



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

QUEZON CITY

THIRD DIVISION

**PEOPLE OF THE
PHILIPPINES,**

Plaintiff,

**Criminal Case No. SB-16-
CRM-0780**

*For: Violation of Section 3 (e) of
Republic Act No. 3019*

- versus -

**JUDY JALBUENA SYJUCO, et
al.**

Accused.

**Criminal Case No. SB-16-
CRM-0781**

*For: Malversation of Public Funds
through Falsification*

Present:

CABOTAJE-TANG, P.J.,
Chairperson,
FERNANDEZ, B., J. and
FERNANDEZ, S.J. J.*

X-----X

DECISION

CABOTAJE-TANG, P.J.:

Accused Judy Jalbuena Syjuco is charged with a Violation of Section 3 (e) of Republic Act (R.A.) No. 3019 and the crime of *Malversation of Public Funds through Falsification*, defined and penalized under Article 217, in relation to Articles 171 and 48 of the Revised Penal Code.

**As per Administrative Order No. 243-2022 dated October 21, 2022*

During her arraignment on April 19, 2017, accused Syjuco entered a plea of "Not Guilty" to the *Informations* in the said cases. Thereafter, the Court set the preliminary conference on June 1, 6, 15, 19, 21, 23, and 27, 2017, and the pre-trial on August 1, 2017.¹

On February 8, 2022, accused Syjuco filed a "Motion for Plea Bargaining (with Offer to Pay Civil Liabilities)" wherein she expressed her intention to enter into a plea-bargaining agreement with the prosecution.²

In its *Resolution* promulgated on February 25, 2022, the Court gave the prosecution a non-extendible period of ten (10) days from notice within which to file its comment/opposition to the "Motion for Plea Bargaining," filed by accused Syjuco.

On March 7, 2022, the prosecution filed a "Comment with Ex Parte Motion to Suspend Proceedings" wherein it stated that the panel of prosecutors is considering entering into a plea-bargaining agreement with accused Syjuco. The prosecution added that it needs time to negotiate with the accused on the terms of the plea-bargaining agreement which must be submitted to the Ombudsman for review and approval. Thus, it prayed that the proceedings in these cases be suspended for a period of thirty (30) days.³ In its *Resolution* promulgated on March 7, 2022, the Court granted the prosecution's *motion* and suspended the proceedings in these cases until April 6, 2022, pending the outcome of the said plea-bargaining negotiations.⁴

On April 6, 2022,⁵ May 6, 2022,⁶ May 17, 2022,⁷ June 13, 2022,⁸ June 28, 2022,⁹ and July 13, 2022,¹⁰ accused Syjuco and the prosecution filed several "Joint Motions for Extension of Time" wherein they prayed for the suspension of the proceedings in these

¹ p. 88, Vol. III, Record

² pp. 220-232, Vol. XII, Record

³ *Id.*, at pp. 273-274

⁴ *Id.*, at p. 280

⁵ *Id.*, at pp. 346-350

⁶ *Id.*, at pp. 356-357

⁷ *Id.*, at pp. 363-367

⁸ *Id.*, at pp. 392-395

⁹ *Id.*, at pp. 399-402

¹⁰ *Id.*, at pp. 483-486

cases to provide them more time within which to finalize their *Joint Motion and Plea-Bargaining Agreement*.

In its *Resolutions* promulgated on April 8, 2022,¹¹ May 6, 2022,¹² May 17, 2022,¹³ June 13, 2022,¹⁴ June 30, 2022,¹⁵ and July 28, 2022,¹⁶ the Court granted the said *motions* and suspended the proceedings in these cases.

On July 26, 2022, accused Syjuco and the prosecution filed a “*Joint Motion to Approve Attached Plea-Bargaining Agreement*.” The pertinent portions of the said *Joint Motion and Plea-Bargaining Agreement* read:

THE JOINT MOTION FILED BY THE PARTIES

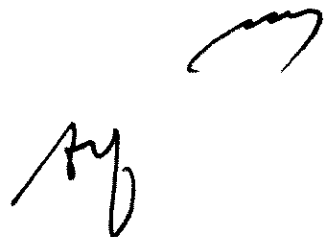
. . . .

SB-16-CRM-0780

Frauds Against Public Treasury under paragraph 1, Article 213 of the Revised Penal Code.

22. With regard to SB-16-CRM-0780 where the accused is charged with violation of Section 3 (e) of R.A. No. 3019,¹⁷ it is respectfully submitted that the appropriate lesser offense is ***Frauds Against Public Treasury under paragraph 1, Article 213 of the Revised Penal Code***,¹⁸

. . . .



¹¹ *Id.*, at p. 352

¹² *Id.*, at p. 361

¹³ *Id.*, at p. 371

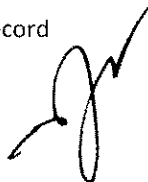
¹⁴ *Id.*, at p. 397

¹⁵ *Id.*, at p. 404

¹⁶ *Id.*, at p. 491

¹⁷ Footnote omitted

¹⁸ p. 431, Vol. XII, Record



SB-16-CRM-0781

Failure of Accountable Officer to Render Accounts under Article 218 of the Revised Penal Code.

. . . .

39. Given that some of the essential elements of the offense of *Malversation of Public Funds* also constitute the lesser offense of **Failure of Accountable Officer to Render Accounts**, then the offense charged necessarily includes the lesser offense which accused Syjuco has proposed to plead guilty. Thus, in *Daan v. Sandiganbayan*,¹⁹ the Supreme Court had allowed therein accused, who was charged with *Malversation of Public Funds* under Article 217 of the RPC, to plead guilty to the lesser offense of *Failure of Accountable Officer to Render Accounts* under Article 218 of the RPC.

40. Considering that the allegations in the above-quoted *Information*, except for the element of conversion, are sufficient to hold accused Syjuco liable for *Failure of Accountable Officer to Render Accounts*, she may, therefore, plead guilty to such lesser offense.

. . . .

43. Taking into account the proposal of the accused and the counter-proposal of the prosecution, the parties have entered into a Plea Bargaining Agreement which is attached hereto and respectfully submitted for the consideration of this Honorable Court.

44. It bears mentioning that Ombudsman Samuel R. Martires (Ombudsman Martires) approved the Memorandum²⁰ dated July 5, 2022, wherein the prosecution panel submitted the Plea Bargaining Agreement for [his] appropriate action. Moreover,

¹⁹ Footnote omitted

²⁰ Footnote omitted

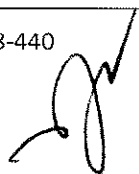


Ombudsman Martires also signed the subject Plea Bargaining Agreement.²¹

THE PLEA-BARGAINING AGREEMENT

5. The Office of the Special Prosecutor of the Office of the Ombudsman, as the office constitutionally mandated to prosecute the instant cases, and finding that:
- a. the appropriate offense which is necessarily included in the offense charged in SB-16-CRM-0780, *i.e.*, violation of Section 3 (e) of R.A. No. 3019, is Frauds Against the Public Treasury under paragraph 1, Article 213 of the Revised Penal Code in that some of the essential elements of the former offense also constitute the latter offense; and,
 - b. the proposed lesser offense of Failure of Accountable Officer to Render Accounts under Article 218 of the Revised Penal Code is necessarily included in the offense charged in SB-16-CRM-0781, *i.e.*, Malversation through Falsification, in that some of the essential elements of the latter also constitute the former offense;
 - c. the prosecution's discretion with regard to the prosecution of cases extends to the plea-bargaining process, although the plea-bargaining agreement is subject to court approval;
 - d. the plea bargain will serve the best interest of justice, and of the state and its people by achieving a reciprocally satisfactory disposition of the instant cases, subject to the approval of the Honorable Court, that is, the state is assured of a conviction, even if it is a lesser offense, and conserves its scarce prosecutorial resource during these challenging times; while the accused accepts responsibility for her actions in exchange for leniency;

²¹ *Id.*, at pp. 438-440



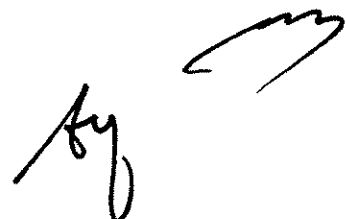
hereby interposes NO OBJECTION and CONSENTS to the accused's entering a plea of guilty to:

- i. The lesser offense of **Frauds Against Public Treasury** under paragraph 1, Article 213 of the Revised Penal Code in **SB-16-CRM-0780** with the penalty of fine, subject to the sound discretion of the Honorable Court to impose the penalty it may deem proper and to consider the absence of any aggravating circumstance and the presence of the mitigating circumstances of voluntary surrender and full restitution;
- ii. The lesser offense of **Failure of Accountable Officer to Render Accounts** under Article 218 of the Revised Penal Code in **SB-16-CRM-0781** with the penalty of fine, subject to the sound discretion of the Honorable Court to impose the penalty it may deem proper and to consider the absence of any aggravating circumstance and the presence of the mitigating circumstances of voluntary surrender and full restitution;

provided that accused Syjuco shall fully retribute first the amount of Five Million Nine Hundred Sixty Four Thousand Eight Hundred Fifty Nine Pesos and Nine Centavos (Php5,964,859.09) alleged in the Informations in SB-16-CRM-0780 to 0781 by paying the said amount to the cashier of the Sandiganbayan either in cash or Manager's Check payable to the Sandiganbayan and submit proof of payment to the Honorable Court before she shall be allowed to withdraw her earlier pleas of not guilty and enter a new plea of guilty to the above-mentioned lesser offenses.

- 6. Accused Syjuco hereby warrants that she understands, and her counsel of choice has explained to her, all the particulars and consequences of her acts in pleading guilty to the lesser offenses of (a) Frauds Against Public Treasury under paragraph 1, Article 213 of the Revised Penal Code in SB-16-CRM-0780 and (b) Failure of Accountable Officer to Render Accounts under Article 218 of the Revised Penal Code in SB-16-CRM-0781.

THE ABOVE-MENTIONED AGREEMENT NOT BEING CONTRARY TO LAW, PUBLIC POLICY AND MORALS IS RESPECTFULLY BEING SUBMITTED FOR THE



CONSIDERATION AND APPROVAL OF THIS HONORABLE COURT.²²

In its *Resolution* promulgated on September 1, 2022, the Court found the [1] “*Motion for Plea Bargaining (with Offer to Pay Civil Liabilities)*” filed by accused Syjuco on February 8, 2022,²³ and [2] “*Joint Motion to Approve Attached Plea-Bargaining Agreement*” filed by accused Syjuco and the prosecution on July 26, 2022,²⁴ meritorious. However, it held in abeyance the approval of the said *Plea-Bargaining Agreement* dated June 1, 2022,²⁵ because of the condition imposed therein, namely: **“that accused Syjuco shall fully retribute first the amount of Five Million Nine Hundred Sixty Four Thousand Eight Hundred Fifty Nine Pesos and Nine Centavos (Php5,964,859.09) alleged in the Informations in SB-16-CRM-0780 to 0781 by paying the said amount to the cashier of the Sandiganbayan either in cash or Manager’s Check payable to the Sandiganbayan and submit proof of payment to the Honorable Court before she shall be allowed to withdraw her earlier pleas of not guilty and enter a new plea of guilty to the above-mentioned lesser offenses.”** Thus, the Court directed accused Syjuco to retribute the said amount to be paid to the Court within five (5) days from notice of the said *Resolution*.²⁶

On September 8, 2022, accused Syjuco filed a “*Manifestation*” attaching therewith the original copy of Official Receipt No. 9700084 dated September 8, 2022, evidencing payment of the amount of Five Million Nine Hundred Sixty-Four Thousand Eight Hundred Fifty-Nine Pesos and Nine Centavos (Php5,964,859.09).²⁷

In its *Resolution* promulgated on September 12, 2022, the Court noted the said “*Manifestation*” filed by accused Syjuco. Thereafter, or on October 3, 2022, the Court [1] **granted** the said “*Joint Motion*,” and [2] **approved** the “*Plea-Bargaining Agreement*”

²² *Id.*, at pp. 444-445

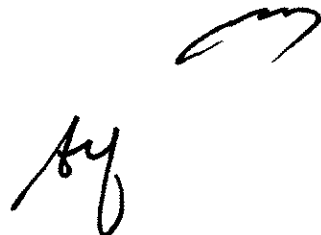
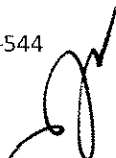
²³ *Id.*, at pp. 220-232

²⁴ *Id.*, at pp. 424-439

²⁵ *Id.*, at pp. 442-446

²⁶ *Id.*, at p. 528

²⁷ *Id.*, at pp. 540-544



filed by the parties. Accordingly, it set the re-arraignment of accused Syjuco in these cases today.²⁸

In today's scheduled re-arraignment, accused Syjuco, duly assisted by her counsel, pleaded *GUILTY* to the following lesser offenses:

1. Frauds Against Public Treasury under paragraph 1, Article 213 of the Revised Penal Code in Criminal Case No. SB-16-CRM-780; and,
2. Failure of Accountable Officer to Render Accounts under Article 218 of the Revised Penal Code in Criminal Case No. SB-16-CRM-0781.

On the propriety of appreciating the mitigating circumstance of full restitution of the amount involved in these cases as mentioned in the subject Plea-Bargaining Agreement, it must be underscored that in the case of **Duque v. Veloso**,²⁹ the Supreme Court rejected as mitigating circumstance the respondent's admission of culpability and the restitution of the amount involved based on the following grounds, namely: [1] *the respondent made use of the complainant's money in 2001 while the restitution was made only in 2003, during the pendency of the administrative case against him; [2] the restitution was half-hearted and was certainly neither purely voluntary nor made because of the exercise of good conscience; it was triggered, more than anything else, by his fear of possible administrative penalties; [3] the admission of guilt and restitution effected were clearly mere afterthoughts made two (2) years after the commission of the offense and after the administrative complaint against him was filed.*

Applying the aforesaid ruling to these cases, the Court holds that the *restitution* of the subject amount in these cases cannot be appreciated to mitigate the criminal liability of accused Syjuco because just like the respondent in **Duque**, the said accused's restitution was a mere afterthought. In fact, it was a pre-condition

²⁸ *Id.*, at pp. 557-559

²⁹ 673 SCRA 676 (2012)



imposed by the prosecution to stamp its imprimatur to the Plea-Bargaining Agreement in these cases. **Thus, the restitution of the amount of Php5,964,859.09 by accused Syjuco was not purely voluntary or in the exercise of her good conscience.**

WHEREFORE, considering the plea of GUILTY of accused Judy Jalbuena Syjuco, judgment is hereby rendered as follows:

1. In **Criminal Case No. SB-16-CRM-0780**, accused Syjuco is hereby found **GUILTY** of *Frauds Against Public Treasury*, defined and penalized under paragraph 1, Article 213 of the Revised Penal Code. Accordingly, she is sentenced to pay a **FINE of Ten Thousand Pesos (Php10,000.00)**³⁰ with subsidiary imprisonment in case of insolvency, to be paid to the Court within ten (10) days from today; and,

2. In **Criminal Case No. SB-16-CRM-0781**, accused Syjuco is hereby found **GUILTY** of *Failure of Accountable Officer to Render Accounts*, defined and penalized under Article 218 of the Revised Penal Code. Accordingly, she is sentenced to pay a **FINE of Six Thousand Pesos (Php6,000.00)**³¹ with subsidiary imprisonment in case of insolvency, to be paid to the Court within ten (10) days from today.

SO ORDERED.

Given in open Court, Quezon City, October 21, 2022


AMPARO M. CABOTAJE-TANG

Presiding Justice
Chairperson


BERNELITO R. FERNANDEZ

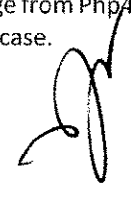
Associate Justice


SARAH JANE T. FERNANDEZ

Associate Justice

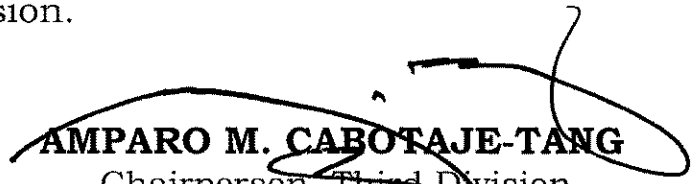
³⁰ Republic Act No. 10951 which increased the amount of imposable fine in Article 213 of the Revised Penal Code to range from Php40,000.00 to Php200,000.00, was not yet in effect at the time of the commission of the offense in this case.

³¹ Republic Act No. 10951 which increased the amount of imposable fine in Article 218 of the Revised Penal Code to range from Php40,000.00 to Php1,200,000.00 was not yet in effect at the time of the commission of the offense in this case.




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.


AMPARO M. CABOTAJE-TANG
Chairperson, Third 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



