



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
Quezon City

FIFTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

CRIM. CASE Nos. 26920-27100

GONZALO DE PEDRO,
VICENTE CARLET,
ALVIN MALIFICIADO,

CC#26920-27100
CC#26920-27100
CC#27003-27013; 27017-
22; 27029-31; 27041-46;
27056-64; 27068-70;
27074-91; 27095-27100

ELIEZAR CAZAR,
JOEMAN AQUINO,
CORAZON FORRO,
VIRGILIO HALLEGADO,
TESSIE LAGNAODA,
AQUINO BALABAGNO,
EXPEDITO FADERAN,
DANIEL BEBING,
SERGIO CORBAL,
WILFREDO HAPITAN,
GUALTERIO SILVA,
DOROTEA WAJE,
EVANGELINE SOLITO,
ROLANDO HAPITAN,
CARLITO ABRERA,
JOLITO DE PEDRO,
JOCELYN FALSARIO,
RIZALDO SOLITO,
RODRIGO GENEROSO,
ALMA LABRADOR,

CC#27014-19
CC#27020-25
CC#27026-28
CC#27029-34
CC#27035-37
CC#27038-40
CC#27041-43
CC#27044-49
CC#27050-58
CC#27059-67
CC#27068-73
CC#27074-76
CC#27077-79
CC#27080-82
CC#27083-85
CC#27086-88
CC#27089-91
CC#27092-94
CC#27095-97
CC#27098-100

Accused.

For: Malversation of

CC#26920-46; 27003-05;

hng

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Public Funds

27014; 27017; 27020;
27023; 27026; 27029;
27032; 27035; 27038;
27041; 27044; 27047;
27050; 27053; 27056;
27059; 27062; 27065;
27068; 27071; 27074;
27077; 27080; 27083;
27086; 27089; 27092;
27095 and 27098.

Violation of Sec. 3(e) of R.A. 3019

CC#26947-74; 27006-09;
27015; 27018; 27021;
27024; 27027; 27030;
27033; 27036; 27039;
27042; 27045; 27048;
27051; 27054; 27057;
27060; 27063; 27066;
27069; 27072; 27075;
27078; 27081; 27084;
27087; 27090; 27093;
27096 and 27099.

Violation of Sec. 89 in relation
to Sec. 128 of PD 1445

CC#26975-27002;
27010-13; 27016; 27019;
27022; 27025; 27028;
27031; 27034; 27037;
27040; 27043; 27046;
27049; 27052; 27055;
27058; 27061; 27064;
27067; 27070; 27073;
27076; 27079; 27082;
27085; 27088; 27091;
27094; 27097 and 27100.

Present:

Lagos, J., Chairperson
Mendoza-Arcega, J. and
Corpus-Mañalac, J.

Promulgated:

September 06, 2018 *lal*

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RESOLUTION

MENDOZA-ARCEGA, J.:

This resolves the *Motion for Reconsideration*¹ dated July 30, 2018 filed by accused Rolando Hapitan (“Hapitan”) and the *Comment on the Motion for Reconsideration*² dated August 22, 2018 filed by the prosecution.

Hapitan seeks to reconsider the Court’s Order³ dated June 25, 2018 denying his Manifestation⁴ dated April 12, 2018. In the said Manifestation, Hapitan failed to attach the original of Registry Receipt No. 776 053 387 ZZ as proof of filing of his Motion for Reconsideration⁵ dated October 18, 2017 on the Court’s Decision⁶ promulgated on October 5, 2017.

It was further postulated that there was no utter disregard of the rules of procedure and he was even surprised that the Court did not receive his earlier motion for reconsideration as the same had been filed via registered mail together with the other pleadings of his co-accused. His failure to attach the original registry receipt should not be viewed as disregard of the rules but may be considered as substantial compliance with the requirements laid down by law.

By way of opposition, the prosecution asseverated that upon its verification with the court records and as confirmed by the Clerk of Court, the Court never received a copy of Hapitan’s disputed Motion for Reconsideration⁷ dated October 18, 2017. The prosecution pointed out that the instant motion should be denied for the belated filing of the motion to reduce the penalty of Hapitan.

THE COURT’S RULING

After a second hard look on the arguments raised by the parties, the Court is swayed to reconsider.

¹ Records, Volume (Vol.) 14, pp. 109-127.

² Ibid., pp. 136-137.

³ Ibid., pp. 63-72.

⁴ Ibid., pp. 22-41.

⁵ Annex “1” to “1-L” of Rolando Hapitan’s Manifestation dated April 12, 2018, Records, Vol. 14, pp. 29-41.

⁶ Records, Vol. 12, pp. 166-407.

⁷ Supra note 5.

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In the main, Hapitan insisted that he filed a Motion for Reconsideration⁸ dated October 18, 2017 before this Court via registered mail. To show that he is in good faith, he immediately filed a Manifestation⁹ dated April 12, 2018 with the attached copy of the aforesaid motion upon discovery that the Court did not receive a copy of the same. More so, he appended in the instant motion a copy of the Motion for Reconsideration¹⁰ dated October 18, 2017 with the original of Registry Receipt No. 776 053 387 ZZ.

In the interest of substantial justice, the Court finds these circumstances sufficient to support the accused-movant's cause.

Apropos is the ruling in the case of Peñoso, et al. v. Dona,¹¹ thus:

“Rules of procedure being designed to facilitate the attainment of justice, their rigid application resulting in technicalities that tend to delay or frustrate rather than promote substantial justice, must always be avoided.¹²

In Philippine Amusement and Gaming Corporation v. Angara,¹³ this Court held:

While it is true that rules of procedure are intended to promote rather than frustrate the ends of justice, and the swift unclogging of court dockets is a laudable objective, it nevertheless must not be met at the expense of substantial justice. Time and again, this Court has reiterated the doctrine that the rules of procedure are mere tools intended to facilitate the attainment of justice, rather than frustrate it. A strict and rigid application of the rules must always be eschewed when it would subvert the primary objective of the rules, that is, to enhance fair trials and expedite justice. **Technicalities should never be used to defeat the substantive rights of the other party. Every party-litigant must be afforded the amplest opportunity for the proper and just determination of his cause, free from the constraints of technicalities.** Thus, the CA should have refrained from hastily dismissing the petition on procedural flaws. (Emphasis supplied.)

With the afore-quoted jurisprudential authority as the basis, the rigid application of the rules must be relaxed so as not to defeat the attainment of

⁸ Supra note 5.

⁹ Supra note 4.

¹⁰ Annex “1” of Rolando Hapitan’s Motion for Reconsideration dated July 30, 2018, Records, Vol. 14, pp. 116-128.

¹¹ G.R. No. 154018, April 3, 2007.

¹² Ibid., citing Public Estates Authority v. Caoibes, Jr., 371 Phil. 688, 692 (1999).

¹³ Ibid., G.R. No. 142937, November 15, 2005, 475 SCRA 41.

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justice. What is involved in the present case is the life and liberty of Rolando Hapitan which warrant the liberal application of the rules. The Court cannot turn a blind eye on his plight; besides, there was substantial compliance with the requirements of the rules upon filing the instant motion together with the original of Registry Receipt No. 776 053 387 ZZ. It is settled that subsequent and substantial compliance may call for the relaxation of the rules of procedure.¹⁴ Because there was substantial and subsequent compliance in this case, we resolve to apply the liberal construction of the rules if only to secure the greater interest of justice.¹⁵

We shall now address the Motion for Reconsideration¹⁶ dated October 18, 2017.

In the said motion, Hapitan moved to reconsider the Decision¹⁷ dated October 5, 2017 and to lessen the penalty imposed upon him, to wit:

“In Criminal Case No. 27080, xxx xxx

Accused **ROLANDO P. HAPITAN** is likewise **GUILTY** beyond reasonable doubt of the crime of malversation of public funds defined and penalized under Article 217 of the Revised Penal Code and appreciating in his favor the mitigating circumstance of voluntary restitution of the amount malversed, analogous to voluntary surrender, he is hereby sentenced to an indeterminate penalty ranging from ten (10) years and one (1) day of *prision mayor*, as the minimum penalty, to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal, as the maximum penalty; to pay the fine of Php15,277.25 with subsidiary imprisonment in case of insolvency; and to suffer the penalty of perpetual special disqualification.

Moreover, he is ordered to reimburse the Municipality of Bagumbayan, Sultan Kudarat the amount of Php15,277.25, with legal interest from the finality of this decision until the same is fully paid, as civil liability.”

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In Criminal Case No. 27082, accused **VICENTE C. CARLET** and **ROLANDO P. HAPITAN** are found **GUILTY** beyond reasonable doubt of violation of Section 89 in relation to Section 128 of Presidential Decree No. 1445 and each one (1) of them is hereby sentenced to pay the fine of One Thousand Pesos (Php1,000.00).

¹⁴ Santos v. Litton Mills Incorporated, et al., G.R. No. 170646, June 22, 2011.

¹⁵ Ibid.

¹⁶ Supra note 10.

¹⁷ Supra note 6.

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SO ORDERED.”

The theory of the defense is that the amount of Php15,277.25 received by Hapitan from the Municipality of Bagumbayan by way of cash advance was not taken fraudulently either by himself or in connivance with any accountable officer. In fact, the said cash advance covered by Disbursement Voucher No. 1422 was properly signed by the mayor and by the acting municipal accountant and was released by the Office of the Mayor of Bagumbayan. It was averred that the said amount was not accompanied by any illegal or criminal intent as the same was used for the operation of Hapitan's wife. Likewise, the said amount was already paid and liquidated.

Hapitan's stance harps on a wrong premise.

In the crime of malversation, all that is necessary for conviction is proof that the accountable officer had received public funds and that he did not have them in his possession when demand therefor was made.¹⁸ The fact that petitioner did not personally use the missing funds is not a valid defense and will not exculpate him from his criminal liability.¹⁹ The liquidation of the cash advance does not erase the culpability of the accused; even so, the admission of Hapitan that the amount was used for his wife's operation bolsters the fact that he is criminally liable. Public funds should only be utilized for a public purpose. At any rate, the accountability of Rolando Hapitan was already explained in the disputed decision. Perforce, We need not reiterate the same.

Anent the penalties imposed, Republic Act No. 10951²⁰ is applicable in the instant case, viz:

“Section 40. Article 217 of the same Act, as amended by Republic Act No. 1060, is hereby further amended to read as follows:

*‘Art. 217. Malversation of public funds or property.—
Presumption of malversation.— Any public officer who,
by reason of the duties of his office, is accountable for
public funds or property, shall appropriate the same, or
shall take or misappropriate or shall consent, through*

¹⁸ Ilogon v. Sandiganbayan, et al., G.R. No. 102356, February 9, 1993.

¹⁹ Ibid.

²⁰ Otherwise known as “An Act Adjusting the Amount or The Value of Property and Damage on Which a Penalty is Based, and the Fines Imposed under The Revised Penal Code, amending for the Purpose Act No. 3815, Otherwise Known As ‘The Revised Penal Code,’ As Amended”

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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:

“1. The penalty of *prisión correccional* in its medium and maximum periods, if the amount involved in the misappropriation or malversation **does not exceed Forty thousand pesos (₱40,000)**.

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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 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 uses.” (Emphasis supplied.)

Consequently, the penalty as regards the crime of malversation must be duly modified in accordance with the foregoing provisions of the law.

IN VIEW WHEREOF, the Court hereby resolves as follows:

1. The *Motion for Reconsideration* dated July 30, 2018 filed by accused Rolando Hapitan is **GRANTED**. Accordingly, the *Motion for Reconsideration* dated October 18, 2017 is **ADMITTED**;

2. The *Motion for Reconsideration* dated October 18, 2017 filed by Rolando Hapitan is **DENIED**. The assailed portions of the Decision dated October 5, 2017 hereby **STAND** with the following modifications as regards accused Rolando Hapitan:

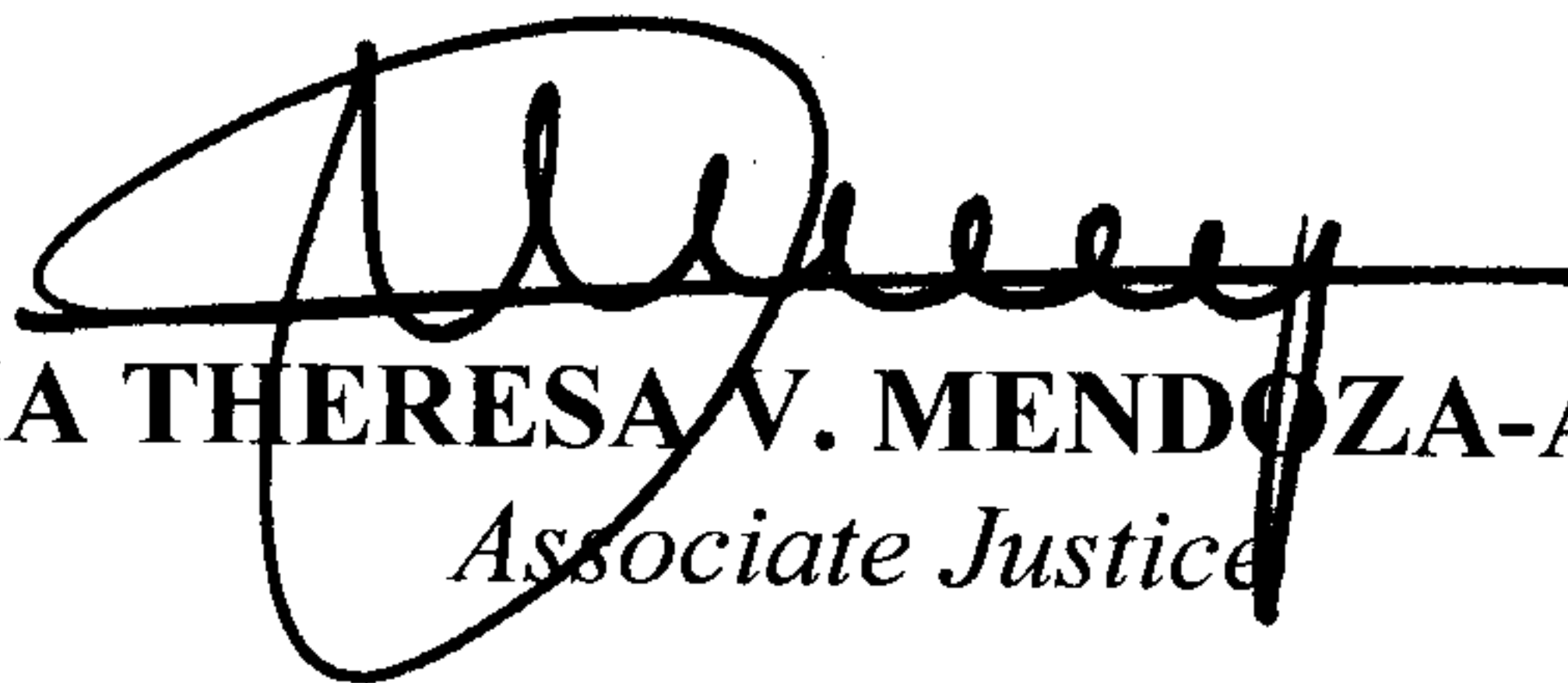
“In Criminal Case No. 27080, accused **ROLANDO P. HAPITAN** is found **GUILTY** beyond reasonable doubt of the crime of malversation of public funds defined and penalized under Article 217 of the Revised Penal Code and appreciating in his favor the mitigating circumstance of voluntary restitution of the amount malversed, analogous to voluntary surrender, he is hereby sentenced to an indeterminate penalty ranging from **four (4) months and one (1) day of arresto**

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mayor, as the minimum penalty, to two (2) years and four (4) months of prision correccional, as the maximum penalty; to pay the fine of Php15,277.25 with subsidiary imprisonment in case of insolvency; and to suffer the penalty of perpetual special disqualification.


Moreover, he is ordered to reimburse the Municipality of Bagumbayan, Sultan Kudarat the amount of Php15,277.25, with legal interest from the finality of this decision until the same is fully paid, as civil liability.”

SO ORDERED.



MARIA THERESA V. MENDOZA-ARCEGA
Associate Justice

WE CONCUR:



RAFAEL R. LAGOS
Associate Justice
Chairperson



MARYANNE E. CORPUS-MAÑALAC
Associate Justice