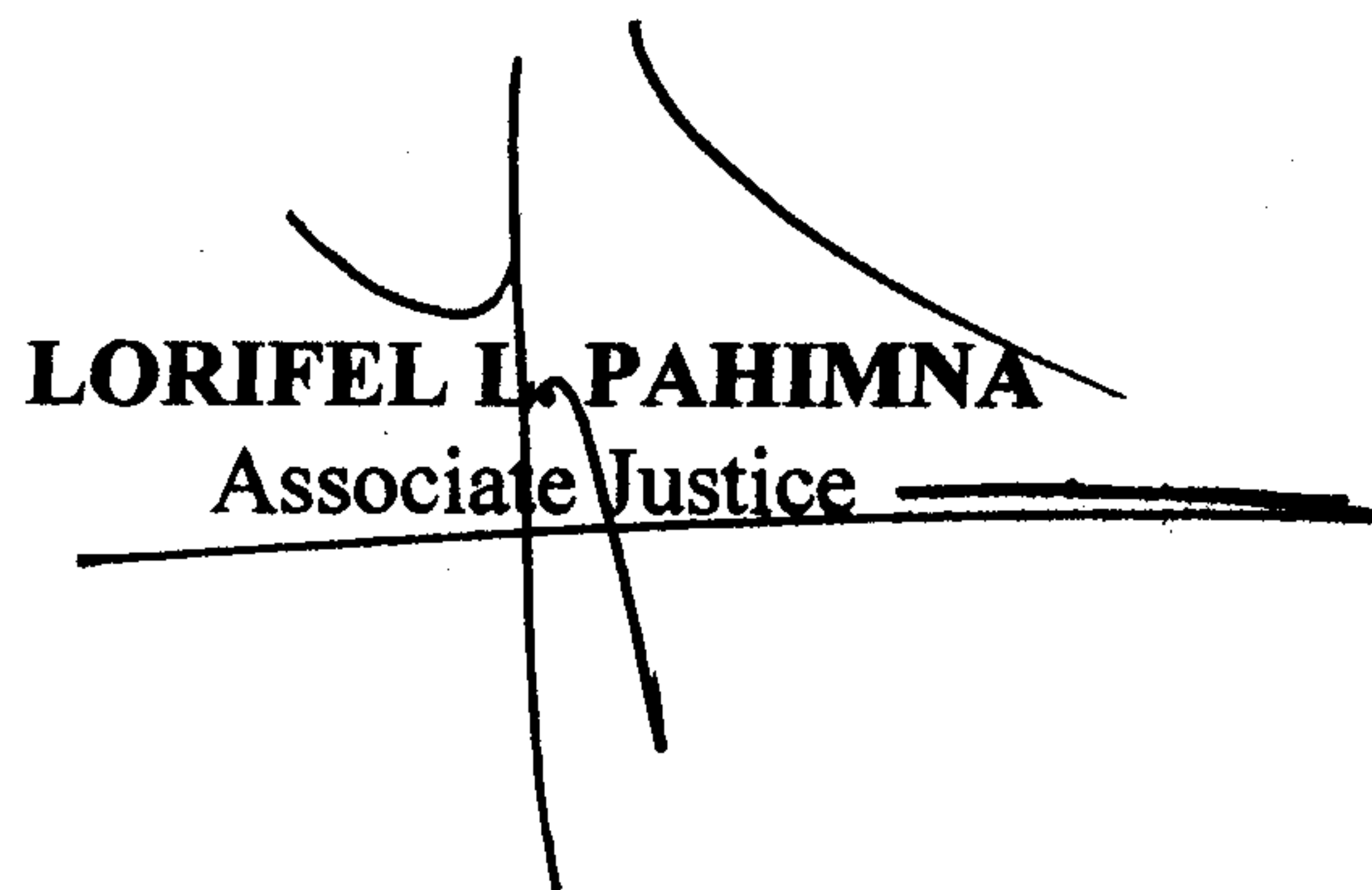
WE CONCUR:



OSCAR C. HERRERA, JR.

Associate Justice

Chairperson



LORIFEL L. PAHIMNA

Associate Justice