



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-17-CRM-1764
For: Violation of Section 3(e)
of Republic Act No. 3019

- versus -

ENRICO R. ECHIVERRI, ET AL.,
Accused.

X-----X

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-17-CRM-1765
For: Falsification of Public Document

- versus -

EDNA V. CENTENO, ET AL.,
Accused.

Present
FERNANDEZ, SJ, J.,
Chairperson
MIRANDA, J. and
VIVERO, J.

X-----X

Promulgated:

July 17, 2019 *[Signature]*

X-----X

RESOLUTION

FERNANDEZ, SJ, J.

Accused Enrico R. Echiverri, Edna V. Centeno and Jesusa C. Garcia, then Mayor, Accountant, and Budget Officer, respectively, of the City of Caloocan, are charged with violation of Sec. 3(e) of Republic Act No. 3019 (R.A. No. 3019) for allegedly committing the following acts: (a) accused Centeno and Garcia made the pertinent certifications in the Allotment and Obligation Slip (ALOBS); (b) accused Echiverri awarded the contract to, and entered into a contract with, C.B. Tampengco Construction and Supply (CBTCS); and (c) accused

[Handwritten signature]

RESOLUTION

People vs. Echiverri, et al.
SB-17-CRM-1764 and 1765

Page 2 of 33

x -----x

Echiverri and Centeno caused the payment of the amount of ₱4,901,746.34 to CBTCS; notwithstanding the lack of a specific or itemized appropriation for the subject project, or the lack of prior approval or authorization from the Sangguniang Panlungsod of Caloocan.

Accused Centeno and Garcia are further charged with Falsification of Public Document under Art. 171, par. 4 of the Revised Penal Code (RPC) for allegedly making their respective certifications in the ALOBS when they knew that there was neither a specific itemized appropriation for the subject project, nor prior approval or authorization from the Sangguniang Panlungsod of Caloocan.

The accusatory portion of the Informations¹ read:

SB-17-CRM-1764²
(Violation of Sec. 3[e] of R.A. No. 3019)

That from October 2011 up to July 2, 2012, or sometime prior or subsequent thereto, in the City of Caloocan, Philippines, and within this Honorable Court's jurisdiction, ENRICO REANTILLO ECHIVERRI, EDNA V. CENTENO, and JESUSA C. GARCIA, all public officers, being then the City Mayor, Accountant and Budget Officer, respectively, of the City Government of Caloocan, while in the performance of their administrative or official functions and taking advantage of their official positions, conspiring with one another, acting with evident bad faith, manifest partiality and/or gross inexcusable negligence, did then and there willfully, unlawfully and criminally cause undue injury to the government and give unwarranted benefits and advantage to C.B. Tampengco Construction and Supply (CBTCS), represented by its General Manager Carmencita B. Tampengco, in the amount of at least FOUR MILION [sic] NINE HUNDRED ONE THOUSAND SEVEN HUNDRED FORTY SIX 34/100 PESOS (Php4,901,746.34), more or less, by the following acts, viz: Garcia and Centeno's respective certifications in ALOBS No. 100-11-10-5649 dated October 20, 2011 as to the existence of appropriation and as to the obligation of allotment in the amount of Php5,430,200.00 for the Proposed Multi-Purpose Hall at Urduja, Barangay 172, Caloocan City; Echiverri's awarding of the contract to, and entering into a contract with CBTCS for said project; Centeno's certification in DV No. 100-12-01-0149 dated January 20, 2012, DV No. 100-12-03-1234 dated March 19, 2012, and DV No. 100-12-06-4200 dated June 25, 2012, as to the

¹ The Amended Information in SB-17-CRM-1764 was admitted in the Resolution dated March 1, 2018 (Record, Vol. 1, p. 317)

² Record, Vol. 1, pp. 306-308

RESOLUTION

People vs. Echiverri, et al.
SB-17-CRM-1764 and 1765

Page 3 of 33

X-----X

completeness and propriety of supporting documents for the payment to CBTCS of Php2,159,301.15, Php1,063,344.56 and Php1,679,100.63, respectively, and Echiverri's approval of said DVs for payment, all of said acts caused the payment and disbursement of the total amount of Php4,901,746.34 to CBTCS through **Veterans Bank** Check Nos. 162074 dated January 27, 2012, 165633 dated March 28, 2012 and 166708 dated July 2, 2012, when there was neither a specific or itemized appropriation ordinance passed by the Sangguniang Panlungsod of Caloocan for said project nor a prior approval or authorization by the said Sanggunian for Echiverri to enter into a contract with CBTCS, to the damage and prejudice of the government.

CONTRARY TO LAW.

SB-17-CRM-1765
(Falsification under Art. 171, par. 4 of the RPC)

That on October 20, 2011, or sometime prior or subsequent thereto, in the City of Caloocan, Philippines, and within this Honorable Court's jurisdiction, City Accountant **EDNA V. CENTENO** and City Budget Officer **JESUSA C. GARCIA**, both high-ranking public officers of the local government of Caloocan City, committing the offense in relation to office and while in the performance of their administrative and/or official functions, and taking advantage of their positions, conspiring with each other, did then and there willfully, unlawfully and feloniously make false statements in a narration of facts, the truth of which they are legally bound to disclose, by respectively certifying in the Allotment and Obligation Slip (ALOBS) No. 100-11-10-5649 dated October 20, 2011 as to the existence of appropriation and the obligation of allotment in the amount of **FIVE MILLION FOUR HUNDRED THIRTY THOUSAND TWO HUNDRED PESOS** (Php5,430,200.00), more or less, for the project Proposed Multi-Purpose Hall at Urduja, Barangay 172, Caloocan City when, in truth and in fact, there was neither a specific or itemized appropriation for said project in said amount nor a prior approval or authorization from the Sangguniang Panlungsod, to the damage and prejudice of the government.

CONTRARY TO LAW.

During the arraignment on April 30, 2018,³ the accused refused to enter their respective pleas, and the Court entered a plea of Not Guilty for each of them.

³ Record, Vol. 1, pp. 334 to 336-A

RESOLUTION

People vs. Echiverri, et al.
SB-17-CRM-1764 and 1765

Page 4 of 33

X-----X

During the pre-trial,⁴ the parties stipulated on the following:⁵

1. That at the time material to the allegations in the Informations, the following accused are public officers in Caloocan City, as follows:

Enrico R. Echiverri	-	Mayor of Caloocan City;
Edna V. Centeno	-	Caloocan City Accountant;
Jesusa C. Garcia	-	Caloocan City Budget Officer

2. That the Honorable Court has jurisdiction to try and decide the instant cases and over the persons of the accused;
3. The identity of the accused as the persons charged in the Informations;
4. On December 15, 2010, accused Echiverri, being then the Caloocan City Mayor, approved Sangguniang Panlungsod (SP) of Caloocan Ordinance No. 0468 s. 2010 approving the Annual Budget of Caloocan City for the fiscal year 2011 in the amount of PhP3,300,000,000.00;
5. That on August 9, 2011, the SP passed Ordinance No. 0474 s. 2011 enacting Supplemental Budget No. 1 of the City of Caloocan for the Fiscal Year 2011 in the amount of PhP53,112,030.00 to be funded from the increase in internal revenue allotment (IRA) share from January to June 2011, for the purpose of providing appropriations for various expenditures;
6. That on December 26, 2011, the Caloocan City Government, represented by accused Echiverri, and C.B. Tampengco Construction and Supply entered into a contract for the proposed multi-purpose hall of Urduja, Barangay 172, Caloocan City;
7. That Garcia and Centeno signed the Allotment and Obligation Slip No. 100-11-10-5649 dated October 20, 2011;
8. The parties admit the existence, authenticity and due execution of their common exhibits listed hereunder

x x x

The parties agreed that the issues to be resolved are as follows:⁶

⁴ Pre-Trial Order dated August 22, 2018; Record, Vol. 2, pp. 300-313

⁵ Pre-Trial Order dated August, 22, 2018, pp. 1-2; Record, Vol. 2, pp. 300-301

⁶ Record, Vol. 2, p. 303-304

RESOLUTION

People vs. Echiverri, et al.
SB-17-CRM-1764 and 1765

Page 5 of 33

x-----x

Criminal Case No. SB-17-CRM-1764

1. Whether the factual averments in the Information constitute the offense of Violation of Section 3(e) of R.A. 3019; and,
2. Whether the accused violated the provisions of Section 3(e) of R.A. 3019;

Criminal Case No. SB-17-CRM-1765

1. Whether the factual averments in the Information constitute the crime of falsification of public document penalized under Article 171 (4) of the Revised Penal Code; and,
2. Whether accused Centeno and Garcia are guilty of falsification of public document penalized under Article 171 (4) of the Revised Penal Code.

Trial ensued and the prosecution presented as its witnesses, **Noemi J. Garcia**,⁷ **Lorenzo O. Sunga, Jr.**,⁸ **Mary Ann DG. Caro**,⁹ **Edwin A. Gonzales**,¹⁰ and **Nomer Q. Marmolejo**.¹¹

In her *Judicial Affidavit* dated July 10, 2018, **Noemi J. Garcia** identified the Annual Budget for CY 2011 of Caloocan City (Exhibit A). The parties then stipulated on the following:¹²

- (1) That she (witness Garcia) is a Budget Officer IV at the City Budget Department of Caloocan City;
- (2) That she issued a certified true copy of the Annual Budget of Caloocan City for Calendar Year 2011;
- (3) That she can identify her signatures appearing on each of the pages of the certified true copy of the Annual Budget of Caloocan City for Calendar Year 2011;
- (4) That she can identify her judicial affidavit attached to the records of the case together with the attachments thereto and her signature in the said judicial affidavit;
- (5) That she can identify pertinent documents, such as the above-mentioned documents; and

⁷ TSN, August 22, 2018; *Judicial Affidavit* dated July 10, 2018 (Record, Vol. 1, pp. 396-400)

⁸ TSN, August 23, 2018; *Judicial Affidavit* dated August 17, 2018 (Record, Vol. 2, pp. 204-229)

⁹ TSN, September 4, 2018; *Judicial Affidavit* dated August 22, 2018 (Record, Vol. 2, pp. 236-241)

¹⁰ TSN, September 10, 2018; *Judicial Affidavit* dated August 31, 2018 (Record, Vol. 2, pp. 242-297)

¹¹ TSN, October 8, 2018; *Judicial Affidavit* dated September 14, 2018 (Record, Vol. 2, pp. 327-334)

¹² Order dated August 22, 2018; Record, Vol. 2, pp. 233-A and 233-B

RESOLUTION

People vs. Echiverri, et al.
SB-17-CRM-1764 and 1765

Page 6 of 33

X -----X

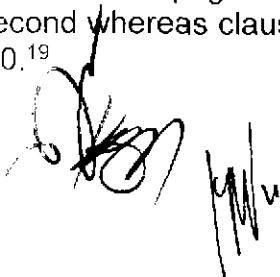
- (6) That she can testify on other matters relevant to the purpose of her testimony and the allegations in the information.

In his Judicial Affidavit dated August 17, 2018, **Lorenzo O. Sunga, Jr.**, Secretary of the Sangguniang Panlungsod of Caloocan City, identified certain documents¹³ and declared:

1. He has been the Secretary of the Sangguniang Panlungsod since 1999.
2. The list of specific projects should be submitted to the Sangguniang Panlungsod before the deliberations on the proposed ordinance because said list would serve as the basis for the enactment or approval of the appropriation ordinance.¹⁴
3. No list of projects was submitted to the Sangguniang Panlungsod in connection with Ordinance No. 0468 s. 2010.¹⁵
4. There is no Ordinance specifically authorizing the implementation of the construction of the Multi-purpose Hall at Urduja, Barangay 172, Caloocan City project.¹⁶
5. Based on the records, there is no Sanggunian Resolution authorizing City Mayor Echiverri to enter into a contract with C.B. Tampengco Construction and Supply for said project.¹⁷

He further testified:

1. When he declared in his Judicial Affidavit that no list of projects was submitted in connection with Ordinance No. 0468 s. 2010, he was referring to a list separate from the Annual Executive Budget.¹⁸
2. They do not have a copy of the 292-page Annual Executive Budget mentioned in the second whereas clause and Sec. 2 of Ordinance No. 0468 s. 2010.¹⁹



¹³ Exhibits B, C, R and X

¹⁴ *Judicial Affidavit* dated August 17, 2018, p. 4 (Record, Vol. 2, p. 207)

¹⁵ *Judicial Affidavit* dated August 17, 2018, p. 4 (Record, Vol. 2, p. 207)

¹⁶ *Judicial Affidavit* dated August 17, 2018, pp. 4-5 (Record, Vol. 2, pp. 207-208)

¹⁷ *Judicial Affidavit* dated August 17, 2018, p. 5 (Record, Vol. 2, p. 208)

¹⁸ TSN, August 23, 2018, pp. 21-22

¹⁹ TSN, August 23, 2018, p. 22

RESOLUTION

People vs. Echiverri, et al.
SB-17-CRM-1764 and 1765

Page 7 of 33

X -----X

3. The Budget Office has a copy of the Annual Executive Budget. The Budget Office did not furnish his office a copy of said document.²⁰
4. Aside from verbally requesting the Committee on Finance and Appropriation to furnish him a copy of the Annual Executive Budget, he did not exert any effort to secure a copy of the same.²¹
5. After the enactment of an ordinance, his duty is to provide copies of the same to the Office of the Mayor and the Budget Office for the preparation of the year-end budget for submission to the Department of Budget and Management.²²

In her *Judicial Affidavit* dated July 10, 2018, **Mary Ann DG. Caro**, State Auditor IV, identified the Individual Program of Work for the construction of the Multi-purpose Hall at Urduja, Barangay 172, Caloocan City.²³

In his *Judicial Affidavit* dated August 31, 2018, **Edwin A. Gonzales**, Service Head of Veterans Bank, Gagalangin Branch, identified certain documents.²⁴

In his *Judicial Affidavit* dated September 14, 2018, **Nomer Q. Marmolejo**, Budget Officer of Caloocan City, identified the Caloocan City Annual Investment Plans for 2009 (Exhibit W), 2010 (Exhibit X), and 2011 (Exhibit Y), and declared:

1. As part of his functions as City Budget Officer, he signs documents related to the city's programs, projects and activities (PPAs).²⁵
2. Among such documents are the Obligation Requests, which are equivalent to what were then referred to as Allotment and Obligation Slips (ALOBS), and disbursement vouchers.²⁶
3. The Budget Officer signs the ALOBS to certify as to the existence of an appropriation, as required under P.D. No. 1445.²⁷

²⁰ TSN, August 23, 2018, pp. 22-23

²¹ TSN, August 23, 2018, pp. 25-26

²² TSN, August 23, 2018, pp. 26-27

²³ Not included in the prosecution's Formal Offer of Evidence

²⁴ Exhibits J-1, L-1, N-1

²⁵ *Judicial Affidavit* dated September 14, 2018, p. 3 (Record, Vol. 2, p. 329)

²⁶ *Judicial Affidavit* dated September 14, 2018, p. 3 (Record, Vol. 2, p. 329)

²⁷ *Judicial Affidavit* dated September 14, 2018, p. 3 (Record, Vol. 2, p. 329)

RESOLUTION

People vs. Echiverri, et al.
SB-17-CRM-1764 and 1765

Page 8 of 33

X-----X

4. Before certifying as to the existence of an appropriation, he checks if a particular project has a specific appropriation in the appropriation ordinance for the relevant year, and if it is included in the Annual Investment Plan (AIP).²⁸
5. An appropriation is specific if the PPAs are itemized and particularized as to their titles, addresses or location, estimated amounts and sources of funding.²⁹
6. If the PPA is not included in the AIP, then it is also not included in the appropriation ordinance. In such case, the appropriation should not be certified because no money shall be paid out of government funds except in pursuance of an appropriation ordinance or law.³⁰
7. The appropriation ordinance is based on the executive budget submitted by the City Mayor. Said executive budget, in turn, is based on the budget proposal, which allocates funds for each and every PPA as described in the AIP.³¹
8. The project for the construction of the Multi-Purpose Hall at Urduja, Barangay 172, Caloocan City is not included in Caloocan City's Annual Budget and AIP for 2011.³²
9. If a project is not in the appropriation ordinance or the AIP, it cannot be implemented. Furthermore, one cannot certify as to the existence of an appropriation.³³
10. Based on their records, it appears that the City Engineering Office did not submit a list of PPAs to the City Budget Office.³⁴

The parties stipulated³⁵ that:

- 1) He (witness Marmolejo) is the Budget Officer of the City Government of Caloocan;
- 2) He can testify on other matters relevant and material to the functions of his office and to the documents relevant to these cases;

²⁸ *Judicial Affidavit* dated September 14, 2018, p. 3 (Record, Vol. 2, p. 329)

²⁹ *Judicial Affidavit* dated September 14, 2018, p. 3 (Record, Vol. 2, p. 329)

³⁰ *Judicial Affidavit* dated September 14, 2018, p. 3 (Record, Vol. 2, p. 329)

³¹ *Judicial Affidavit* dated September 14, 2018, p. 4 (Record, Vol. 2, p. 330)

³² *Judicial Affidavit* dated September 14, 2018, pp. 5-6 (Record, Vol. 2, pp. 331-332)

³³ *Judicial Affidavit* dated September 14, 2018, p. 6 (Record, Vol. 2, p. 332)

³⁴ *Judicial Affidavit* dated September 14, 2018, p. 6 (Record, Vol. 2, p. 332)

³⁵ Order dated October 8, 2018; Record, Vol. 3, pp. 145-A and 145-B

RESOLUTION

People vs. Echiverri, et al.
SB-17-CRM-1764 and 1765

Page 9 of 33

X-----X

- 3) He can identify documents relevant to these cases;
- 4) He can identify his judicial affidavit and the documents attached thereto, as well as his signature appearing therein; and
- 5) He can identify the documents attached to his judicial affidavit.

Witness Marmolejo further testified:

1. At the time of the subject transaction, he was not yet the Budget Officer of Caloocan City. The position was held by Jesusa Garcia.³⁶
2. He had no participation in the implementation of the project named Construction of Multi-Purpose Hall at Urduja, Barangay 172, Caloocan City.³⁷
3. He was not aware of the Priority Projects for 2011, which was attached to the Annual Investment Plan for the same year, because he did not prepare it.³⁸ He secured a copy of the Annual Investment Plan with the attachment from the City Planning Officer, who certified the same.³⁹
4. The Annual Investment Plan ends at the page wherein the City Planning Officer, the City Budget Department Head and the City Mayor affix their signatures.⁴⁰

The following exhibits offered by the prosecution were admitted⁴¹ in evidence:

Exhibit	Document
A	Caloocan City Annual Budget for CY 2011
B	Ordinance No. 0468 s. 2010
C	Ordinance No. 0474 s. 2011
D	Allotment and Obligation Slip No. 100-11-10-5649
E	Bids and Awards Committee Resolution No. 204
F	Notice of Award dated December 16, 2011
G	Contract between Caloocan City and C.B. Tampengco Construction and Supply
H	Notice to Proceed dated December 28, 2011
I	Disbursement Voucher No. 100-12-01-0149
J-1	Veterans Bank Statement of Account

³⁶ TSN, October 8, 2018, p. 12

³⁷ TSN, October 8, 2018, p. 13

³⁸ TSN, October 8, 2018, p. 27-28

³⁹ TSN, October 8, 2018, p. 28

⁴⁰ TSN, October 8, 2018, p. 44

⁴¹ Resolution dated November 8, 2018; Record, Vol. 4, pp. 346-347

RESOLUTION

People vs. Echiverri, et al.
SB-17-CRM-1764 and 1765

Page 10 of 33

X-----X

K	Disbursement Voucher No. 100-12-03-1234
L-1	Veterans Bank Statement of Account
M	Disbursement Voucher No. 100-12-06-4200
N-1	Veterans Bank Statement of Account
O	Audit Observation Memorandum No. 2012-014
P	Notice of Disallowance No. 13-002-100-(11 to 13) 20%DF2011
Q	Commission on Audit NCR-LGS Decision No. 2015-002
R	Resolution No. 1985 s. 2012
W	Caloocan City Annual Investment Plan for 2009
X	Caloocan City Annual Investment Plan for 2010
Y	Caloocan City Annual Investment Plan for 2011
AA	Katitikan ng Natatanging Pulong Blg. 12 ng Sangguniang Panlungsod na Ginanap Noong Ika-14 ng Mayo, 2012 sa Gusali ng Pamahalaang Lungsod ng Caloocan

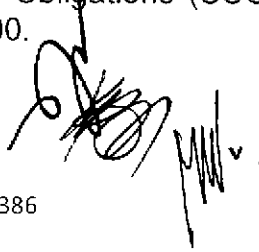
This Court granted the accused' *Motion for Leave to File Demurrer to Evidence*.⁴²

In their *Demurrer to Evidence*,⁴³ the accused prayed for the grant of their demurrer to evidence for lack of evidence to sustain their conviction. They argued:

1. The prosecution has the burden of proving their guilt because they, as accused, are presumed innocent until the contrary is proved. If the prosecution fails to discharge such burden, they should be acquitted.
2. The prosecution's evidence shows that there was an appropriation and prior approval for the subject project from the Sangguniang Panlungsod.
 - a. The Sanggunian, through Ordinance No. 0468 s. 2010, approved the annual budget for Fiscal Year 2011 in the amount of ₱3.3 billion to finance specific programs, projects, services and activities of the City of Caloocan.
 - i. The detailed Annual Executive Budget forms part of said ordinance.
 - ii. Attached to said ordinance is a list of items, including Item No. 39, which refers to the appropriation for Statutory and Contractual Obligations (SCO) in the amount of ₱760,597,778.00.

⁴² Resolution dated December 14, 2018; Record, Vol. 4, p. 386

⁴³ Dated January 15, 2019; Record, Vol. 4, pp. 392-439



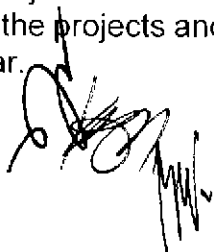
RESOLUTION

People vs. Echiverri, et al.
SB-17-CRM-1764 and 1765

Page 11 of 33

x-----x

- b. Ordinance No. 0474 s. 2011 approved Supplemental Budget No. 1 of the City of Caloocan for FY 2011 in the amount of ₱53,112,030.00, funded from the increase in Internal Revenue Allotment (IRA) share from January to June 2011.
 - i. The 4th whereas clause states that the amount is to be used solely for the payment of statutory and contractual obligations in accordance with the Statement of the Supplemental Appropriations prepared by accused Garcia, and submitted by accused Echiverri.
 - ii. Witness Sunga confirmed that the subject project falls under the Object of Expenditure of said ordinance.
- c. The Sangguniang Panlungsod, through Resolution No. 1985 s. 2012, ratified and confirmed all contracts entered into by Caloocan City for the implementation of projects sourced from the lump sum appropriations in Ordinances No. 0468 s. 2010 and 0474 s. 2011.
 - i. The 4th whereas clause of said resolution states that the details of the projects sourced from the lump sum appropriations were evaluated by the Sangguniang Panlungsod during the budget deliberations prior to their approval.
 - ii. The prosecution failed to present proof contrary to the statement in said whereas clause.
 - iii. The 3rd whereas clause specifically includes, among others, the construction/improvement of school buildings, multi-purpose halls, health centers and other facilities.
3. The rest of the prosecution's witnesses did not have personal knowledge of the subject transaction.
4. It is presumed that the Annual Executive Budget for 2011 was prepared in accordance with the procedure laid down in the Local Government Code (LGC). The prosecution did not present proof refuting such presumption.
5. Nothing in the LGC requires the budget document to contain a "specified" or "itemized" list of projects. Par. 2 of Sec. 314(b) only requires a brief summary of the projects and activities to be accomplished for the current year.



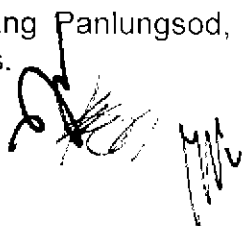
RESOLUTION

People vs. Echiverri, et al.
SB-17-CRM-1764 and 1765

Page 12 of 33

X-----X

6. The prosecution's evidence shows that the required procedure for government procurement had been complied with. Before accused Echiverri awarded the subject contract to C.B. Tampengco Construction and Supply, a public bidding was conducted. The Bids and Awards Committee (BAC) then recommended that the subject contract be awarded to C.B. Tampengco Construction and Supply, the lowest bidder.
7. There was no undue injury.
 - a. The prosecution did not present any evidence to prove the existence of any undue injury or actual damage to the Government.
 - b. That the subject project was implemented is undisputed.
 - c. In *Llorente v. Sandiganbayan*, it was held that the element of undue injury requires proof of actual injury or damage. It must be specified, quantified and proven to the point of moral certainty.
 - d. The Sangguniang Panlungsod, through Resolution No. 1985 s. 2012, confirmed and ratified all contracts executed to implement projects sourced from the appropriations in the Annual and Supplemental Budgets.
8. There was no manifest partiality.
 - a. The subject contract was awarded in accordance with R.A. No. 9184.
 - b. C.B. Tampengco Construction and Supply offered the lowest bid. The BAC recommended that the subject contract be awarded to said bidder because it was the most advantageous to the government.
 - c. The prosecution did not present evidence to show that the award of the contract was unjustified.
9. There was no evident bad faith.
 - a. The prosecution failed to present evidence showing that they acted with evident bad faith.
 - b. Accused Echiverri issued the Notice of Award and the Notice to Proceed to C.B. Tampengco Construction and Supply pursuant to the authority given by the Sangguniang Panlungsod, through its ordinances and resolutions.



RESOLUTION

People vs. Echiverri, et al.
SB-17-CRM-1764 and 1765

Page 13 of 33

X-----X.

- c. Similarly, accused Centeno and Garcia made their respective certifications in the subject ALOBS to carry out the intention of the Sanggunian to implement the projects covered by the Annual and Supplemental Budgets.
 - d. No evidence was presented to establish any palpable or fraudulent purpose on their part.
 - e. Public funds were spent for the specific purpose for which they were intended, and redounded to the public benefit.
 - f. The subject project was not only authorized by the Sangguniang Panlungsod. It was also subsequently ratified, confirmed and affirmed in Resolution No. 1985 s. 2012.
10. There was no gross inexcusable negligence.
- a. The prosecution did not present evidence showing that they were grossly negligent in their duties.
 - b. Ordinances were enacted to earmark the funds for the subject project. Furthermore, the Sangguniang Panlungsod, through said ordinances, authorized the contract with C.B. Tampengco; and confirmed and ratified the same in a subsequent resolution.
 - c. The disbursements were covered by official documents, and were done in accordance with procurement laws.
 - d. They did not deviate from what the law required them to do.
11. No unwarranted benefits, advantage or preference were given.
- a. The fact that the subject contract was subjected to public bidding, had complied with the pertinent procurement laws, was awarded to the bidder determined by the BAC as to have offered the bid most advantageous to the government, all negate the existence of this element.
 - b. There was no allegation of any defect in the implementation of the subject project. Neither did the prosecution dispute the fact that said project was completed.
 - c. Accused Echiverri could not have given unwarranted benefits, advantage or privilege by merely approving the BAC's recommendation.



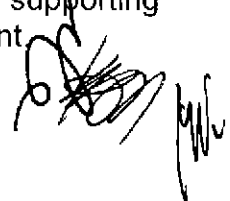
RESOLUTION

People vs. Echiverri, et al.
SB-17-CRM-1764 and 1765

Page 14 of 33

x-----x

12. Accused Centeno and Garcia did not commit Falsification.
 - a. The third element of the crime, *i.e.*, that the narration be absolutely false, is sorely lacking.
 - b. The Sangguniang Panlungsod did not disown the disbursement.
 - c. Sec. 346 of R.A. No. 7160 does not require prior approval of the Sangguniang Panlungsod for the disbursement of local funds.
 - d. The disbursement for the subject project was made in accordance with the annual and supplemental appropriation ordinances enacted by the Sangguniang Panlungsod.
 - e. The obligation for the subject project was vetted by other local government officers before accused Centeno and Garcia signed the ALOBS and DV.
 - f. Accused Centeno and Garcia merely observed the standard procedure in making their respective certifications.
13. The prosecution failed to prove conspiracy.
 - a. Their respective acts of affixing their signatures on the pertinent documents is not, by itself, indicative of conspiracy.
 - b. They could not have conspired to commit the crimes charged because the prosecution had not established that they committed the same, in the first place.
14. The procurement for the subject contract was in accordance with the pertinent laws and regulations. The procedure for procurement is as follows:
 - a. The Office of the City Engineer prepares the ALOBS, and submits said ALOBS with attached supporting documents to the City Budget Officer.
 - b. The City Budget Officer verifies the existence of appropriation and the unexpended balance of which is sufficient to cover the cost of the proposed project. After certifying the existence of an appropriation, the City Budget Officer forwards the ALOBS and the supporting documents to the Office of the City Accountant.



RESOLUTION

People vs. Echiverri, et al.
SB-17-CRM-1764 and 1765

Page 15 of 33

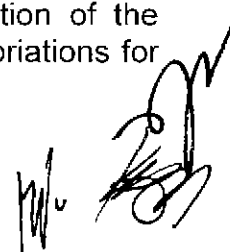
X-----X

- c. The Office of the City Accountant fills in the required accounting information and obligates the allotment. The City Accountant then certifies as to the obligation of allotment. Thereafter, the ALOBS is returned to the Office of the City Engineer.
 - d. The Office of the City Engineer forwards the accomplished ALOBS and supporting documents to the BAC.
 - e. The BAC initiates the procurement process.
15. The prosecution failed to overturn the presumption of regularity in the performance of official functions.

In its *Opposition (Re: Accused's Demurrer to Evidence)*,⁴⁴ the prosecution countered:

1. Sufficient evidence to prevent a demurrer to evidence is not proof beyond reasonable doubt, but only a *prima facie* case.
2. The prosecution presented sufficient and competent evidence to sustain the Information and to support a guilty verdict.
3. The parties stipulated that accused Echiverri, Centeno and Garcia were public officers at the time material to these cases.
4. The prosecution sufficiently proved the second element of violation of Sec. 3(e) of R.A. No. 3019.
 - a. The amount of ₱288,186,498.00 earmarked for the mandatory allotment for the Internal Revenue Allotment (IRA) for local development projects in Ordinance No. 0468 s. 2010 was a lump-sum appropriation. The subject project was not included or specified in said ordinance or in the Annual Executive Budget for 2011.
 - b. Similarly, Ordinance No. 0474 s. 2011 appropriated the amount of ₱53,112,030.00 of the local government's share in the increase in the City's IRA for the payment of statutory and contractual obligations. The subject project was not included or specified in said ordinance.
 - c. In Sangguniang Panlungsod Resolution No. 1985 s. 2012, it can be seen that the implementation of the projects was sourced from lump sum appropriations for

⁴⁴ Dated January 22, 2019; Record, Vol. 4, pp. 490-453



RESOLUTION

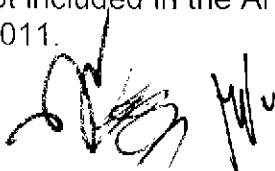
People vs. Echiverri, et al.
SB-17-CRM-1764 and 1765

Page 16 of 33

x-----x

the Special Activities Fund, Statutory and Contractual Obligations for 20% Development Projects, and Maintenance and Other Operating Expenses of the 2011 Annual Budget of Caloocan City. The projects are couched in generic terms.

- d. There being no specific prior authorization in Ordinance No. 0468 s. 2010, accused Echiverri may enter into a contract for the subject project only upon prior approval or authorization of the Sangguniang Panlungsod.
 - e. There was no Sangguniang Panlungsod Resolution authorizing accused Echiverri to enter into the subject contract with C.B. Tampengco Construction and Supply (CBTCS).
 - f. Resolution No. 1985 s. 2012 further supports the allegation of there being no prior authorization. There would be no need to ratify the subject contract if there was prior authorization given. Ratification is not the prior authorization contemplated in Sec. 22 of R.A. No. 7160.
 - g. Moreover, the fact that Resolution No. 1985 s. 2012 was issued only after the Commission on Audit (COA) issued an Audit Observation Memorandum indicates that it was merely an afterthought to evade the COA's adverse findings.
5. The accused gave CBTCS unwarranted benefits, advantage or privilege when they awarded the subject contract to CBTCS, and caused three (3) payments thereto.
 6. Their acts caused undue injury in the total amount paid to CBTCS.
 7. That a public bidding was conducted prior to the award of the subject contract is irrelevant to the issues in the present cases.
 8. There was conspiracy among the accused. Their acts, while separate and distinct from each other, were indispensable to the attainment of a common purpose.
 9. Accused Centeno and Garcia should not have made their respective certifications in the ALOBS, considering that there was no appropriation law or ordinance. Their act of certifying something that is non-existent indicates bad faith on their part.
 10. There was no specific appropriation for the subject project because it was not included in the Annual Investment Plans for 2009, 2010 and 2011.



RESOLUTION

People vs. Echiverri, et al.
SB-17-CRM-1764 and 1765

Page 17 of 33

x-----x

THE COURT'S RULING

After the prosecution rests its case, the Court may dismiss the action on the ground of insufficiency of evidence upon demurrer to evidence filed by the accused with or without leave of court.⁴⁵ In *People v. Go*,⁴⁶ the nature of a demurrer to evidence, and what is considered sufficient evidence for frustrating a demurrer, were explained as follows:

Demurrer to the 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 raised in a demurrer, is merely required to ascertain whether there is competent or sufficient evidence to sustain the indictment or to support a verdict of guilt. xxx Sufficient evidence for purposes of frustrating a demurrer thereto is such evidence in character, weight or amount as will legally justify the judicial or official action demanded according to the circumstances. To be considered sufficient therefore, the evidence must prove: (a) the commission of the crime, and (b) the precise degree of participation therein by the accused." Thus, when the accused files a demurrer, the court must evaluate whether the prosecution evidence is sufficient enough to warrant the conviction of the accused beyond reasonable doubt.

(underscoring supplied)

Thus, this Court will determine if the prosecution's evidence proved beyond reasonable doubt the commission of the crime charged, and the precise degree of the accused' participation therein.

FINDINGS OF FACT

From the prosecution's evidence and the stipulations of the parties, the following facts may be gleaned:

On November 30, 2010, the Sangguniang Panlungsod of Caloocan (Sanggunian) enacted Ordinance No. 0468 s. 2010,⁴⁷ enacting the Annual Budget of the Caloocan City Government for the Fiscal Year 2011, and appropriating the amount of ₱3.3 billion to

⁴⁵ *Rules of Court*. Rule 119, Sec. 23

⁴⁶ G.R. No. 191015, August 6, 2014

⁴⁷ Exhibit B; Approved by the City Mayor on December 15, 2010

RESOLUTION

People vs. Echiverri, et al.
SB-17-CRM-1764 and 1765

Page 18 of 33

x-----x

finance specific programs, projects, services and activities to promote the general welfare of Caloocan City and its inhabitants. Sec. 2 of the ordinance provides that the 292-page Annual Executive Budget⁴⁸ forms part thereof.

On August 9, 2011, the Sanggunian enacted Ordinance No. 0474 s. 2011,⁴⁹ enacting Supplemental Budget No. 1 of the City of Caloocan, and appropriating the amount of ₱53,112,030.00, funded from the increase in Internal Revenue Allotment (IRA) share from January to June 2011, for various expenditures. Sec. 1 of the ordinance reads:

SECTION 1. SUPPLEMENTAL APPROPRIATIONS – The amount of **FIFTY THREE MILLION ONE HUNDRED TWELVE THOUSAND AND THIRTY PESOS (Php 53,112,030.00)**, which represents the increase in Internal Revenue Allotment (IRA) share from January to June 2011, and duly certified as available for appropriations by City Treasurer Evelina Garma, is hereby appropriated as follows:

Office/Department	Object of Expenditures	Amount
	Loans Payable, Land Bank of the Philippines	Php 39,584,022.00
Statutory and Contractual Obligations	20% IRA for Development Projects	10,622,406.00
	5% Calamity Fund	2,655,602.00
	2011 Calamity Fund Deficit	250,000.00
TOTAL APPROPRIATIONS		Php 53,112,030.00

In October 2011, accused Jesusa C. Garcia, then OIC-Budget Officer, and accused Edna V. Centeno, then Chief Accountant, certified in Allotment and Obligation Slip (ALOBS) No. 100-11-10-5649 dated October 20, 2011,⁵⁰ as to existence of appropriation, and as to obligation of allotment, respectively, in connection with the project named "Proposed Multi-Purpose Barangay Hall, Urduja, Brgy. 172" (subject project), in the amount of ₱5,430,200.00.

In Bids and Awards Committee (BAC) Resolution No. 204⁵¹ dated December 12, 2011, after public bidding, the BAC recommended

⁴⁸ Exhibit A

⁴⁹ Exhibit C; Approved by the City Mayor on September 5, 2011

⁵⁰ Exhibit D

⁵¹ Exhibit E

RESOLUTION

People vs. Echiverri, et al.
SB-17-CRM-1764 and 1765

Page 19 of 33

X-----X

the award of the contract for the subject project to C.B. Tampengco Construction and Supply (CBTCS), which offered the lowest bid in the amount of ₱5,425,171.00. After awarding the subject contract,⁵² accused Echiverri, representing the City of Caloocan, entered into a contract with CBTCS for the subject project.⁵³

Accused Echiverri then issued the Notice to Proceed dated December 28, 2011.⁵⁴ The subject project was eventually completed.⁵⁵ As payment for the work done, the following Veterans Bank checks were issued under the following Disbursement Vouchers:

DV No. / Date	Check No.	Amount
100-12-01-0149 / January 20, 2012 (Exhibit I)	162074 (Exhibits I and J-1, p. 19)	₱2,159,301.15
100-12-03-1234 / March 19, 2012 (Exhibit K)	165633 (Exhibits K and L-1, p. 2)	₱1,063,344.56
100-12-06-4200 / June 25, 2012 (Exhibit M)	166708 (Exhibits M and N-1, p. 3)	₱1,679,100.63
Total		₱4,901,746.34

Accused Centeno certified the completeness and propriety of the supporting documents, and accused Echiverri approved, said disbursement vouchers.

On May 14, 2012, the Sangguniang Panlungsod of Caloocan adopted Resolution No. 1985 s. 2012,⁵⁶ which confirmed and ratified contracts entered into by Caloocan City for the implementation of projects sourced from the lump sum appropriations for the Special Activities Fund (SAF), Statutory and Contractual Obligations for 20% Development Projects, Maintenance and Other Operating Expenses (MOOE) of the 2011 Annual Budget embodied in Ordinance No. 0468 s. 2010 and Supplemental Budget No. 1 embodied in Ordinance No. 0474 s. 2011.

⁵² Exhibit F

⁵³ Exhibit G

⁵⁴ Exhibit H

⁵⁵ Exhibit P-1

⁵⁶ Exhibit R

RESOLUTION

People vs. Echiverri, et al.
SB-17-CRM-1764 and 1765

Page 20 of 33

x-----x

DISCUSSION

I. Falsification of Public Document under Art. 171, par. 4 of the Revised Penal Code

Art. 171 of the Revised Penal Code (RPC) provides:

Art. 171. Falsification by public officer, employee, or notary or ecclesiastical minister. – The penalty of *prisión mayor* and a fine not to exceed 5,000 pesos shall be imposed upon any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts:

x x x

4. Making untruthful statements in a narration of facts;

x x x

In *People v. Sandiganbayan*,⁵⁷ it was held that to be found guilty of Falsification under the aforementioned provision, the prosecution must prove the elements of the crime, and that the accused took advantage of his or her official position. *viz.:*

Reduced to its elements, a violation under this provision requires that:

- (1) The offender makes in a public document untruthful statements in a narration of facts;
- (2) He has a legal obligation to disclose the truth of the facts narrated by him; and
- (3) The facts narrated by him are absolutely false.

The prosecution must likewise prove that the public officer or employee had taken advantage of his official position in making the falsification. The offender is considered to have taken advantage of his official position when (1) he has the duty to make or prepare or otherwise to intervene in the preparation of a document; or (2) he has the official custody of the document which he falsifies.

The prosecution proved that accused Centeno and Garcia had taken advantage of their respective official positions. They made their respective certifications in ALOBS No. 100-11-10-5649 dated October

⁵⁷ G.R. No. 197953, August 5, 2015

RESOLUTION

People vs. Echiverri, et al.
SB-17-CRM-1764 and 1765

Page 21 of 33

x -----x

20, 2011 in connection with the performance of their official duties as Accountant and Budget Officer, respectively, of the City of Calocan.

The prosecution proved the second element of Falsification under Art. 171, par. 4 of the RPC. There is a legal obligation to disclose the truth of the facts narrated if there is a law that requires the disclosure of the truth of such facts.⁵⁸ Sec. 344 of Republic Act No. 7160 (R.A. No. 7160) provides for the respective duties of the Budget Officer and of the Accountant, with regard to the disbursement of funds. Under said provision, before local funds may be disbursed, the local Budget Officer must certify to the existence of appropriation that has been legally made for the purpose, and the local Accountant must obligate said appropriation. The provision reads:

Sec. 344. Certification, and Approval of, Vouchers. – No money shall be disbursed unless the local budget officer certifies to the existence of appropriation that has been legally made for the purpose, and the local accountant has obligated said appropriation, x x x.

The aforementioned certifications pertain to budgetary accounts, which are composed of appropriations, allotments and obligations.⁵⁹ These were defined in Volume 1 of the *New Government Accounting System Manual for Local Government Units* (NGAS for LGUs),⁶⁰ as follows:

Sec. 07. Accounting for Appropriations. – Appropriation refers to an authorization made by ordinance, directing the payment of goods and services from local government funds under specified conditions or for specific purposes.⁶¹

x x x

Sec. 08. Accounting for Allotments. – Allotment is the authorization issued by the Local Chief Executive (LCE) to a department/office of the LGU, which allows it to incur obligations, for specified amounts, within the appropriation ordinance. x x x

Sec. 09. Accounting for Obligations. – Obligations refer to the amounts committed to be paid by the LGU for any lawful act

⁵⁸ *Galeos v. People*, G.R. Nos. 174730-37, 174845-52, February 9, 2011

⁵⁹ NGAS for LGUs, Vol. 1, Sec. 6

⁶⁰ Commission on Audit Circular No. 2002-003 dated June 20, 2002

⁶¹ *R.A. No. 7160. Sec. 306.* (b) "Appropriation" refers to an authorization made by ordinance, directing the payment of goods and services from local government funds under specified conditions or for specific purposes; x x x

RESOLUTION

People vs. Echiverri, et al.
SB-17-CRM-1764 and 1765

Page 22 of 33

x-----x

made by an accountable officer for and in behalf of the local government unit concerned.

x x x

Under Sec. 11 of NGAS for LGUs, Vol. 1, which summarizes the process in accounting for budgetary accounts, after the requesting office forwards the ALOBS to the Office of the Budget Officer, the Budget Officer certifies the ALOBS as to the existence of appropriation based on the appropriation ordinance, and thereafter forwards the same to the Office of the Accountant. The Accountant then certifies the ALOBS as to the obligation of allotments.

If not rebutted, the prosecution's evidence would establish that the first element of Falsification under Art. 171, par. 4 of the RPC is present. Accused Garcia, as Budget Officer, certified as to the existence of appropriation. But there is nothing in the subject ALOBS that would indicate which ordinance covers the subject project. Notably, it is indicated that the account code for the project is "260" in the amount of "P 5,430,200.00." Nowhere does such account code appear in the Annual Executive Budget attached to Ordinance No. 0468 s. 2010, which provides for the details of the appropriation in the total amount of ₱3.3 billion.

Furthermore, in said Annual Executive Budget, it can be seen that there is an appropriation for "Buildings" under "Property, Plant and Equipment."⁶² However, the only items under "Buildings" are "Office Buildings" and "School Buildings," both of which are different from multi-purpose halls. The accused' reliance on the appropriations for the 20% IRA for Development Projects is likewise misplaced. It can be seen from the Annual Executive Budget that the account code for such item is "665,"⁶³ and not "260," as indicated in the subject ALOBS.

Neither does it appear that there was an appropriation for the subject project in Ordinance No. 0474 s. 2011, which appropriated the amount of ₱53,112,030.00 for various expenditures. Indeed, included in the enumeration under "Object of Expenditures" is "20% IRA for Development Projects." However, it does not appear to be the appropriation being referred to in the ALOBS. It must be recalled that in the Annual Executive Budget, the account code used for "20% IRA for Development Projects" was "665." Although no account code was

⁶² Exhibit A, pp. 8-10

⁶³ Exhibit A, p. 292

RESOLUTION

People vs. Echiverri, et al.
SB-17-CRM-1764 and 1765

Page 23 of 33

x-----x

specified in said ordinance, it can be reasonably inferred that the account code for “20% IRA for Development Projects” in Ordinance No. 0474 s. 2011 would still be “665”—the account code that appears in the Annual Executive Budget for the same item. Ordinance No. 0474 s. 2011 merely made an additional appropriation for the same item.

It appearing that there was no appropriation for the subject project, and considering the definition of an allotment, *i.e.*, an authorization allowing a department or office of the local government unit to incur obligations, for specified amounts *within the appropriation ordinance*, it would follow that the allotment could not have been obligated. Hence, when accused Centeno and Garcia made their respective certifications, they made untruthful statements in a narration of facts.

Finally, if unrebutted, the prosecution's evidence would prove the third element of the crime charged. As previously discussed, it would appear from the prosecution's evidence that there was no appropriation covering the subject project. Thus, the respective certifications made by accused Centeno and Garcia were absolutely false.

II. Violation of Sec. 3(e) of R.A. No. 3019

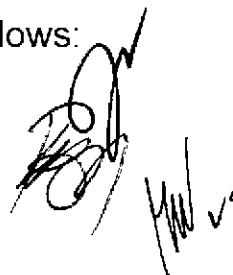
Sec. 3 (e) of R.A. No. 3019 provides:

Sec. 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 of government corporations charged with the grant of licenses or permits or other concessions.

The elements of the offense are as follows:

Handwritten signatures in black ink, appearing to be initials or names, located at the bottom right of the page.

RESOLUTION

People vs. Echiverri, et al.
SB-17-CRM-1764 and 1765

Page 24 of 33

x-----x

1. That the accused must be a public officer discharging administrative, judicial, or official functions (or a private individual acting in conspiracy with such public officers);
2. That the accused acted with manifest partiality, evident bad faith, or inexcusable negligence; and
3. That the accused' action caused undue injury to any party, including the government, or giving any private party unwarranted benefits, advantage, or preference in the discharge of his or her functions.⁶⁴

It is undisputed that the first element is present. Accused Echiverri, Centeno and Garcia were Mayor, Accountant and Budget Officer, respectively, of Caloocan City.⁶⁵ The acts attributed to them were done in the discharge of their official functions.

The second element is present when the accused acted with manifest partiality, evident bad faith, or gross inexcusable negligence. In *Uriarte v. People*,⁶⁶ the Supreme Court defined these terms as follows:

Section 3(e) of R.A. 3019 may be committed either by *dolo*, as when the accused acted with evident bad faith or manifest partiality, or by *culpa* as when the accused committed gross *inexcusable negligence*. There is "**manifest partiality**" when there is a clear, notorious or plain inclination or predilection to favor one side or person rather than another. "**Evident bad faith**" connotes not only bad judgment but also palpably and patently fraudulent and dishonest purpose to do moral obliquity or conscious wrongdoing for some perverse motive or ill will. It contemplates a state of mind affirmatively operating with furtive design or with some motive or self-interest or ill will or for ulterior purposes. "**Gross inexcusable negligence**" refers to negligence characterized by the want of even the slightest care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally, with conscious indifference to consequences insofar as other persons may be affected.

The Information alleges that accused Echiverri, Centeno and Garcia acted with manifest partiality, evident bad faith and/or gross inexcusable negligence when, despite the lack of a specific or itemized appropriation ordinance, or prior approval or authorization from the

⁶⁴ *Fuentes v. People*, G.R. No. 186421, April 17, 2017

⁶⁵ Pre-Trial Order dated August 22, 2018, p. 1; Record, Vol. 2, p. 300

⁶⁶ G.R. No. 169251, December 20, 2006

RESOLUTION

People vs. Echiverri, et al.
SB-17-CRM-1764 and 1765

Page 25 of 33

x-----x

Sanggunian, (a) accused Centeno and Garcia made their respective certifications in ALOBS No. 100-11-10-5649; (b) accused Echiverri awarded the subject contract to, and entered into a contract with, CBTCS for the subject project; and (c) accused Echiverri and Centeno, through Disbursement Vouchers No. 100-12-01-0149, 100-12-03-1234 and 100-12-06-4200, caused the payment and disbursement in the total amount of ₱4,901,746.34 to CBTCS.

A. Accused Centeno and Garcia's respective certifications in the ALOBS

This Court finds that there was gross inexcusable negligence, at the very least, on the part of accused Centeno and Garcia, when they made their respective certifications in ALOBS No. 100-11-10-5649.

As previously discussed, the subject project was not covered by the appropriations in Ordinances No. 0468 s. 2010 and 0474 s. 2011. Therefore, they should not have made their respective certifications in the ALOBS.

B. Accused Echiverri's award of the contract to, and entering into said contract with, CBTCS

First, without ruling on the validity of the subject contract, the same not being an issue, this Court must point out that the lack of prior authorization from the Sanggunian, by itself, does not render the contract entered into by the local chief executive null and void, but only unenforceable under Art. 1403(1)⁶⁷ of the Civil Code.⁶⁸

Second, the subsequent ratification of the subject contract by the Sangguniang Panlungsod has no relevance to accused Echiverri's criminal liability. The subsequent ratification of a contract only serves to cure the defect therein. It is not a ground for extinguishing criminal liability.⁶⁹

⁶⁷ Art. 1403. The following contracts are unenforceable, unless they are ratified:
(1) Those entered into in the name of another person by one who has been given no authority or legal representation, or who has acted beyond his powers; x x x
⁶⁸ Please see *Ocampo v. People*, G.R. Nos. 156547-51 and 156384-85, February 4, 2008
⁶⁹ *Revised Penal Code. Art. 89. How criminal liability is totally extinguished.* – Criminal liability is totally extinguished:

RESOLUTION

People vs. Echiverri, et al.
SB-17-CRM-1764 and 1765

Page 26 of 33

x-----x

Violation of Sec. 3(e) of R.A. No. 3019 is consummated once undue injury or the giving of unwarranted benefits is caused by a public officer's act done with manifest partiality, evident bad faith or gross inexcusable negligence. Hence, accused Echiverri may be found criminally liable if the prosecution proves beyond reasonable doubt that (1) his act of entering into a contract with CBTCS was done with manifest partiality, evident bad faith or gross inexcusable negligence, and (2) such act caused undue injury to the Government, or the giving of unwarranted benefits to CBTCS, regardless of whether or not the Sangguniang Panlungsod subsequently ratified the subject contract.

With the other matters out of the way, the Court will now resolve the issue at hand.

This Court finds that there was no manifest partiality, evident bad faith or gross inexcusable negligence on the part of accused Echiverri when he awarded the contract to CBTCS, such manifest partiality, evident bad faith or gross inexcusable negligence being negated by the fact that he entered into the subject contract with CBTCS only after the conduct of a public bidding, and after the Bids and Awards Committee recommended that said contract be awarded to CBTCS, the lowest bidder.

However, there was gross inexcusable negligence, at the very least, when he subsequently entered into a contract with CBTCS, without securing prior authorization from the Sanggunian.

Sec. 22 (c) of R.A. No. 7160 requires prior authorization from the Sanggunian before the local chief executive may enter into a contract in behalf of the local government unit. viz.:

Sec. 22. Corporate Powers. – (a) x x x

(c) Unless otherwise provided in this Code, no contract may be entered into by the local chief executive in behalf of the local

-
1. By the death of the convict, as to the personal penalties; and as to the pecuniary penalties, liability therefor is extinguished only when the death of the offender occurs before final judgment;
 2. By service of the sentence;
 3. By amnesty, which completely extinguishes the penalty and all its effects;
 4. By absolute pardon;
 5. By prescription of the crime;
 6. By prescription of the penalty;
 7. By the marriage of the offended woman, as provided in Article 344 of this Code.

RESOLUTION

People vs. Echiverri, et al.
SB-17-CRM-1764 and 1765

Page 27 of 33

X -----X

government unit without prior authorization by the sanggunian concerned. A legible copy of such contract shall be posted at a conspicuous place in the provincial capitol or the city, municipal or barangay hall.

In *Quisumbing v. Garcia*,⁷⁰ the Supreme Court explained that such authorization is required as a measure of check and balance. There, the Supreme Court had the opportunity to discuss the instances where an appropriation ordinance may be considered as such authorization, as well as the situations where an authorization separate from the appropriation ordinance is required. To wit:

x x x. The requirement was deliberately added as a measure of check and balance, to temper the authority of the local chief executive, and in recognition of the fact that the corporate powers of the local government unit are wielded as much by its chief executive as by its council. However, as will be discussed later, the *sanggunian* authorization may be in the form of an appropriation ordinance passed for the year which specifically covers the project, cost or contract to be entered into by the local government unit.

x x x

The question of whether a *sanggunian* authorization separate from the appropriation ordinance is required should be resolved depending on the particular circumstances of the case. Resort to the appropriation ordinance is necessary in order to determine if there is a provision therein which specifically covers the expense to be incurred or the contract to be entered into. Should the appropriation ordinance, for instance, already contain in sufficient detail the project and cost of a capital outlay such that all that the local chief executive needs to do after undergoing the requisite public bidding is to execute the contract, no further authorization is required, the appropriation ordinance already being sufficient.

On the other hand, should the appropriation ordinance describe the projects in generic terms such as infrastructure projects, inter-municipal waterworks, drainage and sewerage, flood control, and irrigation system projects, reclamation projects or roads and bridges, there is an obvious need for a covering contract for every specific project that in turn requires approval by the *sanggunian*. Specific *sanggunian* approval may also be required for the purchase of goods and services which are neither specified in the appropriation ordinance nor encompassed within the regular personal services and maintenance operating expenses.

⁷⁰ G.R. No. 175527, December 8, 2008

RESOLUTION

People vs. Echiverri, et al.
SB-17-CRM-1764 and 1765

Page 28 of 33

X-----X

Later, in *Verceles v. Commission on Audit*,⁷¹ the Supreme Court reiterating the ruling in *Quisumbing*, held that no separate or additional authority from the Sanggunian is required when the project or program is identified in the appropriation ordinance in sufficient detail, but a separate authorization is required when the project is identified in generic terms.

In that case, applying its ruling in *Belgica v. Secretary Ochoa*⁷² by analogy, the Supreme Court held that a separate prior authority is required when the lump-sum appropriation is described in generic terms, which would require further determination of the actual amount to be spent and the actual purpose of the appropriation.

In the more recent case of *Germar v. Legaspi*,⁷³ the Supreme Court continued to apply the aforementioned rulings in *Quisumbing* and *Verceles*. It further applied, by analogy, its previous rulings on the nature of a line-item, as used in appropriation laws, to appropriation ordinances, thereby clarifying that a line-item in an appropriation ordinance may be "of sufficient detail," such that a separate sanggunian authorization would not be required. In concluding that therein line-item "Consultancy Services," is deemed sufficiently specific, the High Court ratiocinated as follows:

In this case, the Sangguniang Bayan's appropriation ordinance for the fiscal year 2013 indicated a budget of ₱250,859,675.00 to be sourced from the general fund and ₱279,565,093.62 to be sourced from the special fund. Of these amounts, Section 4 of the appropriation ordinance allocated ₱40,609,457.62 to the "Mayor's Office." While this allocation contained no specific line-item, Section 1 of the same ordinance provided for the incorporation of several documents to be made as integral part thereof. Particularly, it included the budget document denominated as "Budget of Expenditures and Sources of Financing." A review of the records revealed that among the attachments to the appropriation ordinance is LBP Form No. 3, "Programmed Appropriation and Obligation by Object of Expenditure," the first three (3) pages of which pertained to the budget of the Office of the Mayor.

The Object of Expenditures for the Office of the Mayor is categorized into three: (1) Current Operating Expenditures, (2) Capital Outlay, and (3) Special Purpose Appropriation. The Current

⁷¹ G.R. No. 211553, September 13, 2016

⁷² G.R. Nos. 208566, 208493 and 209251, November 19, 2013

⁷³ G.R. No. 232532; October 1, 2018



RESOLUTION

People vs. Echiverri, et al.
SB-17-CRM-1764 and 1765

Page 29 of 33

X-----X

Operating Expenditures is further divided into two sub-categories: (1) Personal Services and (2) Maintenance and Other Operating Expenses (MOOE). The subject line-item "Consultancy Services" is found in the MOOE along with other line-items such as travelling expenses, training expenses, representation expenses, and intelligence expenses.

In effect, therefore, the subject line-item in this case, like the other line-items in the appropriations ordinance, is a specific allocation to a specific purpose for the specific maintenance and operating expense of a specific office. In the language used in *Belgica*, this line-item which is found in the MOOE of the Office of the Mayor shall already be deemed sufficiently specific.

From the foregoing, the rule is that prior authorization from the Sanggunian is required before the local chief executive may enter into a contract in behalf of the local government unit. Such prior authorization may be in the form of an appropriation ordinance, provided that said ordinance specifically covers the project, cost or contract to be entered into by the local government unit. For the purpose of determining if the project, cost or contract is specifically covered by the ordinance, a line-item in an appropriation may be deemed sufficiently specific. On the other hand, if the appropriation is described in generic terms, such that the actual amount to be spent and the purpose of the appropriation must be further determined, then the local chief executive, prior to entering into a contract in behalf of the local government unit, must secure a separate, or additional authorization from the Sanggunian.

Thus, the issue that must be resolved is whether or not there was an appropriation ordinance that specifically covers the subject contract. The Court rules in the negative.

Here, as previously discussed, the subject project does not appear to have been specifically covered by an appropriation ordinance. Even if this Court subscribes to the accused' argument that the appropriations for the 20% IRA for Development Projects covers the subject contract, it would still lead to the conclusion that such appropriations are not sufficient because the appropriation ordinances describe the projects in generic terms.

In *Verceles v. Commission on Audit*,⁷⁴ the Supreme Court held that therein petitioner Verceles needed to secure prior authority from

⁷⁴ *Supra*. Note 71

Handwritten signature and initials in the bottom right corner of the page.

RESOLUTION

People vs. Echiverri, et al.
SB-17-CRM-1764 and 1765

Page 30 of 33

x-----x

the Sanggunian because therein appropriation for the Economic Development Fund (EDF) did not specifically authorize him to enter into a MOA to implement the tree seedlings production project. viz.:

The appropriation ordinance of the province for CY 2001 indeed contained a provision on the EDF. Section 6 of Appropriations Ordinance No. 1-2001 provides:

SECTION 6. The Lump-Sum Appropriation for the 20% Economic Development Fund (EDF) is Forty-Five Million Four Hundred Five Thousand Six Hundred Thirty-Three and 0.20/100 Pesos (P45,405,633.20).

Special Provision:

1. USE AND RELEASE OF FUNDS – The amount herein appropriated shall strictly adhere to the policies and guidelines provided under DILG Memorandum Circular No. 95-216, dated December 14, 1995, in conjunction with Section 106 of RA 7160 and CY 1999 Multi-Sectoral Development Plan of the Province as may be approved by the Catanduanes Development Council, **PROVIDED, that appropriations under the 20% EDF shall be approved by the Sanggunian.**

Notably, Section 6 did not list the specific projects that would be funded by the EDF. In other words, the SP has not yet determined how the lump-sum EDF (in the amount of P45,405,633.20) would be spent at the time it approved the annual budget. The SP, however, required that appropriations under the 20% EDF shall need its approval.

Otherwise stated, while there was an available fund for the economic development projects of the province, the specific projects had not yet been identified. The corresponding costs for the projects had also not been set aside. Contrary to Verceles' assertion, the CY 2001 appropriation ordinance did not specifically authorize him to enter into the *first* MOA to implement the tree seedlings production project.

The ordinances in the present case do not have a provision specifically stating that further approval of the Sangguniang Panlungsod is required. However, the appropriations for the 20% IRA for Development Projects are similar to the appropriation for the 20% EDF in *Verceles*, in that both describe the projects to be funded only in generic terms, and therefore, a separate authorization from the Sanggunian is required.

