



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
Quezon City
FIFTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

CRIM. CASE Nos. SB-17-
CRM-0748 to 0751

-versus-

For: Malversation of Public
Funds (Art. 217, Revised
Penal Code)

CAMILO SABIO y LOYOLA,
Accused.

Present:

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

Promulgated:

July 08, 2022
Gezel Elison

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DECISION

MENDOZA-ARCEGA, J.:

Two decades ago, on February 28, 1986, former President Corazon C. Aquino installed her regime by issuing Executive Order (E.O.) No. 1, creating the Presidential Commission on Good Government (PCGG).¹ She entrusted upon this Commission the herculean task of recovering the ill-gotten wealth

¹ In The Matter of the Petition for Issuance of Writ of Habeas Corpus of Camilo L. Sabio v. Honorable Senator Richard Gordon, et al., G.R. No. 174340, October 17, 2006.

Gezel Elison

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accumulated by the deposed President Ferdinand E. Marcos, his family, relatives, subordinates and close associates.²

Charged with four (4) counts of Malversation of Public Funds as defined and penalized under Article 217 of the Revised Penal Code ("RPC") is then PCGG Chairperson Camilo L. Sabio. The inculpatory portion of the *Informations* read:

SB-17-CRM-0748

"That on December 15, 2008, or sometime prior or subsequent thereto, in the City of Manila, Philippines, and within the jurisdiction of this Honorable Court, accused Camilo Sabio y Loyola, a high-ranking public officer, being then the Chairman of the Presidential Commission on Good Government, by reason of the duties of his office, is accountable for public funds in the amount of TWO HUNDRED FIFTY THOUSAND PESOS (PhP250,000.00), received by him as cash advance for litigation and other related purposes, under Disbursement Voucher No. 2008-12-1164 and Check No. 959143, with grave abuse of confidence, did then and there willfully, unlawfully, and feloniously misappropriate, misapply, embezzle and take away the aforesaid funds for his own personal use and benefit, to the damage and prejudice of the government in the aforementioned amount.

CONTRARY TO LAW."

SB-17-CRM-0749

"That on December 23, 2008, or sometime or subsequent thereto, in the City of Manila, Philippines, and within the jurisdiction of this Honorable Court, accused Camilo Sabio y Loyola, a high-ranking public officer, being then the Chairman of the Presidential Commission on Good Government, by reason of the duties of his office, is accountable for public funds in the amount of ONE HUNDRED THOUSAND PESOS (PhP100,000.00), received by him as cash advance for litigation and other related purposes, under Disbursement Voucher No. 2008-12-1314 and Check No. 959185, with grave abuse of confidence, did then and there willfully, unlawfully, and feloniously misappropriate, misapply, embezzle and take away the aforesaid funds for his own personal use and benefit, to the damage and prejudice of the government in the aforementioned amount.

CONTRARY TO LAW."

² *Id.*, citing Section 2 (a), Executive Order No.1.



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SB-17-CRM-0750

“That on February 03, 2009, or sometime or subsequent thereto, in the City of Manila, Philippines, and within the jurisdiction of this Honorable Court, accused Camilo Sabio y Loyola, a high-ranking public officer, being then the Chairman of the Presidential Commission on Good Government, by reason of the duties of his office, is accountable for public funds in the amount of TWO HUNDRED EIGHTY TWO THOUSAND FOUR HUNDRED TWENTY EIGHT PESOS AND THREE CENTAVOS (PhP282,428.03) of the Five Hundred Thousand Pesos (PhP500,000.00) received by him as cash advance for litigation and other related purposes, under Disbursement Voucher No. 2009-02-0091 and Check No. 959299, with grave abuse of confidence, did then and there willfully, unlawfully, and feloniously misappropriate, misapply, embezzle and take away the aforesaid funds for his own personal use and benefit, to the damage and prejudice of the government in the aforementioned amount.

CONTRARY TO LAW.”

SB-17-CRM-0751

“That on March 21, 2009, or sometime prior or subsequent thereto, in Manila City, Philippines, and within the jurisdiction of this Honorable Court, accused Camilo Sabio y Loyola, a high-ranking public officer, being then the Chairman of the Presidential Commission on Good Government, and as such, is accountable for the cash advances for the year 2008 covered by undated Disbursement Voucher Numbers 2008-12-1164 and 2008-12-1314, received by him via Check Numbers 959143 dated December 15, 2008 and 959185 dated December 23, 2008 in the total amount of THREE HUNDRED FIFTY THOUSAND PESOS (PhP350,000.00), for field/activity operating expenses in relation to his official function or his office, and thus required under Commission on Audit (COA) Circular No. 97-002 to liquidate his cash advances for field operating expenses, did then and there willfully, unlawfully and feloniously fail to render his account for such cash advances within the period prescribed by law or the rules and regulations of the Commission on Audit, to the damage and prejudice of the government.

CONTRARY TO LAW.”

On May 8, 2017, a *Hold Departure Order*³ was issued by the Court against Chairperson Sabio. Finding probable cause, the Court issued a *Warrant of Arrest*⁴ dated May 10, 2017 for Criminal Case Nos. SB-17-CRM-0748, SB-17-CRM-0749 and SB-17-CRM-0750. As regards Criminal Case No. SB-17-CRM-0751, there was no finding of probable cause since the Certification in the Information as to the conduct of the preliminary

³ Records, Volume (Vol.) 1, p. 169.

⁴ *Id.*, pp. 170, 175.

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investigation was not signed by Graft Investigation & Prosecution Officer III Sylvia A. Severo-Paraiso.⁵ After the accused's *Motion to Reduce Bailbond* was granted,⁶ he posted reduced cash bail bonds⁷ on September 22, 2017.

On October 12, 2017, the Court dismissed Criminal Case No. SB-17-CRM-0751 for non-compliance with Sec. 4, Rule 110 of the Rules of Court.⁸ The prosecution failed to rectify the defect in the Information as the Certification remained unsigned.⁹

On November 24, 2017, Sabio was arraigned with the assistance of his counsel *de parte* and pleaded not guilty to all the charges.¹⁰ Preliminary conference ensued and was terminated on June 1, 2018.¹¹

As shown in the *Pre-trial Order*¹² dated August 16, 2018, the parties stipulated on the identity of the accused, and his position as the PCGG Chairperson during the time material in these cases. Likewise, they agreed on the following as the issues to be resolved, to wit:

A. For the Prosecution

Whether or not the failure of the accused to liquidate his outstanding cash advances on or before January 31, 2013 is a violation of Art. 217 of the Revised Penal Code.

B. For Accused Camilo L. Sabio

Whether or not the Certification of accused Sabio as cabinet member, or as president (sic) in the recovery of ill-gotten wealth of former President Ferdinand E. Marcos and his cohorts, and other cash advances are already liquidated.

Then, trial on the merits ensued.

⁵ *Id.*, p. 221.

⁶ *Id.*, pp. 195-197.

⁷ *Id.*, pp. 201-205.

⁸ The provision states:

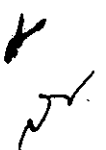
“**Section 4. Information defined.** — An information is an accusation in writing charging a person with an offense, subscribed by the prosecutor and filed with the court.”

⁹ Records, Vol. 1, p. 221.

¹⁰ *Id.*, p. 245.

¹¹ *Id.*, pp. 337-344.

¹² *Id.*, Vol. 1, pp. 337-344.



EVIDENCE FOR THE PROSECUTION

The prosecution presented five (5) witnesses namely: Salvacion C. Jamoralin, Lourdes G. Navarro, Charity D. Catabas, Conrado L. Afable and Elijah Mae L. Sanchez.

1. SALVACION CO-JAMORALIN (“Jamoralin”)

In lieu of her direct testimony, the witness submitted and identified her Judicial Affidavit¹³ dated July 24, 2018.¹⁴

Jamoralin started working with the COA sometime in June 1982. In 2012, she was assigned at the PCGG as the COA Audit Team Leader. As State Auditor IV, she was tasked to audit the financial accounts of the PCGG. The audit team is also tasked to prepare audit reports, issue audit observation memorandum (“AOM”), notice of disallowance, suspension and/or charge and demand letters, whenever necessary.

The witness recounted that the name of the accused is included in the *Schedule of Advances to Officers and Employees (148) – Fund 101 as of June 30, 2012*¹⁵, which was submitted to the audit team by the PCGG’s Accounting Department. The said Schedule of Advances pertains to the list of accountable officers with unliquidated cash advances. Every quarter, the Schedule of Advances is submitted to the audit team for monitoring and submission to the COA Central Office. Jamoralin explained that they evaluate the accounts, and check if there are violations of the COA circulars. They make proper recommendations to the management, and call their attention in case of any violation. She disclosed that Camilo Sabio’s name is indicated in the five (5) entries of the Schedule of Advances with the following amounts: Php282,428.03, Php100,000.00, Php250,000.00, Php500,000.00 and Php450,000.00. The schedule was duly signed¹⁶ by Asst. Chief Accountant Charity Catabas.

Consequently, Jamoralin issued a Demand Letter¹⁷ dated September 18, 2012 to the accused. Five (5) checks were mentioned in the demand letter, three (3) of which are the subject of the instant cases. She identified the following disbursement vouchers (“DVs”) with the corresponding checks and attachments in relation to the cash advances of Sabio:


¹³ *Id.*, pp. 360-426.

¹⁴ Transcript of Stenographic Notes (TSN) dated November 08, 2018, pp. 17-20.

¹⁵ Exhibit “T” and series.

¹⁶ Exhibit “T-1-a”.

¹⁷ Exhibit “J”.

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a. DV dated December 23, 2008 with the amount Php100,000.00 for the cash advance amounting to Php100,000.00;¹⁸

b. DV dated December 15, 2008 with the amount Php250,000.00 for the cash advance amounting to Php250,000.00;¹⁹ and

c. DV dated February 03, 2009 with the amount Php500,000.00 for the cash advance amounting to Php282,428.03.²⁰

Also, the DVs and checks matched the reference numbers and dates in the schedule of unliquidated cash advances of the officers' and employees' account. She explained that although the amount indicated in Check No. 959299²¹ is Php500,000.00, the unliquidated cash advance of Sabio is only Php282,428.03 since partial liquidation was already made based on the aforesaid schedule.²²

As regards the Demand Letter dated September 18, 2012,²³ the accused did not respond to it despite receipt of a certain Fe Pagaduan, as shown in the transmittal receipt and registry return receipt.²⁴ After, the audit team sent an AOM²⁵ dated March 27, 2013 which was signed by Jamoralin. The respective Schedule of Advances as of December 31, 2011 and December 31, 2012 were attached thereto.²⁶ After the issuance of the said AOM, the schedule was included in the annual audit report for the year 2012. Then, the audit team received a Memorandum²⁷ dated February 5, 2018 from the Director-in-Charge of the COA Special Services Sector, for the immediate filing of criminal and administrative cases against all accountable officers with unliquidated cash advances granted before December 31, 2011. Accordingly, Jamoralin executed a Complaint-Affidavit²⁸ against Camilo Sabio.

As to the said Complaint-Affidavit, the witness detailed that there were two (2) other demand letters²⁹ sent to Sabio, which required him to liquidate his cash advances within twenty (20) days based on COA Circular No. 2012-004³⁰ dated November 28, 2012. However, Sabio failed to do so, and no explanation had been submitted for such failure (or if an explanation has been

¹⁸ Exhibit "C" and series.

¹⁹ Exhibit "D" and series.

²⁰ Exhibit "E" and series.

²¹ Exhibit "E".

²² Exhibit "T".

²³ Exhibit "J".

²⁴ Exhibits "J-1" and "J-2".

²⁵ Exhibit "Q".

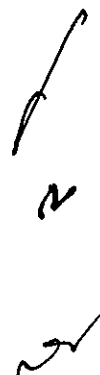
²⁶ Exhibit "Q" and series.

²⁷ Exhibit "U".

²⁸ Exhibit "A".

²⁹ Exhibits "K" and "L".

³⁰ Exhibit "B".



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submitted, the same is not satisfactory) as per Accountant's Report³¹ on Unliquidated Cash Advances as of December 31, 2013.

The witness clarified³² before the Court that the amounts Php500,000.00 and Php450,000.00 as stated in the Demand Letter³³ dated September 18, 2012 are not subject of the instant cases.

On cross-examination,³⁴ Jamoralin testified that the amounts to be liquidated by the accused are government funds since these are reflected and recorded in the books of account of the PCGG. These came from the General Appropriations Act, which forms part of the maintenance and other operating expenses ("MOOE").

More so, Jamoralin denied that the funds in question came from sequestered corporations as these kinds of funds were not recorded in the book of accounts of the PCGG. The funds charged against Sabio are public funds which came from the general appropriations for the PCGG. On clarificatory, she testified that funds in question are part of the MOOE and not of the confidential intelligence funds.

When asked on re-direct,³⁵ the witness recounted that the cash advances were from "Fund 101" as indicated in the Schedule of Advances.³⁶ Jamoralin informed the Court that "Fund 101" refers to the PCGG fund.

During re-cross examination,³⁷ it was confirmed that the funds were released from the DBM funds.

2. LOURDES DE GUZMAN NAVARRO ("Navarro")

In lieu of her direct testimony, Lourdes De Guzman Navarro submitted and identified her Judicial Affidavit³⁸ dated January 16, 2019.³⁹

Navarro is the Chief Accountant of the PCGG since 1991. Her duties include the signing of DVs relative to the expenses of the PCGG such as cash

³¹ Exhibit "V".

³² TSN dated November 08, 2018, pp. 8-11.

³³ Exhibit "J"

³⁴ TSN dated November 08, 2018, pp. 22-37.

³⁵ *Id.*, pp. 44-45.

³⁶ Exhibits "T" and "Q".

³⁷ TSN dated November 08, 2018, pp. 46-47.

³⁸ Records, Vol. 1, pp. 438-454.

³⁹ TSN dated January 23, 2019, pp. 16-18.



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advances, payment of salaries, supplies, among others. She is also tasked to certify the payrolls as to the availability of funds, supervise the recording of disbursements and liquidations in the books of account, and perform other duties as may be necessary or required.

The witness stated that Sabio was the PCGG Chairperson for the years 2008 to 2009. As shown in the records of their division, Sabio was granted cash advances on the following dates: December 15, 2008, December 23, 2008 and February 3, 2009. Navarro identified the following disbursement vouchers:

a. **DV No. 2008-12-1164**⁴⁰ - signed by Camilo L. Sabio for the cash advance amounting to Php100,000.00 which was granted on December 15, 2008 for litigation and other related expenses. Sabio approved and received the Check dated December 23, 2008 as shown in Boxes "B" and "C"⁴¹ of the DV. The printed name of Navarro as Chief Accountant appears in the DV under "Box A: Certified Cash Available, Subject to Authority to Debit Account When Applicable, Supporting Documents Complete".⁴² Box A is not signed by the witness but initialed by Conrad Afable, one of her former staff.

b. **DV No. 2008-12-1314**⁴³ - signed by Camilo L. Sabio for the cash advance amounting to Php250,000.00 granted on December 23, 2008 for litigation and other related expenses. Sabio approved and received the Check dated December 15, 2008 as shown in Boxes "B" and "C".⁴⁴ The printed name of Navarro as Chief Accountant appears in the DV under "Box A: Certified Cash Available, Subject to Authority to Debit Account When Applicable, Supporting Documents Complete".⁴⁵ Box A is not signed by the witness but initialed by Conrad Afable, one of her former staff.

c. **DV No. 2009-02-1164** – for the cash advance amounting to Php500,000.00 granted on February 3, 2009 for expenses incurred during meetings and conferences on pending cases and other related expenses. Sabio approved and received a check

⁴⁰ Exhibit "C-1".

⁴¹ Exhibits "C-1-a" and "C-1-b".

⁴² Exhibit "C-1-c".

⁴³ Exhibit "D-1".

⁴⁴ Exhibits "D-1-a" and "D-1-b".

⁴⁵ Exhibit "D-1-c".

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dated February 3, 2009 as shown in Boxes "B" and "C".⁴⁶
Navarro also signed⁴⁷ the DV.

The witness averred that since the said cash advances remain unliquidated, she and Conrado L. Afable signed⁴⁸ a Memorandum⁴⁹ dated February 9, 2009 expressing their reservation to grant additional cash advances to Sabio. The memorandum was submitted to Marcial V. Flores, OIC of the Finance and Administration Department of the PCGG.

As part of her duties, Navarro affixes her signature in the DVs subject to the availability of funds in accordance with the National Cash Allocation. She asserted that the usual process was not followed during the signing of DV No. 2008-12-1314⁵⁰ and DV No. 2008-12-1164⁵¹ since it was Chairperson Sabio who signed these vouchers. Moreover, the subject cash advances were all included in the Aging or Schedules of Cash Advances dated December 31, 2011⁵² and December 31, 2012⁵³, respectively. Navarro added that the check numbers are also indicated in the DVs.

With regard to the Php500,000.00 cash advance, it was partially liquidated through the off-setting of Sabio's receivables from the PCGG as shown in the Subsidiary Ledger⁵⁴ with Liquidation Report.⁵⁵ Out of the Php500,000.00 cash advance, only the amount of Php282,428.03 remains unliquidated. The amount of Php194,848.04 was credited as liquidation based on the liquidation report with attachments⁵⁶ that was duly signed⁵⁷ by her and Sabio. The liquidation is also supported by the following: Certification⁵⁸ dated September 4, 2009, Actual Receipts and a Summary⁵⁹ signed by Sabio.

Navarro detailed that the amounts of Php7,851.10 and Php14,872.83 were likewise credited to the accused's receivables from the PCGG. The said amounts are reflected in the Journal Entry Vouchers or Disbursement Vouchers with attachments duly signed by the witness.⁶⁰ The cash advances

⁴⁶ Exhibits "E-1-a" and "E-1-b".

⁴⁷ Exhibit "E-1-c".

⁴⁸ Exhibits "E-4-a" and "E-4-b".

⁴⁹ Exhibit "E-4".

⁵⁰ Exhibit "C-1".

⁵¹ Exhibit "D-1".

⁵² Exhibits "Q-3" to "Q-5", "Q-3-a" to "Q-3-c".

⁵³ Exhibits "Q-10", "Q-10-a", "Q-10-b" and "Q-10-c".

⁵⁴ Exhibit "W".

⁵⁵ Exhibit "W-28".

⁵⁶ Exhibits "W-28" to "W-123".

⁵⁷ Exhibits "W-28-a" to "W-28-b".

⁵⁸ Exhibits "W-32" to "W-32-a".

⁵⁹ Exhibits "W-29" to "W-31-a".

⁶⁰ Exhibits "W-1 to "W-27", "W-1-a", "W-3-a", "W-7-a" to "W-10-a", "W-17-a" to "W-27-a".

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from “Fund 101” or the general fund released by the National Government to the PCGG, are subject to liquidation.

Finally, the disputed cash advances are also reflected in the Schedule of Cash Advances as of December 31, 2013.⁶¹ These balances remain unpaid up to the present time.

When cross-examined,⁶² Navarro avowed that out of the (3) cash advances, she only initialed the voucher covering the Php500,000.00 cash advance of Sabio. The normal process was not followed, and the cash advances were granted even without her full signature. She maintained that her initial was affixed after the cash advance was granted. Even so, a Memorandum⁶³ was submitted to her superior before the said cash advance was granted. Her initial was affixed on February 13, 2009 while the Memorandum was made on February 9, 2006.

The witness contended that the cash advances were sourced from General Fund 101 as shown in the subject checks, and not from the sequestered funds. The budget for the PCGG was already included in the General Appropriations Act so there was no need for further request for its release.

Navarro affirmed that the PCGG Chairperson had the authority to use funds coming from the Bureau of Treasury even before these are actually delivered by the Philippine Government. These funds originate from the proceeds of surrendered and not sequestered assets, which are remitted to the Bureau of Treasury. The proceeds from part of a special account called “Fund 151”, and it is not similar with “Fund 101”.⁶⁴

Moreover, the witness declared that she is not aware of a particular provision stating that no member or staff of the PCGG shall be required to testify, or produce evidence in any judicial, legislative or administrative proceeding concerning matters within the official cognizance of the PCGG. She is also not cognizant of the voluntary contributions made by the sequestered companies to the coffers of the PCGG for its operational expenses. Since she is not the approving authority, Navarro asseverated that she never approved any disbursement out of these contributions. Her office merely records the funds coming from the general fund. As to the sequestered funds, these are remitted to the National Treasury and placed under escrow.

⁶¹ Exhibits “I” to “I-2”, “I-1-a”, “I-1-b” and “I-1-c”.

⁶² TSN dated January 23, 2019, pp. 19-44.

⁶³ Exhibit “E-4”.

⁶⁴ TSN dated January 23, 2019, pp. 27-28.

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The said funds cannot be disbursed. Navarro could not recall whether there were funds which the accused should transmit to the PCGG.⁶⁵

As to the sequestered funds, it is the collecting officer who reports the same to her office. She pointed out that general funds are released from the National Government, while the sequestered funds are remitted to the National Treasury. The source of funds is indicated in the check, and the funds to be used for the cash advances is determined by the cashier. The cashier is the one who prepares the checks, and not the witness.

Navarro postulated that Chairperson Sabio was able to process the checks even without her participation or signature since the latter sought approval from the Director of Finance.

3. CHARITY D. CATABAS (“Catabas”)

In lieu of her direct testimony, Charity D. Catabas submitted and identified her Judicial Affidavit⁶⁶ dated March 11, 2019.⁶⁷

Catabas is the Supervising Administrative Officer of the Accounting Division, Finance and Administrative Department of the PCGG since 2004. She is in-charge with book keeping, monitoring, maintaining and updating the general ledger accounts, and other tasks assigned by her superior such as certifying documents based on accounting records. Some of the documents she prepares are the financial statements and supporting schedules of the general ledgers.

The witness recalled that she prepared and signed⁶⁸ the Schedule and Aging of Cash Advances to Officers and Employees as of December 31, 2013⁶⁹ from the general ledger balance. The entries for the years CY 2008 and CY 2009 reflect the cash advances of Chairperson Sabio, to wit: Php 250,000.00 dated 12/15/08, Php100,000.00 dated 12/23/08 and Php282,428.03 dated 02/03/09.⁷⁰ The Schedule of Advances to Officers and Employees (148) – Fund 101 as of June 30, 2012⁷¹ was also prepared and signed⁷² by Catabas for the unliquidated cash advances of Sabio.⁷³ The

⁶⁵ *Id.*, pp. 31-34.

⁶⁶ Records, Vol. 2, pp. 13-28.

⁶⁷ TSN dated February 20, 2019, pp. 9-25.

⁶⁸ Exhibit “I-1-d”.

⁶⁹ Exhibits “I” to “I-2”.

⁷⁰ Exhibits “I-1-a”, “I-1-b” and “I-1-c”.

⁷¹ Exhibit “T”.

⁷² Exhibit “T-1-a”.

⁷³ Exhibits “T-a” to “T-c”.

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employees are granted cash advances based on the purpose they stated on their request. Within the reglementary period, the employees are required to submit the supporting documents to liquidate the said cash advances. The remaining balance, which is not covered by liquidation documents and refunds, would remain in the general ledger as unliquidated cash advances. The funds covered by the schedules were sourced from Fund 101. Fund 101 is the general fund appropriated in the General Appropriations Act for operational and administrative purposes.

Catabas specified that there are other types of funds handled by her department. The funds are as follows:

- a. Fund 151- a special appropriation for litigation expenses, the source of funding is from the percentage of recoveries turned over to the Bureau of Treasury, which is included in the proposed budget of the commission and in the GAA;
- b. Fund 158- maintained by the commission which contains the surrendered assets/properties and those owned by the PCGG from cases won, and other recoveries for the purpose of Comprehensive Agrarian Reform Program; and
- c. Fund 184- consists of the sequestered properties and funds in escrow.

All cash advances must be liquidated by submitting the required documents such as official receipts and/or proof of payment. As part of liquidation process, she receives the required documents, and the approved liquidation report signed by the chief accountant. Thereafter, Catabas would record the same to the Journal Entry Voucher. The advances to officers' account have its own ledger wherein all the grants, liquidations and settlements are recorded. Then, the posting in the Journal Entry Voucher will be credited against the cash advances. Regarding Sabio's cash advance covered by Check No. 959299 dated February 3, 2009, she prepared and signed the Journal Entry Voucher⁷⁴ dated September 8, 2009. The Journal Entry Voucher indicates that the amount of Php194,848.04 was already liquidated by the accused. The said journal was based on the liquidation report and its supporting documents,⁷⁵ which consists of official receipts for representation expenses for meals and snacks served. The liquidation report was also signed⁷⁶ by Sabio and his Chief of Staff, Lilia Yanga.

⁷⁴ Exhibits "W-27" and "W-27-b".

⁷⁵ Exhibits "W-28" to "W-119".

⁷⁶ Exhibits "W-28-a" and "W-28-c".

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Lastly, the witness stated that the cash advances granted from confidential funds can be liquidated by the submission of a certification of expenses incurred. As to Sabio's cash advances, these were not granted from confidential funds but from the general funds as shown in the disbursement vouchers, and in the recorded schedules. The purpose of the cash advances is for litigation and other related expenses.

When cross-examined,⁷⁷ it was shown that the Journal Entry Voucher⁷⁸ identified by Catabas does not reflect Sabio's Php500,000.00 cash advance as well as the other cash advances. It was her contention that the PCGG is maintaining four (4) funds from different sources. Moreover, she assessed the PCGG funds through the Notice of Cash Allocation ("NCA") that was provided by the Budget Division. At the time that the subject cash advances were made, she could not remember whether the PCGG had confidential and intelligence funds since these are granted with special NCA. From May 2, 2005 to September 12, 2010, there were no confidential and intelligence funds that were granted to Chairperson Sabio.

Regarding Fund 151, it is sourced from the ill-gotten wealth recovered by the PCGG, and then turned over to the Bureau of Treasury. Funds could be released to the PCGG Chairperson, subject to the COA rules and regulations for the expenses of the PCGG. The witness declared that the cash advances granted to Chairperson Sabio were from Fund 101. Yet, she could not recall the remaining unliquidated cash advance of the accused, except for his unliquidated balance of Php500,000.00 coming from Fund 151. The cash advance is reflected in the Journal Entry Voucher, and the cash advance was partially liquidated.

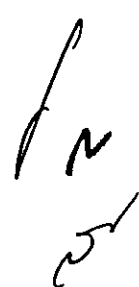
Catabas agreed that Sabio was allowed to propose and approve the PCGG budget as part of his functions as Chairperson, subject to COA Rules and Regulations. It was underscored that cash advances should be liquidated. As to the entries in the said journal, she could not change its contents to make it conform to the COA rules.

During the continuation of her cross,⁷⁹ she described Fund 101 as a general fund used for the operations of the commission as approved by the General Appropriations Act. These are funds from the government for the PCGG's use. When asked by the Court, Catabas reiterated that Fund 101 is the same as General Fund.

⁷⁷ TSN dated March 20, 2019, pp. 27-52.

⁷⁸ Exhibits "W-27" and "W-27-b".

⁷⁹ TSN dated May 2, 2019, pp. 4-38.



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Meanwhile, the PCGG also maintains a percentage of its recoveries, otherwise known as Fund 151. It is included in the General Appropriations Act as a special provision wherein a portion of which goes to the Bureau of National Treasury, and is allotted for PCGG's litigation and other related purposes. The said bureau sets aside ten percent (10%) of the fund for the PCGG. Being with the PCGG for fifteen (15) years, she recounted that Sabio was granted cash advances both from Funds 101 and 151. Fund 151 is not part of the general fund; it is a Special Appropriation or Special Fund. Since her functions are more on accounting, she does not know whether Chairperson Sabio proposed certain amounts from Fund 151 for the operations of the PCGG. On clarificatory, Catabas stressed that all cash advances require liquidation even though it came from Funds 101, 158, 151 or 184.

Fund 184, in comparison, is comprised mainly of confiscated and abandoned properties, and the funds in escrow that are maintained by the Bureau of National Treasury. Although Fund 184 is managed by the Bureau of Treasury, the funds being appropriated by the latter for the PCGG come from Fund 158 since these funds are already owned by the government.

In monitoring and updating accounting records, Catabas has not encountered any expenses for payment of rewards or payment for the use of information leading to the recovery of ill-gotten wealth. She is familiar with the Confidential and Intelligence Funds, but is unaware of the details as to where it is being paid. Still, it requires liquidation in the form of a certification issued by the head of the agency. On clarificatory, the witness testified that only a regular cash advance was extended to Sabio, and it was sourced from Fund 101.

As to representation expenses, these usually involve expenses incurred for meals and other expenses during meetings. When asked by the Court regarding the source of representation expenses, Catabas asseverated that these are taken from Fund 101. It was established that Fund 101 is for the general operations of the PCGG. With respect to funds in escrow, these are not automatically considered as government funds since the PCGG is the one which preserves the sequestered assets.

The witness added that the use of funds or the cash advances from Fund 101 is determined solely by the Chairperson, and that she would merely record the transactions. Catabas expounded that before the documents reach the accounting division for reporting, the liquidation report must be properly approved and signed by the chairperson. The chief accountant would just confirm if the liquidation is in accordance with the law. She clarified to the Court that she is not the chief accountant.

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Catabas confirmed that it is the accused who approves the liquidation, while the chief accountant's role is to determine the completeness and validity of the documents. During liquidation, documents should be completed which must include a certification coming from the person concerned, and the attendance of the meeting. When confronted with the Schedule of Advances to Officers and Employees dated December 31, 2013,⁸⁰ the witness stated that Sabio's cash advances pertain to litigation and other related expenses. As regards Journal Entry Voucher No. 09-383,⁸¹ it is the journal for the liquidation of the amount of Php194,848.04 which is already deducted from Sabio's cash advance of Php500,000.00. On clarificatory, Catabas affirmed that the listing in the Schedule of Unliquidated Cash Advances⁸² refers to the unliquidated cash advance of Sabio, while the said Journal Entry Voucher is for the amount liquidated. Out of the Php500,000.00 cash advance, the remaining unliquidated amount is Php282,428.03.⁸³ The Liquidation Report⁸⁴ shows that the amount of Php194,848.04 has been deducted. Aside from the said liquidated amount, there were other amounts deducted as well from the Php500,000.00 cash advance.

During re-direct,⁸⁵ Catabas explained that Sabio made other liquidations for the Php500,000.00 cash advance. Hence, Php282,428.03 is the remaining unliquidated balance.

4. CONRADO LANDICHO AFABLE ("Afable")

In lieu of his direct testimony, Conrado Landicho Afable submitted and identified his Judicial Affidavit⁸⁶ dated March 12, 2019.⁸⁷

Afable is the Administrative Officer V, Cashier, Budget Division, Finance and Administrative Department of the PCGG. He started working with the PCGG on October 4, 1994. In 2008 to 2009, he was a contractual employee holding the position of Executive Assistant I assigned at the Accounting Division under the Finance and Administration Department. He assists Chief Accountant Lourdes G. Navarro, and performs duties assigned to him.

⁸⁰ Exhibit "I".

⁸¹ Exhibit "W-27".

⁸² Exhibit "I".

⁸³ Exhibit "I-1-c".

⁸⁴ Exhibit "W-28".

⁸⁵ TSN dated May 2, 2019, pp. 38-39.

⁸⁶ Records, Vol. 2, pp. 144-155.

⁸⁷ TSN dated June 13, 2019, pp. 8-11.

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As pre-auditor, he makes a checklist of attachments on the face of the voucher, and stamps “pre-audited” on it. After, he places his initial under the name of the chief accountant. The witness explained that the stamp “pre-audited” on the attachments means that the document is included in the checklist. Likewise, the said stamp signifies that the attachments were already checked, and that he made a list on the face of the DV. The following DVs were pre-audited, stamped and signed by Afable:

a. DV No. 2008-12-1314 in the amount of Php100,000.00 and its attachments,⁸⁸

b. DV No. 2008-12-1164 in the amount of Php250,000.00 and its attachments,⁸⁹ and

c. DV No. 2009-02-0091 in the amount of Php500,000.000 and its attachments.⁹⁰

After making a checklist of the attachments to the DVs, the documents are forwarded to the desk of the chief accountant for her certification. The chief accountant either certifies under Box A or at times, she would give it back to Afable to request for more documents. He clarified that it is the chief accountant who certifies under Box A while his initial under her name indicates that he already checked the attachments. Being a contractual employee, the witness is not authorized to certify under Box A. As to Box A of DV No. 2008-12-1314⁹¹ and DV No. 2008-12-1164⁹², both are not certified or signed by the chief accountant.

Afable drafted the Memorandum dated February 9, 2009 addressed to Director Marcial Flores which was signed by him and Chief Accountant Lourdes G. Navarro.⁹³ The memorandum indicated their reservation for the grant of additional cash advance to Chairperson Sabio since the latter has unliquidated cash advance amounting to Php1.8 million as of December 31, 2008.

On February 3, 2009, Sabio received the cash advance amounting to Php500,000.00 before Afable and the chief accountant signed the DV.⁹⁴ The

⁸⁸ Exhibits “C-1” to “C-3”, “C-1-c”, “C-1-d”, “C-1-e”, “C-2-a” and “C-3-a”.

⁸⁹ Exhibits “D-1” to “D-3”, “D-1-c”, “D-1-d”, “D-1-e”, “D-2-a” and “D-3-a”.

⁹⁰ Exhibits “E-1” to “E-4”, “E-1-a”, “E-1-c”, “E-2-a” and “E-3-a”.

⁹¹ Exhibit “C-1”.

⁹² Exhibit “D-1”.

⁹³ Exhibits “E-4”, “E-4-a” and “E-4-b”.

⁹⁴ Exhibit “E-1-b”.

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DV was signed by the witness on February 10, 2009,⁹⁵ while the chief accountant signed on February 13, 2009.⁹⁶ The witness identified the following:

- a. Signatures of Sabio in Box B (Approved for Payment) and Box C (Received Payment) in the disputed DVs;⁹⁷
- b. Signatures of Sabio in the Memorandum for request for cash advance dated December 23, 2008;⁹⁸
- c. Signatures of Sabio in the Memorandum for request for cash advance dated December 12, 2008;⁹⁹
- d. Signatures of Sabio in the Memorandum for request for cash advance dated February 3, 2009;¹⁰⁰
- e. Signatures of Sabio in the three (3) Obligation Requests;¹⁰¹ and
- f. Signatures of Nestor C. Palabrica in the three (3) Obligation Requests.¹⁰²

Upon checking the attachments of the Liquidation Report¹⁰³ and making a checklist, Afable also verified if the official receipts would tally with the partial liquidation amounting to Php194,828.04 for Sabio's Php500,000.00 cash advance. The handwritten checklist are as follows:¹⁰⁴ liquidation of cash advances, Certification¹⁰⁵ dated September 4, 2009, official receipts and sales invoice stamped pre-audited.¹⁰⁶ The liquidation report was signed by Lilia Yanga,¹⁰⁷ Assistant V/ Chief of Staff of Chairperson Sabio and by Sabio himself.¹⁰⁸

⁹⁵ Exhibit "E-1-e".

⁹⁶ Exhibit "E-1-b".

⁹⁷ Exhibits "C-1-a", "D-1-a", "E-1-a", "C-1-b", "D-1-b" and "E-1-b".

⁹⁸ Exhibit "C-2-b".

⁹⁹ Exhibit "D-3-b".

¹⁰⁰ Exhibit "E-3-b".

¹⁰¹ Exhibits "C-3-b", "D-2-b" and "E-2-b".

¹⁰² Exhibits "C-3-c", "D-2-c" and "E-2-c".

¹⁰³ Exhibits "W-28" to "W-75-a".

¹⁰⁴ Exhibit "W-28-d".

¹⁰⁵ Exhibit "W-32".

¹⁰⁶ Exhibits "W-33" to "W-75" with sub-markings.

¹⁰⁷ Exhibits "W-28-c" and "W-31-b".

¹⁰⁸ Exhibits "W-28-a" and "W-31-a".

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The said certification was signed and certified by Chairperson Sabio.¹⁰⁹ The amount of Php194,828.04 was expended to pay for representation expenses, including the expenses for meals and snacks during confidential meetings of the PCGG. The stamp “pre-audited” and Afable’s signature indicate that the documents have been checked and included in the list of attachments before forwarding the same to the chief accountant. Finally, it is the COA resident auditor who was tasked to audit the transaction of the PCGG.

When cross-examined,¹¹⁰ the witness professed that the examination of liquidated cash advance is part of pre-audit since it is still subject to the chief accountant’s certification. As part of his task, he makes a checklist of the requirements for cash advance and liquidation. The checklist would be verified if it would tally, subject to the approval of the chief accountant. Thus, the liquidation of the PCGG Chairperson is subject to the approval of the chief accountant.

Afable does not prepare the vouchers but merely checks them once ready. The disbursement voucher is deemed ready if the chief accountant has no complaints to the listing made. The listing is based on the transaction involved, *e.g.*, for cash advances --approved memorandum for cash advance, obligation request signed by the budget officer and approval of the chairperson. For the cash advance obtained by the chairperson, the approval of both the chief accountant, and the budget officer are still necessary. Without such approval, the Accounting Division could not prepare the voucher unless the obligation request is approved by the budget officer. The normal procedure is that the voucher would not be processed without the signature of the chief accountant.

Regarding the three (3) cash advances of Sabio, the witness posited that he is not aware whether the same were approved or disapproved. The chief accountant must sign first before the request for cash advance would be forwarded to the Budget Division. Afable confirmed that Sabio’s cash advance amounting to Php100,000.00 was not approved by the chief accountant. As to the cash advance amounting to Php500,000.00, the witness stated that it was also not approved by the chief accountant although it was duly signed by the latter.

When confronted with the Journal Entry Voucher,¹¹¹ Afable affirmed that it is not pre-audited, and that there is no checklist indicated therein since he is not the one who prepared it. Instead, it was prepared by Chief Accountant

¹⁰⁹ Exhibits “W-32” and “W-32-a”.

¹¹⁰ TSN dated June 13, 2019, pp. 18-42.

¹¹¹ Exhibit “W-27”.

Charity Dalisay. As regards the DVs, these are likewise pre-audited together with the Request for Cash Advance and Obligation Request. As for liquidation, he prepares the checklist of documents submitted, *e.g.*, whether the same has official receipts, sales invoice and certification. His participation is only limited to making checklists, and he does not prepare the checks. He explained that the PCGG Chairperson could request a cash advance in writing.

5. ELIJAH MAE L. SANCHEZ (“Sanchez”)


In lieu of her direct testimony, Elijah Mae L. Sanchez submitted and identified her Judicial Affidavit¹¹² dated September 23, 2019.¹¹³

Sanchez is the Accounting Clerk II of the Accounting, Finance and Administrative Department of the PCGG. She started working with the PCGG on November 17, 2017. She is in charge of reconciling the property, plant and equipment, semi-expendables and other tasks that may be assigned to her by her superiors. Her other tasks include the filing Journal Entry Voucher once received by the COA, updating and preparing subsidiary ledgers.

The witness explained that she prepared a subsidiary ledger¹¹⁴ for Sabio’s cash advance amounting to Php500,000.00 which is covered by Check No. 959299.¹¹⁵ The remaining unliquidated amount is Php282,428.03 as the following amounts were already deducted from the said cash advance:

DEDUCTIONS	BASIS/SOURCE
Php194,848.04	1. Liquidation Report submitted by Chairperson Sabio with Summary of Expenses of meals and snacks consumed ¹¹⁶ 2. Journal Entry Voucher ¹¹⁷ 3. Subsidiary Ledger for the account of Camilo Sabio ¹¹⁸
Php14,872.83	1. Disbursement for Tax Refund for Calendar Year 2010 ¹¹⁹ 2. Summary of Income Tax Refund ¹²⁰ 3. Subsidiary Ledger for the account of Camilo Sabio ¹²¹

¹¹² Records, Vol. 2, pp. 386-392.
¹¹³ TSN dated November 6, 2019, pp. 10-11.
¹¹⁴ Exhibit “W”
¹¹⁵ Exhibit “E”-P.M.
¹¹⁶ Exhibits “W-28” to “W-31”.
¹¹⁷ Exhibit “W-27”.
¹¹⁸ Exhibit “W-125”.
¹¹⁹ Exhibits “W-1” to “W-16”.
¹²⁰ Exhibits “W-9-a”, “W-9-b”, “W-15” and “W-15-a”.
¹²¹ Exhibit “W-125”.



Php7,851.10	1. Deducted from Chairperson Sabio’s salary and PERA for General Journal ¹²² for December 2010 2. Subsidiary Ledger for the account of Camilo Sabio ¹²³
TOTAL (Amount Deducted): Php217,571.97	

Cash Advance covered by Check No. 959299: **Php500,000.00**
Less: **Php217,571.97**
Remaining Unliquidated Amount: Php282,428.03

When cross-examined,¹²⁴ the witness emphasized that the attachments¹²⁵ in her Judicial Affidavit are actually supporting documents for the Journal Entry Voucher which she mentioned earlier.

The defense argued that Sanchez is a Banking and Finance graduate and not an Accountancy graduate. When asked by the Court, the witness testified that she understood the contents of her Judicial Affidavit. Sanchez admitted that she has no participation in the preparation of the documents attached therein, including the Journal Entry Voucher.¹²⁶ The only document she prepared was the Subsidiary Ledger.¹²⁷

On February 26, 2020, the Court admitted all the prosecution’s exhibits for lack of objection from the defense while Exhibits “F”, “M”, “N”, “O”, “P”, “R” and “S” were not offered, viz:¹²⁸

Exhibits	Description
“A”	Complaint-Affidavit dated April 28, 2014 signed by Salvacion C. Jamoralin, COA Audit Team Leader of the PCGG
“B”	COA Circular No. 2012-004 dated November 28, 2012
“C” and series	Check No. 959185 dated 12/23/08 – Php100,000.00 signed by Luzviminda R. Toren and Camilo L. Sabio with:
“C-1”	Disbursement Voucher signed by Camilo L. Sabio
“C-1-a”	<ul style="list-style-type: none">• Signature over the name of Camilo L. Sabio in Box B: Approved for Payment

¹²² Exhibits “W-17” to “W-26”.
¹²³ Exhibit “W-125”.
¹²⁴ TSN dated November 6, 2019, pp. 12-32.
¹²⁵ Exhibits “W-20” to “W-31”.
¹²⁶ Exhibit “W-27”.
¹²⁷ Exhibit “W”.
¹²⁸ Records, Vol. 3, pp. 27-28.

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"C-1-b"	<ul style="list-style-type: none"> Signature over the name of Camilo L. Sabio in Box C: Received Payment
"C-1-c"	<ul style="list-style-type: none"> Unsigned name of Lourdes G. Navarro in Box A, Certified as to Funds Available
"C-1-d"	<ul style="list-style-type: none"> Checklist on the face of the Disbursement Voucher
"C-1-e"	<ul style="list-style-type: none"> Stamp "PRE-AUDITED" with signature of Mr. Conrado Afable
"C-2"	Memorandum for processing of cash advance signed by Camilo L. Sabio dated 12/23/08 with signature of Marcial V. Flores and with stamp pre-audited by Conrado L. Afable
"C-2-a"	<ul style="list-style-type: none"> Stamp "PRE-AUDITED" with signature of Mr. Conrado Afable
"C-2-b"	<ul style="list-style-type: none"> Signature of former PCGG Chairperson Camilo L. Sabio
"C-3"	Obligation Request signed by Camilo L. Sabio and Nestor C. Palabrica with stamp pre-audited by Conrado L. Afable
"C-3-a"	<ul style="list-style-type: none"> Stamp "PRE-AUDITED" with signature of Mr. Conrado Afable
"C-3-b"	<ul style="list-style-type: none"> Signature over the name of Camilo L. Sabio in Box A
"C-3-c"	<ul style="list-style-type: none"> Signature over the name of Nestor C. Palabrica in Box C
"C-4"	Dorsal side of Check No. 959185 dated 12/23/08 – Php100,000.00
"D" and series	Check No. 959143 dated 12/15/08 – Php250,000.00 signed by Luzviminda R. Toren and Camilo L. Sabio with:
"D-1"	<ul style="list-style-type: none"> Disbursement Voucher signed by Camilo L. Sabio with stamp pre-audited
"D-1-a"	<ul style="list-style-type: none"> Signature over the name of Camilo L. Sabio in Box B: Approved for Payment
"D-1-b"	<ul style="list-style-type: none"> Signature over the name of Camilo L. Sabio in Box C: Received Payment
"D-1-c"	<ul style="list-style-type: none"> Signature over the name of Lourdes G. Navarro in Box A, Certified
"D-1-d"	<ul style="list-style-type: none"> Checklist on the face of the Disbursement Voucher
"D-1-e"	<ul style="list-style-type: none"> Stamp "PRE-AUDITED" with signature of Mr. Conrado Afable

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"D-2"	Obligation Request signed by Camilo L. Sabio and Nestor C. Palabrica with stamp pre-audited
"D-2-a"	<ul style="list-style-type: none"> Stamp "PRE-AUDITED" with signature of Mr. Conrado Afaible
"D-2-b"	<ul style="list-style-type: none"> Signature over the name of Camilo L. Sabio in Box A
"D-2-c"	<ul style="list-style-type: none"> Signature over the name of Nestor C. Palabrica in Box C
"D-3"	Memorandum for processing of cash advance signed by Camilo L. Sabio dated 12/12/08 with signature of Marcial V. Flores and with stamp pre-audited
"D-3-a"	<ul style="list-style-type: none"> Stamp "PRE-AUDITED" with signature of Mr. Conrado Afaible
"D-3-b"	<ul style="list-style-type: none"> Signature of former PCGG Chairperson Camilo L. Sabio
"D-4"	Dorsal side of Check No. 959143 dated 12/15/08 – Php250,000.00
"E" (provisional marking) and series	Check No. 959299 dated 2/3/09 – Php500,000.00 signed by Luzviminda R. Toren and Camilo L. Sabio with:
"E-1"	Disbursement Voucher signed by Camilo L. Sabio and Lourdes G. Navarro with stamp pre-audited by Conrado L. Afaible
"E-1-a"	<ul style="list-style-type: none"> Signature over the name of Camilo L. Sabio in Box B: Approved for Payment
"E-1-b"	<ul style="list-style-type: none"> Signature over the name of Camilo L. Sabio in Box C: Received Payment
"E-1-c"	<ul style="list-style-type: none"> Signature over the name of Lourdes G. Navarro in Box A, Certified
"E-1-d"	<ul style="list-style-type: none"> Checklist on the face of the Disbursement Voucher
"E-1-e"	<ul style="list-style-type: none"> Stamp "PRE-AUDITED" with signature of Mr. Conrado Afaible
"E-2"	Obligation Request signed by Camilo L. Sabio and Nestor C. Palabrica with stamp pre-audited by Conrado L. Afaible
"E-2-a"	<ul style="list-style-type: none"> Stamp "PRE-AUDITED" with signature of Mr. Conrado Afaible
"E-2-b"	<ul style="list-style-type: none"> Signature over the name of Camilo L. Sabio in Box A

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"E-2-c"	<ul style="list-style-type: none"> Signature over the name of Nestor C. Palabrica in Box C
"E-3"	Memorandum for processing of cash advance signed by Camilo L. Sabio dated 02/03/09 with signature of Marcial V. Flores with stamp pre-audited by Conrado L. Afable
"E-3-a"	<ul style="list-style-type: none"> Stamp "PRE-AUDITED" with signature of Mr. Conrado Afable
"E-3-b"	<ul style="list-style-type: none"> Signature of former PCGG Chairperson Camilo L. Sabio
"E-4"	Memorandum dated 2/9/06 stating reservation for the grant of cash advance to Camilo L. Sabio from Conrado L. Afable and Lourdes G. Navarro
"E-4-a"	<ul style="list-style-type: none"> Signature of Pre-auditor Conrado L. Afable
"E-4-b"	<ul style="list-style-type: none"> Signature of Chief Accountant Lourdes G. Navarro
"E-5"	Dorsal side of Check No. 959299 dated 2/3/09 – Php500,000.00
"G"	Memorandum addressed to Camilo L. Sabio dated May 7, 2010 from Marcial V. Flores, OIC, PCGG Finance and Administration Dept. re: outstanding cash advances
"H"	Memorandum addressed to Camilo L. Sabio dated December 04, 2009 from Marcial V. Flores, OIC, PCGG Finance and Administration Dept. re: outstanding cash advances
"I" and series	Schedule of unliquidated cash advances to officers and employees as of December 31, 2013 prepared by Charity D. Catabas, Supervising Administrative Officer, PCGG
"I-1-a"	<ul style="list-style-type: none"> Entry for the year 2008 for the amount of Php250,000.00 dated December 15, 2008
"I-1-b"	<ul style="list-style-type: none"> Entry for the year 2008 for the amount of Php100,000.00 dated December 23, 2008
"I-1-c"	<ul style="list-style-type: none"> Entry for the year 2009 for the amount of Php282,428.03 dated February 03, 2009
"I-1-d"	<ul style="list-style-type: none"> Signature of Supervising Administrative Office, Charity D. Catabas
"I-2"	PCGG Schedule of Advances to Officers and Employees (Fund 151) as of December 31, 2013 prepared by Charity B. Dalisay
"J" and series	Demand Letter addressed to Camilo L. Sabio from Salvacion C. Jamoralin, COA Audit Team Leader, dated September 18, 2012

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"J-1" and "J-2"	<ul style="list-style-type: none"> Transmittal slip and registry return receipt
"K"	Demand Letter addressed to Camilo L. Sabio from Dr. Emmanuel R. Bago, COA Audit Team Leader dated June 18, 2010
"L"	Demand Letter addressed to Camilo L. Sabio from Dr. Emmanuel R. Bago, COA Audit Team Leader dated January 21, 2009
"Q" and series	Audit Observation Memorandum No. 2013-04 dated 3/27/13 signed by Salvacion C. Jamoralin, Audit Team Leader of the PCGG and Irma S. Besas, State Auditor V, Supervising Auditor with attached Schedule of Outstanding Cash Advances for more than a year
"Q-3-a"	<ul style="list-style-type: none"> Entry for the amount of Php100,000.00
"Q-3-b"	<ul style="list-style-type: none"> Entry for the amount of Php250,000.00
"Q-3-c"	<ul style="list-style-type: none"> Entry for the amount of Php282,428.03
"Q-4-a"	<ul style="list-style-type: none"> Signature of Supervising Administrative Officer Charity B. Catabas
"Q-10-a"	<ul style="list-style-type: none"> Entry for the amount of Php100,000.00
"Q-10-b"	<ul style="list-style-type: none"> Entry for the amount of Php250,000.00
"Q-10-c"	<ul style="list-style-type: none"> Entry for the amount of Php282,428.03
"T" and series	PCGG Schedule of Advances to officers and employees (148) – Fund 101 as of June 30, 2012
"T-a"	<ul style="list-style-type: none"> Entry for the amount of Php100,000.00
"T-b"	<ul style="list-style-type: none"> Entry for the amount of Php250,000.00
"T-c"	<ul style="list-style-type: none"> Entry for the amount of Php500,000.00
"T-1-a"	<ul style="list-style-type: none"> Signature of Supervising Administrative Officer Charity B. Catabas
"U" and series	Memorandum dated February 05, 2014 signed by Director-in-Charge Alexander B. Juliano
"V" and series	PCGG Schedule of Advances to Officers and Employees (148) – fund 101 as of December 31, 2013
"W" and series	Subsidiary Ledger

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“W-1” to “16”	Journal Entry Voucher Tax Refund of PCGG Employee
“W-1-a”	<ul style="list-style-type: none"> • Signature of Chief Accountant Lourdes G. Navarro
“W-3-a”	<ul style="list-style-type: none"> • Signature over the name of Lourdes G. Navarro, Box A: Certified
“W-7-a”	<ul style="list-style-type: none"> • Signature of Chief Accountant Lourdes G. Navarro under the Certified Cash Available
“W-8-a”	<ul style="list-style-type: none"> • Signature of Chief Accountant Lourdes G. Navarro under the Certified Cash Available
“W-9-a”	<ul style="list-style-type: none"> • Signature of Chief Accountant Lourdes G. Navarro under the Certified Cash Available
“W-9-b”	<ul style="list-style-type: none"> • Entry alongside the name of Camilo L. Sabio indicating 14,872.83 under the column of Income Tax Refund
“W-10-a”	<ul style="list-style-type: none"> • Signature of Chief Accountant Lourdes G. Navarro under the Certified Cash Available
“W-15-a”	<ul style="list-style-type: none"> • Entry under number 190 alongside the name of Camilo L. Sabio indicating 14,872.83
“W-17” to “26”	General Journal for December 2010 for salary and PERA
“W-17-a” to “W-27-a”	<ul style="list-style-type: none"> • Signature of Chief Accountant Lourdes G. Navarro under Certified Correct
“W-27-b”	<ul style="list-style-type: none"> • Signature of Charity B. Dalisay
“W-28” to “31”	Liquidation Report
“W-28-a”	<ul style="list-style-type: none"> • Signature over the name of Camilo L. Sabio, Box B
“W-28-b”	<ul style="list-style-type: none"> • Signature over the name of Lourdes G. Navarro, Box C
“W-28-c”	<ul style="list-style-type: none"> • Signature over the name of Lilia R. Yanga, Box A
“W-28-d”	<ul style="list-style-type: none"> • Checklist on the face of the Liquidation Report
“W-28-e”	<ul style="list-style-type: none"> • Stamp “PRE-AUDITED” with signature of Mr. Conrado Afable
“W-29-a” to “W-30-a”	<ul style="list-style-type: none"> • Stamp “PRE-AUDITED” with signature of Mr. Conrado Afable
“W-31-a”	<ul style="list-style-type: none"> • Signature of Camilo L. Sabio under Certified By



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“W-31-b”	<ul style="list-style-type: none"> Signature of Lilia R. Yanga under Prepared By
“W-31-c”	<ul style="list-style-type: none"> Stamp “PRE-AUDITED” with signature of Mr. Conrado Afable
“W-32”	Certification
“W-32-a”	<ul style="list-style-type: none"> Signature of former Chairperson of PCGG Camilo L. Sabio
“W-32-b” to “W-75-a”	<ul style="list-style-type: none"> Stamp “PRE-AUDITED” with signature of Mr. Conrado Afable
“W-120” to “W-121”	PCGG Schedule of Advances to Officers and Employees (148) – Fund 101, As of June 30, 2012 prepared by Supervising Administrative Officer Charity B. Dalisay
“W-122” to “W-123”	PCGG Schedule of Advances to Officers and Employees (Fund 151), As of June 30, 2012 prepared by Supervising Administrative Officer Charity B. Dalisay
“W-124” to “126”	Subsidiary Ledger for the account of Camilo Sabio and the entries therein which were the basis of the items in Exhibits “W”
“W-126-a”	<ul style="list-style-type: none"> Entry dated December 31, 2010 with the amount of Php7,851.00
“W-126-b”	<ul style="list-style-type: none"> Entry dated December 31, 2011 with the amount of Php21,374.51
“OO”	Service Record Conrado Afable dated May 29, 2019
“OO-1”	<ul style="list-style-type: none"> Signature of Officer-in-Charge, Human Resource and Development Division, Editha R. Bautista

However, the Court noted that the following exhibits are either blank or ineligible, except for the stamp marking indicating “PRE-AUDITED” and the initials thereon: “W-37”, “W-38”, “W-43”, “W-49”, “W-50”, “W-53”, “W-56”, “W-57”, “W-61”, “W-63”, “W-66”, “W-70”, “W-74”, “W-75”, “W-87”, “W-88”, “W-90”, “W-93”, “W-96”, “W-97”, “W-101” and “W-119”.¹²⁹

Thereafter, the accused filed his Judicial Affidavit¹³⁰ dated February 24, 2020 but the prosecution moved to expunge the same.¹³¹ After hearing Sabio’s

¹²⁹ Records, Vol. 3, pp. 27-28.

¹³⁰ *Id.*, pp. 3-25.

¹³¹ *Id.*, pp. 35-38.

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comment on the said motion,¹³² the Court expunged the said Judicial Affidavit for non-compliance with the Judicial Affidavit Rule.¹³³ On February 22, 2022, he filed another Judicial Affidavit with the assistance of the Public Attorney's Office.¹³⁴

EVIDENCE FOR THE DEFENSE

Accused Camilo L. Sabio is the lone witness of the defense.

ATTY. CAMILO LOYOLA SABIO ("Sabio")

Chairperson Camilo Loyola Sabio is a lawyer by profession and a former Chairperson of the PCGG. The parties stipulated that the witness could identify his Judicial Affidavit¹³⁵ and its attachment.¹³⁶

Sabio denied that he received any demand letter from the COA and the PCGG Finance Department regarding the three (3) unliquidated cash advances. He neither received nor was furnished with the following documents:

1. Demand Letter¹³⁷ dated September 18, 2012 stamp received by a certain "Ester";
2. Demand Letter¹³⁸ dated June 18, 2010 signed by Dr. Emmanuel R. Bago stamp received by a certain "Wilson";
3. Demand Letter¹³⁹ dated January 21, 2009 signed by Dr. Emmanuel R. Bago;
4. Memorandum¹⁴⁰ dated May 7, 2010 signed by Marcial V. Flores; and

¹³² TSN dated June 23, 2021, pp. 11-12.

¹³³ Records, Vol. 3, pp. 106-110.

¹³⁴ *Id.*, pp. 140-147.

¹³⁵ *Id.*, pp. 141-147.

¹³⁶ TSN dated February 24, 2022, pp. 15-16, 21., Exhibit "1"

¹³⁷ Exhibit "J".

¹³⁸ Exhibit "K".

¹³⁹ Exhibit "L".

¹⁴⁰ Exhibit "G".

5. Memorandum¹⁴¹ dated December 04, 2009 signed by Marcial V. Flores.

He only saw the aforesaid documents when the instant cases were filed in Court. The persons who received the letters were unknown to him. Whenever documents were addressed to him, it should bear the stamp of the Office of the Chairperson, and the full name of the recipient.

Sabio disclosed his acquittal in a similar case¹⁴² that was filed before the Sandiganbayan Special Fourth Division. In the Decision¹⁴³ dated April 20, 2016, it was stated that the prosecution failed to prove his receipt of the demand letters. He claimed that he could no longer recall the cash advances in the instant cases due to his old age. He merely signed all the cash advances since he was the only one authorized to so being the head of the office. Whenever there were cash advances in the PCGG, these are used for its operations including litigation expenses. As such, he never used the money for personal expenses. Finally, Sabio insisted that he discharged his duties as PCGG Chairperson with utmost dedication and integrity since during his term, they had the biggest cash recovery in the amount of Php25,270,589,031.09.¹⁴⁴


During cross-examination,¹⁴⁵ the witness postulated that he is not familiar with the demand letters presented by the prosecution, and he could not recall the subject transactions. However, he does not have any proof that the cash advances were already liquidated. Despite the filing of the present cases, he did not take any action to liquidate or to settle the cash advances since he believed that there is no obligation on his part to do so.

Upon inquiry by the Court, Sabio admitted that he did not get the copies of the demand letters from the COA when these cases were being investigated before the Office of the Ombudsman.

For its documentary evidence, the defense formally offered:¹⁴⁶

Exhibit	Description
"1"	Decision Special Fourth Division in Crim. Case No. SB-11-CRM-0276 to 0278

¹⁴¹ Exhibit "H".
¹⁴² Entitled *People v. Camilo L. Sabio* docketed as Crim. Case No. SB-11-CRM-0276 to 0278 for Violation of Sec. 3 (e) of R.A. No. 3019 and Malversation of Public Funds (Article 217 of the Revised Penal Code).
¹⁴³ Exhibit "1".
¹⁴⁴ Records, Vol. 3, pp. 145-146.
¹⁴⁵ TSN dated February 24, 2022, pp. 23-40.
¹⁴⁶ *Id.*, pp. 40-42.



On March 07, 2022, the accused filed a *Compliance and Manifestation*¹⁴⁷ while the prosecution filed its *Memorandum*.¹⁴⁸

FINDINGS OF FACTS

After assiduous perusal of the records and evidence adduced by the parties, the Court makes the following findings of facts:

At the time material to these cases, accused Camilo L. Sabio was the Chairperson of the PCGG, tasked with the recovery of the ill-gotten wealth of then President Ferdinand Marcos. For PCGG’s operations, cash advances were allowed for its operational expenses, including litigation expenses and other related purposes.

As provided in COA Circular No. 97-002, the cash advances extended to the PCGG officials and employees should be liquidated within the period specified therein. Every quarter, the PCGG Accounting Department would submit to the COA the list of PCGG officers and employees who obtained cash advances, otherwise called as the *Schedule of Advances to Officers and Employees (148) – Fund 101*. The COA would then evaluate the accounts.

Upon submission of the said schedule to the COA, the entries showed that Chairperson Sabio has unliquidated cash advances on various dates:

DATE OBTAINED	UNLIQUIDATED AMOUNT
December 15, 2008	Php250,000.00
December 23, 2008	Php100,000.00
February 03, 2009	Php282,428.03 out of the Php500,000.00

Since the cash advances remains unliquidated, the PCGG Accounting Division issued a Memorandum dated February 9, 2009 stating its reservation in granting additional cash advances to Sabio. The subject cash advances remain unliquidated, except for the Php500,000.00 cash advance which was partially liquidated. Out of the Php500,000.00 cash advance, the remaining unliquidated amount is Php282,428.03.

This also prompted COA Audit Team Leader Salvacion Jamoralin to issue a Demand Letter dated September 18, 2012 to the accused, asking him

¹⁴⁷ Records, Vol. 3, pp. 239-241.
¹⁴⁸ *Id.*, pp. 242-251.

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to settle the said cash advances. However, Sabio did not reply to the said letter. Then, the audit team issued AOM dated March 27, 2013 with the attached Schedule of Advances. For failure of the Chairperson to settle his cash advances, the COA filed the instant cases before the Office of the Ombudsman.

ISSUE

The pivot of inquiry is whether or not PCGG Chairperson Camilo L. Sabio is guilty beyond reasonable doubt of three (3) counts of Malversation of Public Funds under Article 217 of the RPC.

THE COURT'S RULING

Malversation may be committed by appropriating public funds or property; by taking or misappropriating the same; by consenting, or through abandonment or negligence, by permitting any other person to take such public funds or property; or by being otherwise guilty of the misappropriation or malversation of such funds or property.¹⁴⁹ Article 217 of the RPC, as amended by Republic Act No. 10951 provides:

"Art. 217. *Malversation of public funds or property.*—
Presumption of malversation. - Any public officer who, by reason of the duties of his office, is accountable for public funds or property, shall appropriate the same, or shall take or misappropriate or shall consent, through abandonment or negligence, shall permit any other person to take such public funds or property, wholly or partially, or shall otherwise be guilty of the misappropriation or malversation of such funds or property, shall suffer:

xxx xxx

2. The penalty of *prision mayor* in its minimum and medium periods, if the amount involved is more than Forty thousand pesos (P40,000) but does not exceed One million two hundred thousand pesos (P1,200,000).

xxx xxx

In all cases, persons guilty of malversation shall also suffer the penalty of perpetual special disqualification and a fine equal to the amount of the funds malversed or equal to the total value of the property embezzled.

¹⁴⁹ Panganiban v. People, G.R. No. 211543, December 9, 2015.

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The failure of a public officer to have duly forthcoming any public funds or property with which he is chargeable, upon demand by any duly authorized officer, shall be *prima facie* evidence that he has put such missing funds or property to personal use.”

The elements of malversation under said provision of law are: 1) that the offender is a public officer; 2) that he or she had custody or control of funds or property by reason of the duties of his or her office; 3) that those funds or property were funds or property for which he or she was accountable; and 4) that he or she appropriated, took, misappropriated or consented or, through abandonment or negligence, permitted another person to take them.¹⁵⁰

The *first* element. As the PCGG Chairperson, it is unquestionable that herein accused is a public officer. A public officer is any person who, by direct provision of the law, popular election or appointment by competent authority, shall take part in the performance of public functions in the Government of the Philippine Islands, or shall perform in said Government or in any of its branches public duties as an employee, agent or subordinate official, of any rank or class, shall be deemed to be a public officer.¹⁵¹

The *second* element. By reason of his functions, Chairperson Sabio is an accountable officer. An accountable officer is a public officer who, by reason of his or her office, is accountable for public funds or property.¹⁵²

The *third* element. The source of the cash advances are public funds covered by “Fund 101”, or the general fund appropriated in the General Appropriations Act for operational and administrative purposes. During her cross-examination, witness Jamoralin declared.¹⁵³

ATTY. SAAVEDRA:

xxx xxx

Q: What is this Fund 101 all about?

A: Based on my understanding, Fund 101 is a proof fund or fund generally used for the operations of the commission. It is approved under the General Appropriations Act, sir.


Q: Is this Fund 101 part of the appropriations of the PCGG?

¹⁵⁰ Corpuz v. People, G.R. No. 241383, June 8, 2020 citing Venezuela v. People, G.R. No. 205693, February 14, 2018.

¹⁵¹ Article 203, RPC.

¹⁵² Corpuz v. People, *supra* citing Zoleta v. Sandiganbayan, 765 Phil. 39 (2015).

¹⁵³ TSN dated May 2, 2019, pp. 4-6.



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A: Yes, Sir.

Q: How do you call it, is it a Special Fund or a General Fund?

A: General Fund, sir.

Q: How do you distinguish this Fund 101 from the General Fund, which you mentioned earlier?

A: Fund 101 is the General Fund, sir.

Q: So it is a General Fund?

A: Yes, sir.

JUSTICE ARCEGA:

So it is the same, Fund 101 and General Fund?

WITNESS:

Yes, Your Honors.

ATTY. SAAVEDRA:

Q: And the source of this fund is the government?

A: Yes, sir.

Q: Which is appropriated by the government for the use of the PCGG?

A: Yes, sir. (Emphasis supplied.)

Based on the foregoing, the presence of the *first*, *second* and *third* elements are undisputed. We shall now probe the existence of the fourth element.

The *fourth* element. In *Sarion v. People*,¹⁵⁴ the Supreme Court discussed that malversation may be committed intentionally, or by negligence, to wit:

“Malversation may be committed intentionally (*dolo*) or by means of negligence (*culpa*). The crime is committed by means of *dolo* when the act is accompanied by criminal intent as when the offender misappropriated or converted public funds of property to one's personal use.¹⁵⁵ Malversation may also be committed by means

¹⁵⁴ G.R. Nos. 243029-30, March 18, 2021.

¹⁵⁵ *Id.*, citing *Felicilda v. Justice Grospe*, 286 Phil. 384, 389 (1992).

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of *culpa* or by such negligence or indifference to duty or to consequences as, in law is equivalent to criminal intent;¹⁵⁶ as when the offender knowingly allowed another or others to make use of or misappropriate public funds or property.”¹⁵⁷

The *dolo* or the *culpa* is only a modality in the perpetration of the felony.¹⁵⁸ Even if the mode charged differs from the mode proved, the same offense of malversation is still committed; hence, a conviction is proper.¹⁵⁹

In addition, in the crime of malversation of public funds, all that is necessary for conviction is proof that the accountable officer had received the public funds and that such officer failed to account for the said funds upon demand without offering a justifiable explanation for the shortage.¹⁶⁰ This is the *prima facie* presumption of conversion under the fourth paragraph of Art. 217 of the RPC. The presumption is, of course, rebuttable.¹⁶¹

To establish the liability of Sabio, the prosecution offered in evidence various exhibits which were all admitted by the Court for lack of objection from the defense.¹⁶² At any rate, it must be stressed that admissibility of evidence should not be confused with its probative value.¹⁶³ As ruled in *Yokohama Tire Philippines, Inc., v. Reyes*:¹⁶⁴

Thus, this Court held in *Mancol, Jr. v. Development Bank of the Philippines*¹⁶⁵ that:

‘x x x [a]dmissibility of evidence should not be confused with its probative value.

The admissibility of evidence depends on its relevance and competence, while the weight of evidence pertains to evidence already admitted and its tendency to convince and persuade. The admissibility of a particular item of evidence has to do with whether it meets various tests by which its reliability is to be determined, so as to be considered with other evidence admitted in the case in arriving at a decision as to the truth. The weight of evidence is not determined mathematically by the

¹⁵⁶ *Id.*, citing *Tabuena v. Sandiganbayan*, 335 Phil. 795, 822 (1997), citing *United States v. Catolico*, 18 Phil. 504, 506-507 (1911) and *United States v. Elviña*, 24 Phil. 230, 231-232 (1913).

¹⁵⁷ *Id.*, citing *Felicilda v. Justice Grospe*, *supra*, citing *People v. Miranda*, 112 Phil. 197, 200 (1961).

¹⁵⁸ *Mesina v. People*, G.R. No. 162489, June 17, 2015.

¹⁵⁹ *Id.*, citing *Cabello v. Sandiganbayan*, G.R. No. 93885, May 14, 1991, 197 SCRA 94, 103.

¹⁶⁰ *Corpuz v. People*, *supra*.

¹⁶¹ *Cantos v. People*, G.R. No. 184908, July 3, 2013.

¹⁶² *Records*, Vol. 3, p. 27.

¹⁶³ *Magsino v. Magsino*, G.R. No. 205333, February 18, 2019 citing *W-Red Construction and Dev’t. Corp. v. Court of Appeals*, 392 Phil. 888, 894 (2000).

¹⁶⁴ G.R. No. 236686, February 05, 2020.

¹⁶⁵ G.R. No. 204289, November 22, 2017.

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numerical superiority of the witnesses testifying to a given fact, but depends upon its practical effect in inducing belief on the part of the judge trying the case. "Admissibility refers to the question of whether certain pieces of evidence are to be considered at all, while probative value refers to the question of whether the admitted evidence proves an issue." "Thus, a particular item of evidence may be admissible, but its evidentiary weight depends on judicial evaluation within the guidelines provided by the rules of evidence."(Emphasis supplied.)

We shall now determine the probative value of the prosecution's evidence.

As part of its documentary evidence, the prosecution offered Check No. 959299 (provisionally marked as Exhibit "E"), and AOM No. 2013-04 dated March 27, 2013 (marked as Exhibits "Q" and series).

Notably, Check No. 959299 is only provisionally marked as Exhibit "E" since it is a mere "true copy of the photocopy".¹⁶⁶ In the *Prosecution Formal Offer of Evidence*, one of the purposes for its offer is "to prove that accused Sabio still had unliquidated cash advances in the amount of Php1.8 Million as of December 31, 2008 as contained in the Memorandum dated 2/9/06 stating reservation for the grant of cash advance to Camilo L. Sabio from Conrado L. Afafe and Lourdes G. Navarro."¹⁶⁷

As regards AOM No. 2013-04 dated March 27, 2013, the originals were not also presented. Exhibits "Q" and series were offered "to prove that as of June 30, 2012, unliquidated cash advances was (sic) granted to accused Sabio on the following dates 12/15/08, 12/23/08 and 02/03/09 in the following amounts: Php250,000.00, Php100,000.00 and Php282,428.03. xxx"¹⁶⁸ The said exhibits were merely stamped as "certified true copy from photocopy."

Clearly, the above-mentioned exhibits were offered by the prosecution as documentary evidence to prove Sabio's unliquidated cash advances. Documents as evidence consist of writings, recordings, photographs or any material containing letters, words, sounds, numbers, figures, symbols, or their equivalent, or other modes of written expression offered as proof of their contents.¹⁶⁹

¹⁶⁶ See: *Pre-trial Order* dated August 16, 2018, p. 338, Records, Vol. 1.

¹⁶⁷ *Prosecution Formal of Evidence* dated November 21, 2019, p. 7.

¹⁶⁸ *Id.*, p. 12.

¹⁶⁹ Sec. 2, Rule 130 of the 2019 Revised Rules on Evidence (A.M. No. 19-08-15-SC).

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Since the foregoing exhibits were offered as documentary evidence, the Original Document Rule applies. Under the Original Document Rule (previously called the Best Evidence Rule), when the subject of inquiry is the contents of a document, writing, photograph or other record, no evidence is admissible other than the original document itself.¹⁷⁰ This revised version of the rule is similar to the previous recital of the rule under Section 3, Rule 130 of the recently amended 1989 Rules on Evidence: "When the subject of inquiry is the contents of a document, no evidence shall be admissible other than the original document itself x x x."¹⁷¹ In one case,¹⁷² the Supreme Court explained the expanded definition of original document under Section 4, Rule 130 of the 2019 Revised Rules on Evidence, to wit:

"Under Section 4, Rule 130 of the 2019 Rules, however, an original document may consist of a "duplicate" produced by means of photography, mechanical or electronic re-recording, or by other equivalent techniques which accurately reproduce the original. A photocopy of an original, therefore, may consist of a "duplicate" if there is no question that it is an accurate reproduction of the original. (Emphasis supplied.)

Lamentably, the prosecution failed to present the original of the said exhibits during the trial. The photocopies proffered cannot be considered as "duplicates" as defined under the rules, since there is no showing that these are accurate reproductions of the original. As borne by the records, Exhibits "E" and "Q and series" are only "true copies of the photocopy."

More in point is that the requisites of introducing secondary evidence were also not complied with during the presentation of Check No. 959299 and AOM No. 2013-04 dated March 27, 2013. Under Section 5 of Rule 130, a party is allowed to submit secondary evidence to prove the contents of a lost or destroyed document by a copy, a recital of its contents in some authentic document, or the testimony of witnesses, provided that the offeror of the secondary evidence proves: (1) that the original existed and duly executed; (2) it was lost or destroyed; and (3) its unavailability is not due to bad faith on his or her part.¹⁷³ Ineluctably, the said documentary evidence are barren of any probative value.

At any rate, the Court is in a quandary as to why the prosecution offered in evidence Exhibits "W-37", "W-38", "W-43", "W-49", "W-50", "W-53", "W-56", "W-57", "W-61", "W-63", "W-66", "W-70", "W-74", "W-75", "W-

¹⁷⁰ Kuwait Airways Corporation v. The Tokio Marine and Fire Insurance Co., Ltd., et al., G.R. No. 213931, November 17, 2021 citing Section 3, Rule 130 of the 2019 Amendments to the 1989 Revised Rules on Evidence.

¹⁷¹ Dela Cruz v. People, G.R. No. 236807, January 12, 2021 citing Section 3, Rule 130, 1989 Rules on Evidence.

¹⁷² Kuwait Airways Corporation v. The Tokio Marine and Fire Insurance Co., Ltd., et al., *supra*.

¹⁷³ *Id.*, citing Citibank, NA. Mastercard v. Teodoro, 458 Phil. 480, 489 (2003).

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87", "W-88", "W-90", "W-93", "W-96", "W-97", "W-101" and "W-119",¹⁷⁴ which are either blank or ineligible, except for the stamp marking indicating "PRE-AUDITED." These exhibits indubitably lack any evidentiary weight.

Adding a fatal blow to the prosecution is the testimony of one of its witnesses, Lourdes Navarro.

On January 23, 2019, PCGG Chief Accountant Lourdes Navarro was presented as the prosecution's second witness.¹⁷⁵ Based on her Judicial Affidavit,¹⁷⁶ Sabio was granted cash advances on the following dates: December 15, 2008, December 23, 2008 and February 3, 2009. She also identified the following DVs covering the said cash advances:¹⁷⁷

Question (Q) 8: In line with your duties as the Chief Accountant, are you familiar with the cash advances granted to Chairman Sabio on December 15, 2008, December 23, 2008 and February 3, 2009?

Answer (A): Yes.

Q9: What is your reference for these cash advances?

A: Copies of the DVs.

Q10: How did you become aware of the cash advances under these DVs?

A: The transactions are recorded in our Division.

Q11: If copies of these DVs will be shown to you will you be able to identify the same?

A: Yes.

Q12: I am showing to you Disbursement Voucher No. 2008-12-1164 signed by Camilo L. Sabio, what is the relation of this document marked as Exhibit C-1 to the DVs of the cash advances mentioned?

A: That was the DV for the cash advance granted in December 15, 2008.

Q13: For how much is the DV?

A: P100,000.00

xxx xxx

Q18: What is the date of the check?


A: It is dated 12/23/08 (December 23, 2008)

¹⁷⁴ Records, Vol. 3, p. 27.

¹⁷⁵ TSN dated January 23, 2019, pp. 16-18.

¹⁷⁶ Records, Vol. 1, pp. 438-454.

¹⁷⁷ *Id.*, pp. 439-443.

Handwritten signature and initials in black ink, located at the bottom right of the page.

XXX XXX

Q21: Next, I am showing to you Disbursement Voucher No. 2008-12-1314 signed by Camilo L. Sabio, what is the relation of this document marked as Exhibit D-1 to the DVs of the cash advances mentioned?

A: That was the DV for the cash advance granted on December 23, 2008.

Q22: For how much is the DV?

A: P250,000.00.

XXX XXX

Q27: What is the date of the check?

A: It is dated 12/15/08 (December 15, 2008) as appearing on the DV.

XXX XXX

Q30: I am also showing to you Disbursement Voucher No. 2009-02-1164 signed by Camilo L. Sabio, what is the relation of this document marked as Exhibit E-1 to the DVs of the cash advances mentioned?

A: That was the DV for the cash advance granted on February 3, 2009.

Q31: For how much is the DV?

A: P500,000.00

XXX XXX

Q36: What is the date of the check?

A: It is dated 2/3/09 (February 03, 2009) as appearing on the DV. (Emphasis supplied.)

To compare, below are the allegations in the *Informations vis-à-vis* the disbursement vouchers identified by Navarro:

Allegations in the Informations

CASE NO.	DATE OF CASH ADVANCE	UNLIQUIDATED AMOUNT	DV NO.	CHECK NO.
SB-17-CRM-0748	December 15, 2008	Php250,000.00	2008-12-1164	959143
SB-17-CRM-0749	December 23, 2008	Php100,000.00	2008-12-1314	959185
SB-17-CRM-0750	February 3, 2009	Php282,428.03 out of the Php500,000.00	2009-02-0091	959299

Judicial Affidavit of Navarro
(*Discrepancy)

DATE OF CASH ADVANCE	UNLIQUIDATED AMOUNT	DV NO.
December 15, 2008	Php100,000.00*	2008-12-1164
December 23, 2008	Php250,000.00*	2008-12-1314
February 3, 2009	Php500,000.00	2009-02-1164*

As heretofore shown, the details of the DVs identified by Navarro are disconcertingly different from the accusatory portion of the *Informations*. The Court cannot turn a blind eye to the said inconsistencies as these relate to the main allegations against the accused. Besides, her testimony was offered to prove that as chief accountant, she has knowledge of the cash advances granted to Chairperson Sabio for litigation and other related expenses.¹⁷⁸ Navarro's testimony seeks to establish the main element of malversation, *i.e.*, that the accused appropriated, took, misappropriated or consented or, through abandonment or negligence, permitted another person to take the public funds. Worse, Navarro identified DV No. 2009-02-1164, a disbursement voucher which is not even mentioned in any of the subject *Informations*. Verily, the Court cannot give credence to Navarro's testimony.

Therefore, the fourth element was not duly established in the instant cases. The preceding circumstances created a gaping hole in the prosecution's evidence, and destroyed the *prima facie* evidence of conversion. The criminal liability of Sabio has no leg to stand on considering that Navarro's testimony bears no probative weight as well as the documentary evidence that are supposed to prove the unliquidated cash advances. After all, mere absence of funds is not sufficient proof of conversion.¹⁷⁹ Neither is the mere failure of the accused to turn over the funds at any given time sufficient to make even a *prima facie* case.¹⁸⁰ Conversion must be affirmatively proved, either by direct evidence or by the production of facts from which conversion necessarily follows.¹⁸¹ The evidence adduced, no matter how numerous, must fulfill the test of moral certainty. Case law instructs:¹⁸²

The constitutional presumption of innocence requires of courts more than casual consideration of every circumstance tending to show the guilt of an accused. **Courts have the imperative duty to put the prosecution's evidence under severe testing** (*People vs. Diaz*, 308 SCRA 744 [1999]). **To be sure, a finding of *prima facie* evidence of**

¹⁷⁸ TSN dated January 23, 2019, p. 13.
¹⁷⁹ Agullo v. Sandiganbayan, G.R. No. 132926, July 20, 2001.
¹⁸⁰ *Id.*
¹⁸¹ *Id.*
¹⁸² Madarang v. Sandiganbayan, et al., G.R. No. 112314, March 28, 2001.

DECISION

People v. Camilo L. Sabio

Criminal Case Nos. SB-17-CRM-0748 to 0751

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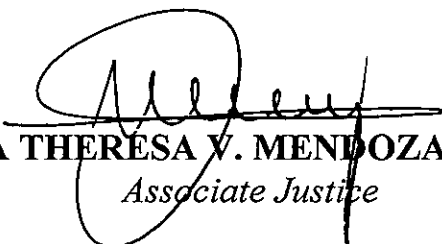
accountability does not shatter the presumptive innocence petitioner enjoys because before prima facie evidence arises, certain facts still have to be proved (*People vs. Mingoa*, 92 Phil. 856 [1953]). Withal, the Sandiganbayan should have satisfied itself that petitioner is guilty beyond reasonable doubt of the offense charged. **A finding of guilt must rest on the strength of the prosecution's own evidence, and not on the weakness, deficiency, or absence of evidence for the defense** (*People vs. Batidor*, 303 SCRA 335 [1999]; *People vs. Moreno*, 321 SCRA 334 [1999]; *People vs. Vidal*, 303 S 1 [1999]). Accordingly, the bare testimony of the solitary prosecution witness clearly falls short of the quantum of proof required and does not fulfill and pass the test of moral certainty to be deemed sufficient to support a conviction. (Emphasis supplied.)

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.¹⁸³

IN VIEW WHEREOF, accused Camilo L. Sabio is hereby **ACQUITTED** in Criminal Case Nos. SB-17-CRM-0748, SB-17-CRM-0749 and SB-17-CRM-0750, for failure of the prosecution to prove his guilt of the crimes charged beyond reasonable doubt.

Accordingly, the Hold Departure Order issued by the Court against accused Camilo L. Sabio is hereby **LIFTED** and **SET ASIDE**, and the cash bonds posted by him are ordered **RELEASED**, subject to the usual accounting and auditing procedures.

SO ORDERED.

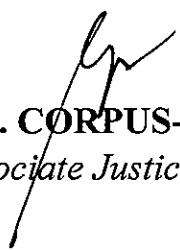

MARIA THERESA V. MENDOZA-ARCEGA
Associate Justice

¹⁸³ Daayata, et al. v. People, G.R. No. 205745, March 8, 2017.

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WE CONCUR:


RAFAEL R. LAGOS
Associate Justice
Chairperson


MARYANN E. CORPUS-MAÑALAC
Associate Justice

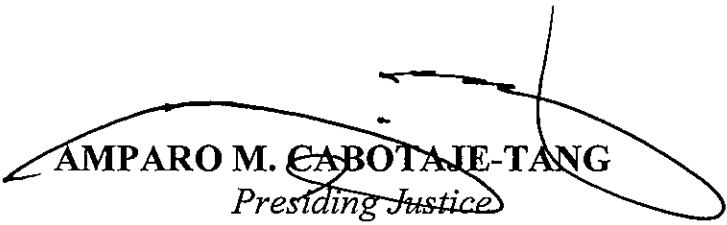
ATTESTATION

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


RAFAEL R. LAGOS
Chairperson, Fifth Division

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


AMPARO M. CABOTAJE-TANG
Presiding Justice

