



Republic of the Philippines  
**Sandiganbayan**  
Quezon City

**FIFTH DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
*Plaintiff,*

**SB-17-CRM-0023 to 0029**  
For: Malversation of Public Funds

- versus -

Present:

**LABUALAS B. MAMANSUAL,**  
**and FRANCIS B. NADAR,**  
*Accused.*

**LAGOS, J., Chairperson,**  
**MENDOZA-ARCEGA, and**  
**CORPUS-MAÑALAC, JJ.**

Promulgated:

x ----- July 15, 2022 ----- x  
*Gerard J. Lopez*

**DECISION**

**CORPUS-MAÑALAC, J.:**

Before this Court are the Informations against **Labualas B. Mamansual**, Municipal Mayor, and **Francis B. Nadar**, Municipal Treasurer, both of the Municipal Government of Palimbang, Sultan Kudarat, for seven (7) counts of Malversation of Public Funds under Article 217 of the Revised Penal Code (RPC), docketed as SB-17-CRM-0023 to 0029.

The accusatory portion of the Information in SB-17-CRM-0023 dated September 19, 2016, quoted *verbatim*, reads:

**SB-17-CRM-0023**

That on 27 April 2010, or sometime prior or subsequent thereto, in the Municipality of Palimbang, Province of Sultan Kudarat, Philippines, and within the jurisdiction of this Honorable Court, accused **LABUALAS BAGANDAY MAMANSUAL**, Al Haj, and **FRANCIS BALANAY NADAR**, both public officers, then being the Municipal Mayor and Municipal Treasurer of the Municipality of Palimbang, Sultan Kudarat, respectively, who by reason of their said offices are accountable for public funds received or entrusted to them by reason of their positions, and charged with the duty of diligently safeguarding or looking after the funds placed under their control or custody, committing the crime charged herein while in the performance of, in relation to and/or taking advantage of their official positions and functions as such, conspiring and

*ML*

confederating with one another, did then and there willfully, unlawfully and feloniously, appropriate, take, convert, embezzle or misappropriate funds of the said Municipality in the amount of Five Million Pesos (P5,000,000.00), Philippine currency, by issuing to Francis Balanay Nadar Landbank Check No. 0000588111 in the aforesaid amount, debited from the Municipality's Current Account Deposit No. 2802-1045-30, which check was without supporting documents, and thereafter causing the encashment of said check and using the proceeds thereof for their personal use and benefit.

**CONTRARY TO LAW.** (Emphasis and capitalization in the original)

The accusatory portions of the Informations in SB-17-CRM-0024 to 0029, also dated September 19, 2016, are similarly worded, except as to the material dates, Land Bank of the Philippines (LBP) check numbers, and amounts involved, as follows:

Criminal Case Number	Date of Transaction	LBP Check Number	Amount (PhP)
SB-17-CRM-0024	May 7, 2010	0000588117	2,000,000.00
SB-17-CRM-0025	May 14, 2010	0000588118	500,000.00
SB-17-CRM-0026	June 11, 2010	0000588119	70,000.00
SB-17-CRM-0027	June 17, 2010	0000588120	396,640.00
SB-17-CRM-0028	June 23, 2010	0000588121	5,023,674.00
SB-17-CRM-0029	June 29, 2010	0000588114	13,462.71

### The Antecedent Proceedings

These cases stemmed from a Complaint-Affidavit<sup>1</sup> dated December 9, 2011 of Mayor Abubacar P. Maulana, accused Mamansual's successor, before the Office of the Ombudsman. After fact-finding investigation, the Field Investigation Office (FIO), Office of the Ombudsman, as nominal complainant, filed a Complaint<sup>2</sup> dated May 14, 2012 against the following officials of the Municipality of Palimbang in connection with the alleged anomalous drawing and encashment of the foregoing seven LBP checks:

(1) Mamansual, Municipal Mayor (2001-2010), and Nadar, Municipal Treasurer (from January 2009 and incumbent at the time of the filing of the complaint), for Malversation of Public Funds under Article 217 of the RPC and Grave Misconduct; and

(2) Nadar, Zaida D. Apil,<sup>3</sup> acting Municipal Accountant (2004 to 2010), and Pukog P. Makakua, Municipal Budget Officer (1998-2012), for Removal, Concealment or Destruction of Documents under Article 226, paragraph 1, of the RPC and Grave Misconduct.

<sup>1</sup> Records, Vol. 1, pp. 51-54.

<sup>2</sup> *Id.* at 23-39.

<sup>3</sup> Apil was the acting Municipal Budget Officer from 2001 to 2004.

The respondents filed their respective counter-affidavits<sup>4</sup> during preliminary investigation of the criminal aspect, docketed as OMB-M-C-13-0305, of the complaint.

In a Resolution<sup>5</sup> dated October 12, 2015, the Office of the Ombudsman found probable cause against all of the respondents for one count of Malversation of Public Funds and one count of Removal, Concealment or Destruction of Documents. By Order<sup>6</sup> of January 15, 2016, the Office of the Ombudsman denied the respondents' separate motions for reconsideration.<sup>7</sup>

Based on the prosecution's Memorandum dated April 18, 2022, the following transpired thereafter, quoted *verbatim*:

- 4.8. x x x. Two (2) Informations were filed before the Sandiganbayan, docketed as SB-16-CRM-0463 (1 count of Malversation) and SB-16-CRM-0464 (violation of Article 226) which were both raffled to the **[F]irst Division** of said court.
- 4.9. On August 3, 2016, two (2) Informations were filed at the Sandiganbayan, to wit:
  - a. Information dated May 19, 2016 docketed as SB-16-CRM-0463 for Malversation under Article 217, RPC against Mamansual, Nadar, Apil and Makakua; and
  - b. Information dated May 19, 2016 docketed as SB-16-CRM-0464 for Removal, Concealment or Destruction of Documents under Art. 226, RPC against Mamansual, Nadar, Apil and Makakua.
- 4.10. Later, the prosecutors of the First Division, with the approval of the Ombudsman, filed a Motion to Withdraw Informations on 12 October 2016 which prayed for the withdrawal of Informations in SB-16-CRM-0463 and SB-16-CRM-0464 and recommended instead **the filing of seven (7) Informations for violation of seven (7) counts of Article 217 (Malversation) of the Revised Penal Code against Mamansual and Nadar only.** The Sandiganbayan First Division granted the prosecution's Motion in its Resolution dated 05 December 2016. **The newly-filed seven (7) Informations were raffled to this Honorable Court, the Fifth (5<sup>th</sup>) Division of the Sandiganbayan.**<sup>8</sup> (Emphasis supplied)

The Office of the Special Prosecutor filed the seven (7) Informations before the *Sandiganbayan* on January 13, 2017.

<sup>4</sup> Records, Vol. 1, pp. 257-260 (Mamansual's Counter-Affidavit dated December 5, 2013), 262-263 (Apil's Counter-Affidavit dated December 2, 2013), 266 (Makakua's Counter-Affidavit dated December 2, 2013), 267-269 (Nadar's Counter-Affidavit dated December 23, 2013).

<sup>5</sup> *Id.* at 5-12 (Approved by Ombudsman Conchita Carpio Morales on November 23, 2015).

<sup>6</sup> *Id.* at 14-17 (Approved by Ombudsman Conchita Carpio Morales on March 30, 2016).

<sup>7</sup> According to the Order dated January 15, 2016, only respondents Mamansual, Nadar and Makakua filed a motion for reconsideration.

<sup>8</sup> Records, Vol. 3, pp. 369-370.

### Proceedings before this Court

On January 24, 2017, the Court issued a Hold Departure Order<sup>9</sup> against accused Mamansual and Nadar. In a Resolution<sup>10</sup> dated May 9, 2017, the Court,<sup>11</sup> upon hearing and exchange of submissions, partially granted the joint *Urgent Omnibus Motion*<sup>12</sup> dated January 23, 2017 of both accused, directing the Office of the Ombudsman “to conduct the necessary preliminary investigation.” It also deferred the judicial determination of probable cause for the issuance of warrant of arrest and suspended further proceedings pending preliminary investigation. By Resolution<sup>13</sup> of August 10, 2017, the Court denied the prosecution’s *Motion for Reconsideration*<sup>14</sup> dated May 25, 2017.

In a *Compliance*<sup>15</sup> dated December 18, 2017, the prosecution submitted to the Court the Resolution<sup>16</sup> dated December 1, 2017 of the Office of the Ombudsman, which found probable cause against both accused for seven (7) counts of malversation of public funds, stating that “[t]he seven (7) Informations for Malversation previously filed with the Sandiganbayan are therefore maintained without need of withdrawing and refileing the same.”

In a Minute Resolution<sup>17</sup> dated December 19, 2017, the Court found probable cause in these cases. On December 28, 2017, the Court issued the Warrant of Arrest<sup>18</sup> for SB-17-CRM-0023 to 0029, fixing the bail amount at P40,000.00 for each accused in each case. On January 15, 2018, both accused separately posted a cash bail bond of Php280,000.00 for all the seven cases.<sup>19</sup> In separate Orders of even date, the Court approved the same and set the arraignment and pre-trial on February 23, 2018.<sup>20</sup> On February 9, 2018, both accused filed a joint *Motion for Reconsideration*<sup>21</sup> dated February 8, 2018, seeking a reconsideration of the Minute Resolution dated December 19, 2017 and the cancellation of the scheduled arraignment and pre-trial. By Resolution<sup>22</sup> of March 14, 2018, the Court denied the same and set the arraignment and pre-trial on March 23, 2018, which was reset to April 20, 2018.<sup>23</sup>

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<sup>9</sup> Records, Vol. 1, p. 90.

<sup>10</sup> *Id.* at 229-238.

<sup>11</sup> Composed of Associate Justice Rafael R. Lagos, Chairperson, and Associate Justices Maria Theresa V. Mendoza-Arcega and Reynaldo P. Cruz, Members.

<sup>12</sup> Records, Vol. 1, pp. 91-114.

<sup>13</sup> *Id.* at 281-285.

<sup>14</sup> *Id.* at 243-248.

<sup>15</sup> *Id.* at 303-305.

<sup>16</sup> *Id.* at 306-316 (Approved by Ombudsman Conchita Carpio Morales on December 11, 2017).

<sup>17</sup> *Id.* at 328.

<sup>18</sup> *Id.* at 330.

<sup>19</sup> *Id.* at 338-342, 345-348, 351.

<sup>20</sup> *Id.* at 343, 352.

<sup>21</sup> *Id.* at 370-377.

<sup>22</sup> *Id.* at 391-395.

<sup>23</sup> *Id.* at 402. On March 22-23, 2018, the *Sandiganbayan* Justices held its Strategic Planning Seminar.

On April 16, 2018, both accused filed a joint *Motion to Quash Informations*<sup>24</sup> dated April 15, 2018 on the ground of alleged inordinate delay on the part of the Office of the Ombudsman. On April 25, 2018, the prosecution filed its *Opposition*<sup>25</sup> dated April 24, 2018. In a Resolution<sup>26</sup> dated May 21, 2018, the Court denied the motion to quash and set the arraignment and pre-trial on May 25, 2018. On even date, both accused filed a joint *Motion for Reconsideration*<sup>27</sup> dated May 24, 2018, which the Court denied by Resolution<sup>28</sup> of June 7, 2018, resetting the arraignment and pre-trial to June 22, 2018.

On June 22, 2018, the counsel for both accused manifested their intention to file a petition before the Supreme Court, thereby resetting the arraignment and pre-trial to July 27, 2018.<sup>29</sup> The Court further reset the same to August 17, 2018<sup>30</sup> in view of the *Manifestation with Motion for Cancellation of July 27, 2018 Hearing*<sup>31</sup> dated July 24, 2018 that both accused filed a joint Petition for *Certiorari and Prohibition*<sup>32</sup> dated July 12, 2018 before the Supreme Court, docketed as G.R. Nos. 240378-84, assailing the Resolutions dated May 21, 2018 and June 7, 2018.

**On August 17, 2022, both accused separately refused to plead during arraignment, thus the Court entered pleas of not guilty for both of them in these cases.**<sup>33</sup>

The preliminary conference proceeded on September 21, 2018, as scheduled,<sup>34</sup> and continued on November 16, 2018,<sup>35</sup> March 13, 2019,<sup>36</sup> May 20, 2019,<sup>37</sup> and July 16, 2019.<sup>38</sup>

In a Minute Resolution<sup>39</sup> dated June 11, 2019, **the Court dismissed these cases insofar as accused Nadar is concerned, in view of his death on March 19, 2019,**<sup>40</sup> pursuant to Article 89(1)<sup>41</sup> of the RPC.

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<sup>24</sup> *Id.* at 410-426.

<sup>25</sup> *Id.* at 477-481

<sup>26</sup> *Id.* at 491-496.

<sup>27</sup> *Id.* at 500-518.

<sup>28</sup> *Id.* at 536-538.

<sup>29</sup> *Id.* at 545.

<sup>30</sup> Records, Vol. 2, p. 55.

<sup>31</sup> *Id.* at 4-5.

<sup>32</sup> *Id.* at 6-52.

<sup>33</sup> *Id.* at 116-117, 120.

<sup>34</sup> *Id.* at 120, 127, 130.

<sup>35</sup> *Id.* at 136, 138. The continuation of the preliminary conference was set on February 19, 2019, but the counsel for both accused failed to appear on said date (*Id.* at 189, 191).

<sup>36</sup> *Id.* at 195, 197.

<sup>37</sup> *Id.* at 207, 209. The pre-trial was set on June 19, 2019 (*Id.* at 209), but was reset to July 26, 2019 by agreement of the parties (*Id.* at 231).

<sup>38</sup> *Id.* at 260.

<sup>39</sup> *Id.* at 223.

<sup>40</sup> *Id.* at 217-220, 232-238, 240.

<sup>41</sup> Art. 89. *How criminal liability is totally extinguished.* - Criminal liability is totally extinguished:

1. By the death of the convict, as to the personal penalties and as to pecuniary penalties, liability therefor is extinguished only when the death of the offender occurs before final judgment[.]

On July 26, 2019, the pre-trial was terminated,<sup>42</sup> and the parties, including accused Mamansual and his counsel, all signed their conformity to Pre-Trial Order<sup>43</sup> of even date, in which the parties agreed on the following stipulation of facts, *viz.*:

1. The identity of accused Mamansual; and
2. At the time material to these cases in 2010, accused Mamansual was the Municipal Mayor of Palimbang, Sultan Kudarat.<sup>44</sup>

Trial on the merits then ensued.

The prosecution presented its witnesses **Atty. Marie Beth S. Almero** on August 20, 2019,<sup>45</sup> **Atty. Marco B. Dela Torre** on September 17, 2019<sup>46</sup> and November 19, 2019,<sup>47</sup> and **Atty. Gener R. Gayam** on January 28, 2020.<sup>48</sup>

Meanwhile, on November 3, 2020, the Supreme Court dismissed the defense's Petition for *Certiorari* and Prohibition in *Mamansual v. Sandiganbayan* in G.R. Nos. 240378-84.<sup>49</sup>

On June 20, 2021, the prosecution filed its *Formal Offer of Evidence*<sup>50</sup> dated June 18, 2021. On June 25, 2021, the defense filed its *Comment*<sup>51</sup> of even date. In a Minute Resolution<sup>52</sup> dated July 6, 2021, the Court resolved to admit all of the documentary exhibits offered by the prosecution, *viz.*:

1. Exh. "A" to "A-16",<sup>53</sup>
2. Exh. "B" to "B-1-a", "C" to "C-1-a", "D" to "D-1-a", "E" to "E-1-a", "F" to "F-1-a", "G" to "G-1-a", and "H" to "H-1-a";<sup>54</sup>

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<sup>42</sup> Records, Vol. 2, p. 263.

<sup>43</sup> *Id.* at 264-273.

<sup>44</sup> *Id.* at 272 (Pre-Trial Order, p. 9).

<sup>45</sup> *Id.* at 305.

<sup>46</sup> *Id.* at 365. The October 30, 2019 setting was reset to November 19, 2019 for lack of quorum (*Id.* at 372).

<sup>47</sup> *Id.* at 377.

<sup>48</sup> *Id.* at 414. The Court set the continuation of the trial on March 25, 2020, but it was canceled due to the rising number of COVID-19 cases, and reset to January 21, 2021 (*Id.* at 439), which was also canceled and reset to February 23, 2021 for the same reason (*Id.* at 460). The latter was also canceled because the prosecution's intended witness, Eulogio H. Lacson, failed to appear during the hearing via videoconference, as he had "trouble accessing a stable internet service provider at his location," and reset to April 22, 2021 (*Id.* at 503). The same was canceled pursuant to Supreme Court A.C. No. 22-2021 directing the physical closure of courts in areas under Modified Enhanced Community Quarantine (MECQ), including the National Capital Region, until April 30, 2021, and reset to June 10, 2021 (*Id.* at 511), but the intended witness, Mr. Lacson, failed to appear again via videoconference (Records, Vol. 3, p. 7).

<sup>49</sup> <<https://sc.judiciary.gov.ph/19313/>>.

<sup>50</sup> Records, Vol. 3, pp. 8-19.

<sup>51</sup> *Id.* at 101-111.

<sup>52</sup> *Id.* at 203-211.

<sup>53</sup> *Id.* at 9-10. FIO Complaint dated May 14, 2012.

<sup>54</sup> *Id.* at 10-12. Original copies of the encashed LBP Check Nos. 0000588111, 0000588117, 0000588118, 0000588119, 0000588120, 0000588121, and 0000588114, respectively.

3. Exh. “I” to “I-6”;<sup>55</sup>
4. Exh. “J” to “J-3-a”,<sup>56</sup> “K” to “K-1”,<sup>57</sup> “L” to “L-4-b”,<sup>58</sup> and “M” to “M-2-b”;<sup>59</sup>
5. Exh. “N” to “N-1”,<sup>60</sup> “O” to “O-2”,<sup>61</sup> “R” to “R-2”,<sup>62</sup> and “S” to “S-5”,<sup>63</sup> and Exhibits “T” to “U”;<sup>64</sup> and
6. Exh. “V” to “V-8”,<sup>65</sup> “W” to “W-2”, “X” to “X-2”, “Y” to “Y-2”, “Z”, “AA”, “BB”, and “CC”.<sup>66</sup>

By Resolution<sup>67</sup> of November 3, 2021, the Court denied accused Mamansual’s *Motion for Reconsideration*<sup>68</sup> dated July 27, 2021 of the Minute Resolution dated July 6, 2021.

The Court set the initial presentation of evidence for the defense on August 24, September 7 and 8, 2021,<sup>69</sup> but the first two settings were canceled due to the physical closure of all courts, except the Supreme Court, in the National Capital Region and other areas under the Modified Enhanced Community Quarantine,<sup>70</sup> while the last setting was canceled and reset to November 3, 2021 in “consideration [of] the health and safety of party-litigants, court officials and personnel who may need to physically report for work to prepare for the [x x x] videoconference and access the records of the case.”<sup>71</sup> The setting on November 3, 2021 was also canceled because the defense manifested its intention to file a motion for leave of court to file demurrer to evidence, and reset to February 17, 2022,<sup>72</sup> which was further reset to April 5, 2022<sup>73</sup> due to the pendency of accused Mamansual’s *Manifestation and Motion*<sup>74</sup> dated February 16, 2022 asking for 45 days or until April 3, 2022 to file said motion for leave.

<sup>55</sup> *Id.* at 12. Original LBP (General Santos Highway Branch) Bank Statements from March 31, 2010 to October 31, 2010.

<sup>56</sup> *Id.* at 12-13. Complaint-Affidavit dated December 9, 2011 of Abubacar P. Maulana.

<sup>57</sup> *Id.* at 13-14. Affidavit dated January 13, 2012 of Carlito M. Abella.

<sup>58</sup> *Id.* at 12-13. Sworn Statement dated February 22, 2012 of Abubacar P. Maulana.

<sup>59</sup> *Id.* at 14. Sworn Statement dated February 22, 2012 of Eulogio H. Gascon.

<sup>60</sup> *Id.* at 14-15. Personal Data Sheet of Mamansual.

<sup>61</sup> *Id.* Service Record of Mamansual.

<sup>62</sup> *Id.* at 15-16. LBP Customer Information Sheet.

<sup>63</sup> *Id.* Identification Cards of Mamansual and Nadar.

<sup>64</sup> *Id.* at 16-18. LBP Specimen Signature Cards of Mamansual and Nadar for the Municipality of Palimbang.

<sup>65</sup> *Id.* at 16. LBP (General Santos Highway Branch) Electronic Bank Statements of the Municipality of Palimbang under Current Account Deposit No. 2802-1045-30 from March 31, 2010 to December 31, 2010.

<sup>66</sup> *Id.* at 17-18. Certified scanned copy of the encashed LBP Check Nos. 0000588111, 0000588117, 0000588118, 0000588119, 0000588120, 0000588121, and 0000588114, respectively.

<sup>67</sup> *Id.* at 290-296.

<sup>68</sup> *Id.* at 223-242.

<sup>69</sup> *Id.* at 7, 211.

<sup>70</sup> *Id.* at 250.

<sup>71</sup> *Id.* at 263-264.

<sup>72</sup> *Id.* at 300.

<sup>73</sup> *Id.* at 308.

<sup>74</sup> *Id.* at 305-306.

In a Minute Resolution<sup>75</sup> dated March 8, 2022, the Court denied accused Mamansual's motion for having been unsigned and filed out of time:

Firstly, as the prosecution pointed out, accused Mamansual's motion was unsigned. Pursuant to Section 3, Rule 7 of the Rules of Court, an unsigned pleading is a mere scrap of paper and produces no legal effect. Secondly, the prosecution is likewise correct that accused Mamansual's right to file a demurrer to evidence has already prescribed. As early as November 3, 2021, when the Court DENIED the Motion for Reconsideration of accused Mamansual, which assailed the Court's resolution admitting all the exhibits offered by the prosecution, Atty. Eusebio Avila, counsel for the accused, already stated that he intends to file a motion for leave of court to file demurrer to evidence. According to the Registry Return Receipt, said November 3, 2021 resolution denying his motion for reconsideration was received by Atty. Avila on November 15, 2021. From said date, according to the rules, he only had five (5) days to file his motion for leave to file demurrer. He did not. Hence, his Manifestation and Motion dated February 16, 2022 was filed out of time.

On March 29, 2022, accused Mamansual filed another *Manifestation and Motion*<sup>76</sup> dated March 28, 2022 informing the Court that **"he is no longer testifying, but instead, he is terminating his presentation of evidence,"** asking for 45 days within which to file a memorandum.

By Minute Resolution<sup>77</sup> of March 29, 2022, the Court gave the parties 15 days from notice within which to file their respective memoranda, canceling the setting on April 5, 2022.<sup>78</sup> On April 18, 2022, the defense filed its *Memorandum*<sup>79</sup> of even date. On April 19, 2022, the prosecution filed its *Memorandum*<sup>80</sup> dated April 18, 2022.

### The Evidence for the Prosecution

Witness **Atty. Almero**, Graft Investigation and Prosecution Officer (GIPO) III of the FIO, Office of the Ombudsman, identified her Judicial Affidavit<sup>81</sup> dated August 15, 2019, and affirmed and confirmed its contents as her direct testimony.<sup>82</sup> She was the team leader of the investigator-on-case, Atty. Marco B. Dela Torre, who handled the fact-finding investigation of these cases.

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<sup>75</sup> *Id.* at 319-320.

<sup>76</sup> *Id.* at 324-325.

<sup>77</sup> *Id.* at 327.

<sup>78</sup> *Id.* at 333.

<sup>79</sup> *Id.* at 335-362.

<sup>80</sup> *Id.* at 363-376.

<sup>81</sup> Records, Vol. 2, pp. 278-284.

<sup>82</sup> TSN, August 20, 2019, pp. 10-11. Prior to the identification of the Judicial Affidavit, the Court granted the prosecution's verbal motion for the inclusion of Check Nos. 588117 dated May 7, 2010 and 588119 dated June 11, 2010 in Question No. 12, and the enumeration of six checks – Check Nos. "588111, 588117, 588179, 588120, 588121 and 588114" – in Answer No. 49 (TSN, August 20, 2019, pp. 7-9). However, there is no Check No. 588179 involved in these cases.



In the course of the investigation, the witness obtained copies of the seven (7) encashed checks and of the bank statements. She identified Exh. “B” to “H” pertaining to the original copies of the seven encashed LBP checks, which were approved by accused Mamansual, made payable to the order of Nadar, and issued out of the municipality’s LBP Current Account Deposit No. 2802-1045-30. She likewise identified Exh. “I” to “I-6” or the original bank statements for the period March 31, 2010 to October 31, 2010 from LBP General Santos Highway Branch for the said current account. Based on the dorsal portion of the checks, Nadar encashed the same on the respective dates of their issuance. The investigating team conferred with accused Mamansual’s successor, Mayor Maulana, who informed them that no supporting documents for the encashed checks could be located in the municipal hall when he assumed office on June 30, 2010.

The witness identified Exh. “K” referring to the Affidavit dated January 13, 2012 of State Auditor III Carlito M. Abella, Team Leader of Team 6, Audit Group F, Commission on Audit (COA) in Isulan, Sultan Kudarat, who alleged that six (6) checks—Check Nos. 588111, 588117, 588179,<sup>83</sup> 588120, 588121 and 588114—were not submitted for post-audit. She also identified Exh. “M” to “M-2”, the Sworn Statement dated February 22, 2012 of Mr. Eulogio H. Gascon, acting Municipal Accountant<sup>84</sup> and Budget Officer<sup>85</sup> of Palimbang, who claimed that no record of any documents for the disbursement of funds covered by the subject checks could be located in the Office of the Municipal Accountant and Budget Officer.

After the fact-finding investigation, the witness stated that the findings were that “there were no Disbursement Vouchers, Certificate of Funds Obligation/Allocation, Obligation Slip, Certificate of Funds Availability, Liquidation Report, Summary of Expenses, Terminal Reports and/or Certificate of Completion of projects in connection with the disbursement of the seven LBP checks.”<sup>86</sup>

As for witness **Atty. Dela Torre**, the FIO investigator-on-case, the parties stipulated that he can identify his Judicial Affidavit<sup>87</sup> dated September 11, 2019 as his direct testimony.<sup>88</sup> He issued subpoenas *ad testificandum* and *duces tecum* to Mayor Maulana in January 2012, and subpoena *duces tecum* to the Municipal Accountant and Budget Officer and the COA Region 12 “requesting for the submission of pertinent documents such as, but not limited to, the Appropriation Ordinance for CY 2010 of Palimbang, Sultan Kudarat, Disbursement Vouchers, Certification of Funds Obligation/Allocation, Obligation Slip, Certificate of Funds Availability,

<sup>83</sup> There is no Check No. 588179 involved in these cases.

<sup>84</sup> Assumed office on July 1, 2010.

<sup>85</sup> Designated on February 1, 2012.

<sup>86</sup> Records, Vol. 2, p. 283 (Witness Almero’s Judicial Affidavit, p. 6).

<sup>87</sup> *Id.* at 322-331.

<sup>88</sup> TSN, September 17, 2019, pp. 5-6.

Liquidation Report, Summary of Expenses, Terminal Reports and/or Certificate of Completion of Projects, and Audit Reports in connection with the disbursement of seven LBP checks. The loan contract and bidding documents for the procurement of payloader and backhoe were also requested.”<sup>89</sup>

The witness identified Exh. “K” to “K-1”, the Affidavit dated January 13, 2012 of State Auditor III Abella, who submitted the same in compliance with the subpoena, and Exh. “M” to “M-2-b”, the Sworn Statement dated February 22, 2012 of Mr. Gascon. On February 17 and 22, 2012, Mayor Maulana appeared before the FIO, affirmed the contents of his Complaint-Affidavit dated December 9, 2011 and presented the original copies of the seven encashed LBP checks (Exh. “B” to “H”) and the original bank statements (Exh. “I” to “I-6”), all of which were identified by the witness.

The witness further identified several documents that were submitted by the Administrative Officer of the Municipality of Palimbang during the fact-finding investigation, viz.: Exh. “N” to “N-1” (Personal Data Sheet of Mamansual), Exh. “O” to “O-2” (Service Record of Mamansual), Exh. “P” to “P-1” (Personal Data Sheet of Nadar), and Exh. “Q” to “Q-2” (Service Record of Nadar).<sup>90</sup>

The findings of the investigation were as follows, quoted *verbatim*:

1. All seven (7) LBP checks, with an aggregate amount of Php13,003,776.71 were drawn against Current Account No. 002802-1045-30 of the Municipal Government of Palimbang, Sultan Kudarat;
2. The said checks were drawn by Labualas B. Mamansual and Francis B. Nadar as then Municipal Mayor and Treasurer, respectively, of Palimbang, Sultan Kudarat;
3. The issuance and encashment of the checks were done almost at the end of the term of former Mayor Mamansual;
4. The fact the Francis B. Nadar was the indicated payee who presented the said checks for payment was irregular since the said checks cannot be drawn to the “order of Francis B. Nadar” unless the municipal government of Palimbang, Sultan Kudarat had an outstanding obligation with the said Nadar in the total amount of Php13,003,776.71, the total sum of the seven LBP checks. Under Section 344 of the Local Government Code, as amended, payment must be made only to persons whom the municipal government has an existing and outstanding obligation after funds have been appropriated and availability of which has been certified;
5. The disbursements were not valid due to absence of the required Certifications from the local budget officer, local accountant, local treasurer and the local chief executive. It was confirmed that the

<sup>89</sup> Records, Vol. 2, pp. 325-326 (Witness Dela Torre’s Judicial Affidavit, pp. 4-5).

<sup>90</sup> The prosecution no longer formally offered in evidence Exh. “P” to “P-1” and Exh. “Q” to “Q-2”, presumably in view of the death of Nadar.

seven (7) LBP checks did not represent any project or appropriation for that neither liquidation nor accounting was made on the said amounts and that no records of the disbursement vouchers, obligation Budget Request, Liquidation/Terminal Reports relative to the seven checks could be found in the municipal hall;

6. Mr. Carlito M. Abella, State Auditor of COA-Region 12, stated in his Sworn Statement that that the “check Nos. 0000588111, 0000588117, 0000588179, 0000588121 and 0000588114<sup>91</sup> were not submitted for post-audit.” Thus, the regularity or legality of the disbursements could not be ascertained through the Certifications that should have been issued in accordance with Section 344 of the Local Government Code, as amended;

7. There exists a prima facie evidence to indict Labualas B. Mamansual and Francis B. Nadar for malversation of public funds penalized under Art. 217 of the Revised Penal Code.<sup>92</sup>

Witness **Atty. Gayam**, Branch Operation Officer of LBP General Santos Highway Branch, identified his Judicial Affidavit<sup>93</sup> dated November 6, 2018, and affirmed and confirmed its contents as his direct testimony.<sup>94</sup> As the one in charge of the daily operations of the branch, he verifies daily transactions such as loan releases, deposits and encashment. In compliance with a subpoena, he submitted to the Office of the Ombudsman several bank documents which he also identified, *viz.*:

(1) Exh. “R” to “S-7”<sup>95</sup> (LBP Customer Information Sheet and Identification Cards of Mamansual and Nadar);

(2) Exh. “T” to “U-1” (LBP Specimen Signature Cards of Mamansual and Nadar for the Municipality of Palimbang);

(3) Exh. “V” to “V-6”<sup>96</sup> (LBP Electronic Bank Statements of the Municipality of Palimbang under Current Account Deposit No. 2802-1045-30 from March 31, 2010 to October 31, 2010); and

(4) Exh. “W” to “Z”, “AA”, “BB”, and “CC” (Certified scanned copy of the encashed LBP Check Nos. 0000588111, 0000588117, 0000588118, 0000588119, 0000588120, 0000588121, and 0000588114, respectively).

**As earlier stated, accused Mamansual manifested to the Court his intention not to present any witness or evidence for his defense.**

<sup>91</sup> State Auditor III Abella’s Affidavit enumerated six checks, including Check No. “0000588120.”

<sup>92</sup> Records, Vol. 2, pp. 328-329 (Witness Dela Torre’s Judicial Affidavit, pp. 7-8).

<sup>93</sup> *Id.* at 385-392.

<sup>94</sup> TSN, January 28, 2020, pp. 7-8.

<sup>95</sup> The prosecution formally offered in evidence only Exh. “R” to “R-2” (LBP Customer Information Sheet) and Exh. “S” to “S-5” (Identification Cards of Mamansual and Nadar).

<sup>96</sup> The prosecution formally offered in evidence Exh. “V” to “V-8” (LBP Electronic Bank Statements of the Municipality of Palimbang under Current Account Deposit No. 2802-1045-30 from March 31, 2010 to December 31, 2010).

### Issue

The issue is whether accused Mamansual is guilty of seven counts of Malversation of Public Funds Articles 217 of the RPC.

### Ruling

*People v. Pantaleon, Jr.*<sup>97</sup> enumerated the essential elements common to all acts of malversation under Article 217 of the RPC:

The essential elements common to all acts of malversation under Article 217 of the Revised Penal Code are the following: (a) That the offender be a public officer. (b) That he had the custody or control of funds or property by reason of the duties of his office. (c) That those funds or property were public funds or property for which he was accountable. (d) That he appropriated, took, misappropriated or consented or, through abandonment or negligence, permitted another person to take them.

Accused Mamansual was a public officer at the time material to the present cases, being the Municipal Mayor of Palimbang, Sultan Kudarat during the 2007-2010 term.

In his capacity as mayor, he had control and responsibility over the funds of the Municipality of Palimbang by reason of the duties of his office. In *People v. Pantaleon, Jr.*:

As a required standard procedure, the signatures of the **mayor** and the treasurer are needed before any disbursement of public funds can be made. No checks can be prepared and no payment can be effected without their signatures on a disbursement voucher and the corresponding check. In other words, any disbursement and release of public funds require their approval. The appellants, therefore, **in their capacities as mayor and treasurer, had control and responsibility over the funds of the Municipality of Castillejos.** (Emphasis supplied)

Accused Mamansual was accountable for the public funds of the Municipality of Palimbang. The prosecution's evidence undoubtedly established that the involved funds in these cases were sourced from the municipality's Current Account Deposit No. 2802-1045-30 maintained with the LBP General Santos Highway Branch. The bank statements therefor from March 31, 2010 to June 30, 2010 (Exh. "I" to "I-2" and Exh. "V" to "V-2"), with the debit entries for the respective amounts of the seven checks involved in these cases, clearly show that the said account was under the name "PALIMBANG MUNICIPAL GOVERNMENT," and the Customer Information Sheet for Government Customer (Exh. "R") therefor named the "Municipality of Palimbang" as the government institution concerned, with Mamansual and Nadar as the authorized signatories.

<sup>97</sup> G.R. Nos. 158694-96, 13 March 2009.

There is no doubt, therefore, that the funds from the said current account were public funds for which accused Mamansual, as mayor, was accountable. In *People v. Pantaleon, Jr.*:

x x x. They were funds belonging to the municipality, for use by the municipality, and were under the collective custody of the municipality's officials who had to act together to disburse the funds for their intended municipal use. **The funds were therefore public funds for which the appellants as mayor and municipal treasurer were accountable.**

X X X X

Pantaleon, as **municipal mayor**, was also accountable for the **public funds by virtue of Section 340 of the Local Government**, which reads:

Section 340. *Persons Accountable for Local Government Funds.* — Any officer of the local government unit whose duty permits or requires the possession or custody of local government funds shall be accountable and responsible for the safekeeping thereof in conformity with the provisions of this title. Other local officials, though not accountable by the nature of their duties, may likewise be similarly held accountable and responsible for local government funds through their participation in the use or application thereof.

In addition, **municipal mayors**, pursuant to the Local Government Code, are **chief executives of their respective municipalities**. Under Section 102 of the Government Auditing Code of the Philippines, he is responsible for all government funds pertaining to the municipality:

Section 102. *Primary and secondary responsibility.* — (1) The head of any agency of the government is immediately and primarily responsible for all government funds and property pertaining to his agency.

(Emphasis and underscoring supplied)

Parenthetically, based on the records, particularly from accused Mamansual's Counter-Affidavit dated December 5, 2013, the funds from the current account came from various government agencies, resulting in the creation of a trust fund for the Municipality of Palimbang:

The money deposited and taken from the then LBP Current Account No. 2802-1045-30 came from funds/grants received by the Municipality of Palimbang, Sultan Kudarat Province from various government agencies during my term as its mayor. It was not part of the money/budget appropriated yearly by our municipality. The signatories therein are myself and our then and present municipal treasurer, FRANCIS B. NADAR.<sup>98</sup> (Capitalization in the original)

The Local Government Code of 1991<sup>99</sup> contains provisions on trust funds in relation to the local government:

<sup>98</sup> Records, Vol. 1, p. 257.

<sup>99</sup> R.A. No. 7160.

Sec. 305. *Fundamental Principles.* – The financial affairs, transactions, and operations of local government units shall be governed by the following fundamental principles:

x x x x

(e) Trust funds in the local treasury shall not be paid out except in fulfillment of the purpose for which the trust was created or the funds received[.]

x x x x

Sec. 309. *Special Funds.* – There shall be maintained in every provincial, city, or municipal treasury the following special funds:

x x x x

(b) Trust Funds shall consist of private and public monies which have officially come into the possession of the local government or of a local government official as trustee, agent or administrator, or which have been received as a guaranty for the fulfillment of some obligation. A trust fund shall only be used for the specific purpose for which it was created or for which it came into the possession of the local government unit.

x x x x

Sec. 344. *Certification, and Approval of, Vouchers.* – [x x x x].

In cases of special or trust funds, disbursements shall be approved by the administrator of the fund.

Even if viewed from this perspective that the current account was a trust fund, its funds were still public funds, as it came from various government agencies, for which accused Mamansual, as mayor, was accountable, being the administrator thereof as the chief executive of the Municipality of Palimbang.

Even in cases where the source of the trust fund were private funds, the funds are “impressed with public attributes or character” from the time it comes into the possession of a government agency.<sup>100</sup>

While the first three elements of the crime of malversation are present in these cases, the fourth element, in which the offender appropriated, took, misappropriated or consented or, through abandonment or negligence, permitted another person to take the public funds, is glaringly absent.

**The prosecution failed miserably to establish the fourth element for the simple reason that it never presented any relevant *and* competent evidence to prove the same.** While it is true that the prosecution offered in evidence Exh. “J” to “J-3-a” (Complaint-Affidavit dated December 9, 2011 of Mayor Maulana), Exh. “K” to “K-1” (Affidavit dated January 13, 2012 of State Auditor III Abella), Exh. “L” to “L-4-b” (Sworn

<sup>100</sup> See *Posadas v. Sandiganbayan*, G.R. Nos. 168951 & 169000, 17 July 2013.

Statement dated February 22, 2012 of Mayor Maulana), and Exh. “M” to “M-2-b” (Sworn Statement dated February 22, 2012 of Mr. Gascon, the acting Municipal Accountant and Budget Officer, in an attempt to prove this element, **the Court admitted these affidavits and sworn statements in evidence primarily on the basis of the fact that the same were submitted to the FIO investigating team during the fact-finding investigation of these cases.**

The Minute Resolution dated July 6, 2021 is clear on this point:

After due consideration of the foregoing, the Court resolves to:

x x x x

2. ADMIT Exhibit “K” to “K-1” [x x x.]

x x x x

[x x x] Exhibit “K” to “K-1” was received by [Atty. Almero] in her official capacity. [x x x]. In addition, **their competence shall be determined in the preparation of the decision of these cases on the merits[.]**

x x x x

4. ADMIT Exhibits “J” to “J-3-a” and “L” to “L-4-b” for lack of objection thereto[.]

5. ADMIT Exhibits “M” to “M-2-b” [x x x].

Exhibit “M” to “M-2-b”, the sworn statement of Mr. Gascon, was received by Atty. Almero in the course of her investigation of these cases, hence, **the same forms part of her testimony.**<sup>101</sup> (Emphasis supplied)

It should be borne in mind that hearsay evidence, whether objected to or not, has no probative value unless the proponent can show that the evidence falls within the exceptions to the hearsay evidence rule, which do not, however, obtain in these cases.<sup>102</sup> The general rule is that hearsay evidence is not admissible. However, the lack of objection to hearsay testimony may result in its being admitted as evidence. But one should not be misled into thinking that such declarations are thereby impressed with probative value. Admissibility of evidence should not be equated with weight of evidence. Hearsay evidence whether objected to or not cannot be given credence for it has no probative value.<sup>103</sup>

*Republic v. T.A.N. Properties, Inc.*<sup>104</sup> is instructive:

The Court has also ruled that **a document or writing admitted as part of the testimony of a witness does not constitute proof of the facts stated therein.** Here, Torres, a private individual and respondent’s

<sup>101</sup> Records, Vol. 3, pp. 203-204, 209.

<sup>102</sup> *Republic v. Galeno*, G.R. No. 215009, 23 January 2017.

<sup>103</sup> *People v. Parungao*, G.R. No. 125812, 28 November 1996.

<sup>104</sup> G.R. No. 154953, 26 June 2008.

representative, identified the certifications but the government officials who issued the certifications did not testify on the contents of the certifications. As such, the certifications cannot be given probative value. **The contents of the certifications are hearsay because Torres was incompetent to testify on the veracity of the contents of the certifications.** (Emphasis and underscoring supplied)

**Jurisprudence dictates that an affidavit is merely hearsay evidence where its affiant did not take the witness stand.<sup>105</sup> It is a hornbook doctrine that unless the affiants themselves take the witness stand to affirm the averments in their affidavits, the affidavits must be excluded from the judicial proceeding, being inadmissible hearsay.<sup>106</sup>**

*Unchuan v. Lozada*<sup>107</sup> enumerated the reasons for excluding hearsay evidence, to wit:

Evidence is hearsay when its probative force depends, in whole or in part, on the competency and credibility of some persons other than the witness by whom it is sought to be produced. **There are three reasons for excluding hearsay evidence: (1) absence of cross-examination; (2) absence of demeanor evidence; and (3) absence of oath.** It is a hornbook doctrine that an affidavit is merely hearsay evidence where its maker did not take the witness stand. (Emphasis supplied)

In the present cases, **the witnesses presented by the prosecution, namely, Atty. Almero and Atty. Dela Torre, were incompetent to testify on the veracity of the contents of the affidavits and sworn statements. The affiants themselves, namely, Mayor Maulana, State Auditor III Abella, and Mr. Gascon, were not presented to take the witness stand to affirm the averments in their affidavits and sworn statements, thus the same must be excluded for being an inadmissible hearsay evidence insofar as the allegations contained therein.**

The only crucial facts proved by the prosecution are that seven LBP checks were drawn by Mamansual and Nadar from the municipality's Current Account Deposit No. 2802-1045-30 from April 27, 2010 to June 29, 2010, naming Nadar as the payee, in the aggregate amount of PhP13,003,776.71, and that Nadar encashed the checks and received the proceeds thereof on the same day that the checks were respectively issued (Exh. "B" to "B-1-a", "C" to "C-1-a", "D" to "D-1-a", "E" to "E-1-a", "F" to "F-1-a", "G" to "G-1-a", and "H" to "H-1-a"; Exh. "I" to "I-2"; Exh. "V" to "V-2"; and Exh. "W" to "W-2", "X" to "X-2", "Y" to "Y-2", "Z", "AA", "BB", and "CC").

That is all there is to it.

<sup>105</sup> *Dantis v. Maghinang, Jr.*, G.R. No. 191696, 10 April 2013.  
<sup>106</sup> *People v. Quidato, Jr.*, G.R. No. 117401, 1 October 1998.  
<sup>107</sup> G.R. No. 172671, 16 April 2009.





While the frequency of the issuance of the checks and the fact that Nadar was the named payee in each of them, as well as the balance of the current account having been completely emptied on the day before Mamansual's term ended (Exh. "I-2" and Exh. "V-2"), render the series of transactions highly suspicious, the prosecution ought to know that these are utterly insufficient for purposes of conviction.

In fact, making the checks payable to the treasurer as the disbursing officer is not entirely prohibited. Consider this provision from Presidential Decree No. 1445:<sup>108</sup>

Sec. 93. *To whom warrants or checks payable.* Warrants chargeable to revenue or trust funds of the national government or **checks** drawn against the Treasury Checking Account for Agencies maintained with any government depository **shall be made payable either** directly to the creditor to whom the money is due **or to a disbursing officer for official disbursement.** (Emphasis supplied)

Whether the series of transactions in these cases involved malversation of public funds is dependent on how the amount of PhP13,003,776.71 withdrawn from the municipality's current account was actually disbursed, not on the mere fact that Mamansual, as municipal mayor, approved the seven checks, and that Nadar, as municipal treasurer, was the named payee therein and encashed the same and received the proceeds.

While demand is not an element of the crime of malversation, it raises a *prima facie* presumption that the missing funds have been put to personal use.<sup>109</sup> In the present cases, however, the prosecution never presented any evidence at all to prove that the subject funds withdrawn from the municipality's current account were missing in the first place. Nor was any evidence adduced by the prosecution to show that a demand therefor was made, and that Mamansual or Nadar could not satisfactorily explain the failure to produce the funds.

Even without a demand, however, malversation can still be committed when sufficient facts exist proving the crime.<sup>110</sup> As earlier stated, such facts do not exist in these cases. Even assuming *arguendo* that the allegations contained in the above-mentioned affidavits and sworn statements (Exh. "J" to "J-3-a", Exh. "K" to "K-1", Exh. "L" to "L-4-b", and Exh. "M" to "M-2-b") are given any weight, there is nothing substantial therein to prove the fourth element of the crime, as the affiants merely claimed that no record of any documents for the disbursement of funds covered by the checks could be located in the municipal hall and that most of the checks were not submitted for post-audit.

<sup>108</sup> Government Auditing Code of the Philippines.

<sup>109</sup> *People v. Pantaleon, Jr.*, *supra* note 97.

<sup>110</sup> *Id.*

Parenthetically, in Mamansual's Counter-Affidavit<sup>111</sup> dated December 5, 2013, he himself alleged the sources of the funds from the current account, the purported purposes of said funds, and the supposed paper trail of the transactions:

5. The amount covered by LBP Check No. 0000588111 dated April 27, 2010 in the amount of P5,000,000.00 was a fund provided by the Department of Agriculture (DA) for the procurement of microbial inoculants and corn seeds to be used by the farmers in Palimbang, Sultan Kudarat Province. The project was covered by an Agreement entered into by and among the DA, the Bureau of Soils & Water Management, and our municipality represented by me. It was fully implemented and its corresponding Statement of Receipts and Disbursement was in fact verified by the State Auditor, Carlito M. Abella. The original copies of the said Agreement and Statement are in the custody of the Department of Agriculture at Diliman, Quezon City;

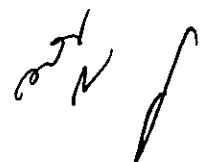
6. The amount covered by LBP Check No. 0000588120 dated June 17, 2010 in the amount of P396,640.00 was a fund provided by the Department of Social Welfare & Development – Region 12 (DSWD) for the purchase of materials for the construction of emergency shelter assistance to families whose houses were damaged by typhoon Ondoy in Palimbang, Sultan Kudarat Province. The project was covered by an Agreement entered into by and between the DSWD and our municipality represented by me. It was fully implemented and its corresponding liquidation report submitted to the DSWD. The original copies of said Agreement and Report are in the custody of the DSWD – Region 12, Koronadal City, South Cotabato;

7. The amounts covered by LBP Check Nos. 0000588117 dated May 7, 2010 in the amount of P2,000,000.00, 0000588118 dated May 14, 2010 in the amount of P500,000.00, and 0000588121 dated June 23, 2010 in the amount of P5,023,674.00, were funds provided by the National Irrigation Administration – Region 12 (NIA) for the construction of protection works of Malalag Communal Irrigation System situated at Brgy. Malalag, Palimbang, Sultan Kudarat Province. The project was covered by an Agreement entered into by and between the NIA and our municipality represented by me. It was fully implemented and its corresponding Liquidation Report was in fact audited by the State Auditor Carlito M. Abella. The original copies of the said Agreement and Report are in the custody of the NIA – Region 12, Isulan, Sultan Kudarat Province;

8. The amounts covered by LBP Check Nos. 0000588119 dated June 11, 2010 in the amount of P70,000.00 and 0000588114 dated June 29, 2010 in the amount of P13,462.71 (the last amount withdrawn in closing the account as my term was about end) were spent on public use / municipal expenses and its corresponding vouchers / liquidation was transmitted to the State Auditor Carlito M. Abella by our then Acting Municipal Accountant, Zaida D. Apil thru Francis B. Nadar. The original copy of the transmittal covering all funds for the month of May, 2010 to June, 2010 is in the custody of the Office of the State Auditor Carlito M. Abella at Isulan, Sultan Kudarat Province and/or said Francis B. Nadar.<sup>112</sup>

<sup>111</sup> Records, Vol. 1, pp. 257-260.

<sup>112</sup> *Id.* at 257-259.



Based on the foregoing allegations, the prosecution is not bereft of sufficient leads to guide it on what evidence to secure in order to perform its duty in prosecuting these cases. Indeed, considering its vast resources and powers, the prosecution could have ascertained the veracity of the said allegations from the concerned agencies and persons, but this it failed to do. By no stretch of the imagination can the prosecution expect a conviction on the basis of its inept and lackadaisical effort in the prosecution of these cases.

*Daayata v. People*<sup>113</sup> reiterates the burden that needs to be discharged by the prosecution for the conviction of the accused:

Proof beyond reasonable doubt charges the prosecution with the immense responsibility of establishing moral certainty. The prosecution's case must rise on its own merits, not merely on relative strength as against that of the defense. Should the prosecution fail to discharge its burden, acquittal must follow as a matter of course.

x x x x

While not impelling such a degree of proof as to establish absolutely impervious certainty, the quantum of proof required in criminal cases nevertheless charges the prosecution with the immense responsibility of establishing moral certainty, a certainty that ultimately appeals to a person's very conscience. While indeed imbued with a sense of altruism, this imperative is borne, not by a mere abstraction, but by constitutional necessity[.]

The prosecution clearly failed to discharge this burden, and the accused has in his favor the presumption of innocence which the Bill of Rights guarantees.

In sum, the Court finds accused Mamansual not guilty in these cases, considering that the evidence of the prosecution absolutely failed to prove his guilt and the act or omission from which the civil liability might arise did not exist.<sup>114</sup>

**WHEREFORE**, the Court hereby renders judgment that in **SB-17-CRM-0023**, **SB-17-CRM-0024**, **SB-17-CRM-0025**, **SB-17-CRM-0026**, **SB-17-CRM-0027**, **SB-17-CRM-0028** and **SB-17-CRM-0029**, accused **LABUALAS B. MAMANSUAL**, Mayor of the Municipality of Palimbang, Sultan Kudarat from 2007 to 2010, is **ACQUITTED**.


The Hold Departure Order issued against him is hereby **LIFTED** and **SET ASIDE**, and his cash bail bond is ordered **RETURNED**.

**SO ORDERED.**


<sup>113</sup> G.R. No. 205745, 8 March 2017.

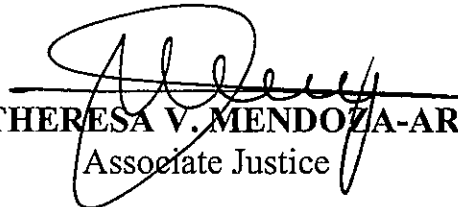
<sup>114</sup> See Rules of Criminal Procedure, Rule 120, Sec. 2, second paragraph.



  
**MARYANN E. CORPUS-MAÑALAC**  
Associate Justice

**WE CONCUR:**

  
**RAFAEL R. LAGOS**  
Associate Justice  
Chairperson

  
**MARIA THERESA V. MENDOZA-ARCEGA**  
Associate Justice

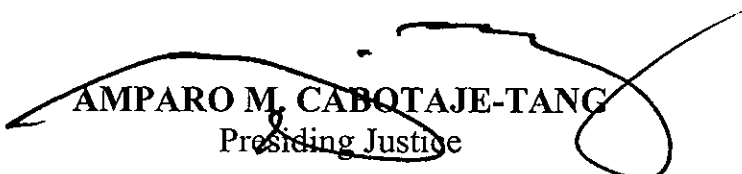
**ATTESTATION**

I attest that the conclusions in the above Decision had been reached in consultation before the cases were assigned to the writer of the opinion of the Court's Division.

  
**RAFAEL R. LAGOS**  
Chairperson

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the cases were assigned to the writer of the opinion of the Court's Division.

  
**AMPARO M. CABOTAJE-TANG**  
Presiding Justice