



REPUBLIC OF THE PHILIPPINES

Sandiganbayan
QUEZON CITY

SEVENTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

SB-12-CRM-0127 to 0128
For: Violation of Section 3 (e),
Republic Act No. 3019, as amended.

AMANDO ALIENDA
INOCENTES, CELESTINO
TUGAWIN CABALITASAN, MA.
VICTORIA MAGAT
LEONARDO, JERRY
MANASALA BALAGTAS and
JOSE QUIAMBAO DE GUZMAN,
Accused.

Present:

Gomez-Estoesta, J.
Chairperson
Trespeses, J.
Hidalgo, J.

Promulgated on:

March 3, 2023 *yr*

DECISION

HIDALGO, J.:

In two (2) separate Informations both dated September 19, 2011¹, the Deputy Ombudsman for Luzon accuses Amando Alienda Inocentes (accused Inocentes), Celestino Tugawin Cabalitan (accused Cabalitan), Ma. Victoria Magat Leonardo (accused Leonardo), Jerry Manansala Balagtas (accused Balagtas) and Jose Quiambao De Guzman (accused De Guzman) fooftwo (2) counts of Violation of Section 3 (e) of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act. The two Informations read:

¹ (For SB-12-CRM-0127) Record, Vol. 1, pp. 1 to 3 and (For SB-12-CRM-0128) Vol. 1 pp. 1 to 3

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For SB-12-CRM-0127

“That on or about October 2001 or immediately prior or subsequent thereto, in Tarlac City, Tarlac, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, **Amando A. Inocentes, Celestino Cabalitanan, Ma. Victoria Leonardo and Jerry Balagtas**, all public officers, being then Branch Manager, Division Chief III, Property Appraiser III and Senior General Insurance Specialist, respectively, of the Government Insurance System, Tarlac City Field Office, committing the crime herein charged in relation to and taking advantage of their official functions, conspiring and confederating with Jose De Guzman, through manifest partiality, evident bad faith or gross inexcusable negligence, did then and there wilfully, unlawfully and criminally give undue preference, benefit or advantage to accused Jose De Guzman by processing and approving the housing loans of Four Hundred Ninety One (491) borrowers of accused’s (*sic*) de Guzman’s housing project under the *GSIS Bahay Ko Program*, with a total amount of loans amounting to Two Hundred Forty One Million Fifty Three Thousand Six Hundred Pesos (₱241,053,600), knowing fully well that the said borrowers/grantees were not qualified and were not under the territorial jurisdiction of the Tarlac City Field Office, thereby giving said borrowers/grantees unwarranted benefit and causing damage and prejudice to the government and to public interest in the aforesaid amount.

CONTRARY TO LAW”.

For SB-12-CRM-0128

“That on or about October 2001 or immediately prior or subsequent thereto, in Tarlac City, Tarlac, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, **Amando A. Inocentes, Celestino Cabalitanan, Ma. Victoria Leonardo and Jerry Balagtas**, all public officers, being then Branch Manager, Division Chief III, Property Appraiser III and Senior General Insurance Specialist, respectively,

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of the Government Insurance System, Tarlac City Field Office, committing the crime herein charged in relation to and taking advantage of their official functions, conspiring and confederating with Jose De Guzman, through manifest partiality, evident bad faith or gross inexcusable negligence, did then and there wilfully, unlawfully and criminally give undue preference, benefit or advantage to accused Jose De Guzman by processing, approving and granting loans under the *GSIS Bahay Ko Program*, to fifty three (53) borrowers of accused de Guzman's land development program known as Teresa Homes amounting to Fifty Two Million and One Hundred Seven Thousand Pesos (₱52,107,000.00), despite knowledge of the fact that the lots covered were intended for commercial purposes and by causing the over-appraisal in the amount of Thirty Three Million, Two Hundred Forty Two Thousand, Eight Hundred Forty Eight Pesos and Thirty Six Centavos (₱ 33,242,848.36) of the land and buildings offered as collaterals, thus causing undue injury to the government.

CONTRARY TO LAW".

THE ANTECEDENTS

After the two (2) Informations were filed, the Court issued an Order of Arrest dated May 15, 2012² and Hold Departure Order dated May 15, 2012³ against all accused.

Thereafter, on May 18, 2012, accused Inocentes voluntarily surrendered and posted cash bond for his provisional liberty in the amount of Sixty Thousand Pesos (₱ 60,000.00) for both cases, covered by Official Receipt No. 2314033 dated May 18, 2012.⁴ Thus, the Warrant of Arrest issued against him was set aside.

On May 21, 2012, accused De Guzman likewise voluntarily surrendered and posted cash bond for his provisional liberty in the amount of Sixty Thousand Pesos (₱ 60,000.00) for both cases, covered by Official Receipt No. 2314056 dated May 24, 2012⁵. The Warrant of Arrest issued against him was likewise set aside.

² Record, Vol. 1, p. 229

³ Record, Vol. 1, p. 226

⁴ Record, Vol. 1, p. 231

⁵ Record, Vol. 1, p. 251

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On May 28, 2012, accused Balagtas posted surety bond issued by Alpha Insurance and Surety Co, Inc. for both cases, for his provisional liberty before the Regional Trial Court of Capas, Tarlac, Branch 66. For his part, accused Leonardo posted cash bond on June 6, 2012 in the amount of Sixty Thousand Pesos (₱ 60,000.00) for both cases, covered by Official Receipt No. 0421689 dated June 6, 2012 for her provisional liberty before the Regional Trial Court of Tarlac City, Branch 63.⁶ Thereby setting aside Warrants of Arrest issued against both accused.

Lastly, accused Cabalitan on October 31, 2012 voluntarily surrendered and posted a reduced cash bond in the amount of Thirty Thousand Pesos (₱ 30,000.00) for both cases for his provisional liberty, covered by Official Receipt No. 5086294 dated October 31, 2012.⁷ Also, the Warrant of Arrest issued against him was set aside.

Meanwhile, accused De Guzman filed a Motion for Reinvestigation dated June 16, 2012 while accused Inocentes filed an Omnibus Motion for Judicial Determination of Probable Cause, Motion to Quash Information and Motion to Dismiss the Cases alleging violation of his right against speedy disposition of cases. After all the motions were heard, the same were all denied for lack of merit in a Resolution dated October 19, 2012.⁸ Motions for Reconsideration were also denied for lack of merit in a Resolution dated February 8, 2013.⁹

When arraigned on July 19, 2012, accused De Guzman pleaded "NOT GUILTY" to the charges against him.¹⁰ Accused Leonardo and Balagtas also pleaded "NOT GUILTY" when they were arraigned on October 25, 2012.¹¹ When accused Cabalitan was arraigned on November 26, 2012, he likewise pleaded "NOT GUILTY" to the charges against him.¹²

Meanwhile, accused Inocentes filed a Petition for Certiorari, Prohibition and Mandamus with Prayer for [Issuance] of Preliminary Injunction/ TRO¹³ before the Supreme Court alleging, among others, that his right to speedy trial was violated.

Pending the resolution of the same, he was arraigned on April 15, 2013

⁶ Record, Vol. 1, p 319

⁷ Record, Vol. 1, p. 504

⁸ Record, Vol. 1, pp. 461 to 481

⁹ Record, Vol. 2, pp. 230 to 237

¹⁰ Record, Vol. 1, p. 377

¹¹ Record, Vol. 1, p. 488

¹² Record, Vol. 1, p. 594

¹³ dated March 13, 2013, Record Vol. 2, pp. 275 to 458

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and entered the plea of "NOT GUILTY" to the charges.¹⁴ Accused de Guzman likewise filed a Petition before the Supreme Court.

Preliminary Conference and Pre- Trial Conference then ensued.

Incidentally, the Supreme Court in a Resolution dated July 7, 2016¹⁵ granted the Petition filed by accused Inocentes and ordered the dismissal of the cases filed against him. After the said Resolution has attained its finality, the court ordered: (1) the release of his bail bond and (2) dismissal of the two cases against him.¹⁶

On the other hand, accused de Guzman likewise filed a Petition¹⁷ before the Supreme Court imputing grave abuse of discretion on the part of the court in dismissing the motion that he filed. In a Resolution dated August 23, 2017¹⁸, the same was denied for lack of merit.

THE CASE

EVIDENCE FOR THE PROSECUTION

To substantiate the material allegations in the two (2) Informations, the prosecution presented both testimonial and documentary evidence.

TESTIMONIAL:

The prosecution presented the following witnesses:

ATTY. MARVIN REYES GATPAYAT, Filipino, Married, 43 years old, Officer III, Office of the Corporate Secretary of the Government Service Insurance System (GSIS), Pasay City.

Atty. Marvin Gatpayat (witness Gatpayat) has been working with the GSIS for almost ten (10) years. Prior to his transfer to the Office of the Corporate Secretary where he worked for more or less three (3) years, he was assigned at the Investigation Unit as an Attorney V. His tasks, among others, included the conduct of preliminary investigation and fact finding investigation of complaints. One task given to him was to conduct a fact finding investigation at the Tarlac Field Office as directed by former President and General Manager Winston F. Garcia (PGM Garcia) regarding anomalies in the approval of the "*Bahay Ko Program*" consisting of One Thousand Four

¹⁴ Record, Vol. 2, p. 474

¹⁵ Record, Vol. 5, pp. 41 to 53

¹⁶ Record, Vol. 5, p. 245

¹⁷ Dated July 27, 2013, Record, Vol. 3, pp. 48 to 334

¹⁸ Record, Vol. 6, pp. 72 to 76

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Hundred Thirty-Three (1,433) loans.¹⁹ The Fact Finding Investigation revealed that there was connivance between GSIS employees and employees of the JQG Homes Development Inc. in the evaluation and approval of loans.²⁰

In conducting the fact finding investigation, he and his team interviewed persons, although not under oath²¹, including accused Cabalitan, Balagtas and Leonardo, teachers and personnel from the Tarlac Field Office. They also examined loan documents and loan folders relative to the anomalous transaction which revealed the following:

- a. Granting of the BKP loans to unqualified borrowers;
- b. Unauthorized conduct of credit analysis and investigation by the Tarlac Field Office;
- c. Granting of two (2) loans to one (1) member;
- d. Granting of loans involving properties from JQG Home Development Corporation; and
- e. Tampering of Transfer Certificates of Titles.

In the process, persons involved were identified leading to the filing of appropriate charges. Further, they found out that the subject matter of the loan applications involved properties and loan applicants from outside the operational jurisdiction of the Tarlac Field Office, contrary to the rule that only loan applications within the operational jurisdiction of Tarlac Field Office should be evaluated and accepted, *i.e.* the application should be filed where the property is situated as per Memorandum Circular No. 22-02 dated October 14, 2002.²² In this case, the housing project was located in Tarlac City but the residence of the applicants are outside of the jurisdiction of Tarlac Field Office.²³

To demonstrate the violations of accused under the Memorandum Circular No. 22-02 dated October 14, 2002, witness Gatpayat identified the following exhibits²⁴:

- a. Exhibit QQQQ and attested that one Elsa Ortega, a resident of Tondo, Manila, who works at Victoria High School in Tondo, Manila;
- b. Exhibit PPPP which shows that the loan applicant who is assigned in Zambales;²⁵
- c. Exhibit OOOO which reveals that the loan applicant [works] in

¹⁹ TSN dated July 21, 2014, p. 22

²⁰ TSN dated March 25, 2014, pp. 1 to 10

²¹ TSN dated June 24, 2015, p. 12

²² TSN dated March 25, 2014, pp. 13 to 17

²³ TSN dated March 25, 2014, pp. 24 to 25

²⁴ TSN dated March 25, 2014, pp. 17 to 24

²⁵ TSN dated March 25, 2014, pp. 18

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- DEPED Pangasinan and not in Tarlac;
- d. Exhibit NNNN where the name and address of the employer is DEPED San Carlos District, Pangasinan;
 - e. Exhibit KKKK which shows that the name and address of the employer is DEPED Abungan Elementary School in Aparri Cagayan;
 - f. Exhibit JJJJ which reveals that the loan application indicates that the name and address of the employer is at DEPED Balungao Pangasinan;
 - g. Exhibit IIII which indicates that the name and address of the employer is DEPED San Carlos City, Pangasinan;
 - h. Exhibit HHHH which reflects that the name and address of the employer is Subic National High School, Subic Zambales;
 - i. Exhibit GGGG which shows that the name and address of employer is DEPED Montalban, Rizal;
 - j. Exhibit MMMM which shows that the name and address of employer is DEPED San Carlos District 4, Pangasinan;
 - k. Exhibit FFFF which reveals that the name and address of the employer is Malasiqui, Pangasinan;
 - l. Exhibit EEEE which shows that the name and address of the employer is DEPED Bulangao, Pangasinan;
 - m. Exhibit DDDD where the name and address of the employer is DEPED Ligao East Tuburan, Ligao City; and
 - n. Exhibit CCCC, BBBB and AAAA where both the names and addresses of the employer is DEPED Bayambang;

The result of the fact finding investigation consisting of forty-two (42) pages²⁶ was then submitted to PGM Garcia. Consequently, this became the basis for the filing of a criminal complaint against both employees of GSIS and JQG before the Office of the Ombudsman.²⁷ The fact finding investigation also recommended the following:²⁸

- a. Require the [GSIS] Manager to make a representation with the HLURB to discuss sanctions that may be imposed against JQG and others for violating the license to sell;
- b. To require the Manager to continue in verifying the titles with the Register of Deeds;
- c. To require the Filed Operations Group in coordination with the Housing and Real Property Development Group to revisit its policy procedure; and
- d. To require the Field Operations Group to review and strengthen its oversight function over the branches.

²⁶ TSN dated April 2, 2014, p. 28

²⁷ TSN dated March 25, 2014, pp. 11 to 12

²⁸ TSN dated March 25, 2014, p. 27

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When asked about the contents of his Affidavit, he affirmed that because of the administrative case filed against the personnel of the GSIS Tarlac Filed Office, all of them were dismissed from service.²⁹

He also narrated to the court that he and his team which conducted the investigation were able to interview accused Balagtas, Cabalitan and Leonardo after they were informed of the purpose of the interview and of their right to have their own counsel. With respect to accused Inocentes and accused de Guzman, he said that another group of lawyers were assigned to interview them because of the number of personnel involved in these cases.³⁰

On cross examination, he admitted that that he and all signatories of the Fact Finding Report were appointed to the Investigation Unit during the tenure of PGM Garcia. Lawyers Shy Marie Sandoval and Sonny Rodriguez also signed the Fact Finding Report but he was not sure if Atty. Lutgardo Barba, the manager, signed the same.³¹ That he was appointed in 2004 and in 2005, he conducted the investigation but admitted that he was not familiar with the organizational set up of the Legal Department prior to 2004.³² When the term of PGM Garcia ended, the Investigation Unit which he belonged to was dissolved. At present, the same no longer existed but its functions are now being exercised by the Quasi-Judicial and Prosecution Department. He insisted that it was both their functions to find out the anomaly and who are involved therein.³³

He described the "*Bahay Ko Program*" as a residential housing loan program of the GSIS open to all members provided the members can submit certain requirements. The loan, however, is secured by a house and lot. However, he cannot answer the question on what will happen if the collateral is insufficient to cover the outstanding balance.³⁴ When confronted with a copy of the Memorandum Circular ("Exhibit K"), he candidly admitted that GSIS members who wish to avail of the program have two options of where to file the application, and these are, either where they hold office or where the property that they seek to buy is located.³⁵ He, however, clarified that based on Memorandum Circular No. 22-02, before the loan can be approved, credit analysis and investigation should be conducted by the GSIS Office which has the operational jurisdiction over the applicant. In the case of applicant Junio, for example, the credit, analysis and investigation were not conducted by the office that has jurisdictional operation over the application.

²⁹ TSN dated March 25, 2014, p. 30

³⁰ TSN dated April 1, 2014, pp. 5 to 12

³¹ TSN dated April 1, 2014, pp. 13 to 19

³² TSN dated April 1, 2014, p. 20

³³ TSN dated April 1, 2014, pp. 21 to 24

³⁴ TSN dated April 1, 2014, pp. 25 to 27

³⁵ TSN dated April 2, 2014, pp. 6 to 7

Thus, the loan application was not validly approved.³⁶ He also testified that the signature of one Alexander Rodriguez as appearing on page three (3) of his affidavit and the one appearing in the Certification and Verification are different.³⁷ He also clarified that the investigation focused on the loan of the properties located at Monteverde, Teresa Homes and Jaraville and does not necessarily exclude those loan covering properties at Kristiana Village.³⁸

With respect to the criminal complaint they lodged against all accused, he initially admitted that he is aware only of the Plunder case filed against all accused but the same was dismissed for lack of probable cause. He is not aware of any other criminal cases for Estafa and falsification filed against all accused as well as the resolution of the Ombudsman about those cases.³⁹ But later on, he admitted that on the basis of the Fact Finding Report, they filed cases for Violation of Section 3 (e), (g) and (h) of Republic Act No. 3019 and Violation of Republic Act No. 7080 and administrative cases for gross neglect of duty, grave misconduct, conduct prejudicial to the best interest of service, and for Violation of Rules and Procedures in the processing and granting of housing loan applications.⁴⁰ Additionally, when they eventually became aware of the existence of GSIS Board Resolution No. 75 dated March 19, 2003 (the Expanded Version), they did not consider to use it during the investigation but used only the old KBP Policy.⁴¹ He continued that The Fact Finding Report also revealed an over appraisal after the Housing and Finance Department of the GSIS Head Office made its own appraisal and comparing it with the appraisal made by the Tarlac Field Office.⁴²

At the time the investigation was conducted, majority of the houses constructed and developed by JQG were neither occupied nor in good condition. When asked how much loss was sustained by the GSIS in granting the questioned loans, he cannot give an amount since the Fact Finding Report did not state the amount and that the said report did not also contain information that GSIS initiated foreclosure proceedings. He merely cited that the GSIS released Six Million Eight Hundred Sixty-One Thousand Pesos (P 6,861,000.00) and Two Hundred Nineteen Million Forty Thousand Six Hundred Pesos (P 219,040,600.00) and attributed the loss to (a) the used of falsified documents, (b) procedural lapses in granting the loans and (c) the scheme employed by JQG to ensure that teachers from DepED would apply for a housing loan.⁴³ Although he cannot give the actual amount of loss the GSIS sustained, he clarified that even if the borrowers were qualified, it is

³⁶ TSN dated April 2, 2014, pp. 8 to 11

³⁷ TSN dated April 2, 2014, p. 13

³⁸ TSN dated April 2, 2014, p. 26

³⁹ TSN dated April 2, 2014, pp. 35 to 50

⁴⁰ TSN dated July 21, 2014, p. 10

⁴¹ TSN dated July 21, 2014, pp. 13 to 14

⁴² TSN dated July 21, 2014, p. 19

⁴³ TSN dated July 21, 2014, pp. 23 to 28

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also possible that GSIS will still suffer a loss.⁴⁴ To further demonstrate that GSIS will sustain a loss because of the unqualified borrowers, he testified that the GSIS also used as criteria in granting loans, the borrowers' paying capacity. What happened here is that about five percent (5%) of the teachers they interviewed who obtained a loan from GSIS did not have capacity to pay but their signatures and CM Numbers were used. Roughly, Four Hundred Ninety-One (491) borrowers were not qualified borrowers.⁴⁵ He later on clarified that the total amount of loan is ₱ 216,971,780.95 and the arrears can be summed up in the amount of ₱ 23,294,335.94.⁴⁶

During the continuation of his cross examination, he described that JQG used some teachers and some of its staff including one Jennifer Libunao, a marketing staff, to entice teachers, though orally, to apply for a loan from the GSIS in exchange for money which applicants actually received. In fact, it was Jennifer Libunao who induced DepEd Teachers to apply for a loan from GSIS. In return, teachers residing outside Tarlac were given transportation allowance ranging from ₱ 1,400 to ₱ 1,600 just to go to Tarlac. There were also promises from JQG marketing arm staff that teachers will be given a rebate in the amount ranging from ₱ 5,000.00 to ₱ 100,000.00. In some instances, borrowers and co-makers were enticed and deceived to apply for a loan in exchange for a monetary consideration ranging from Twenty Thousand Pesos (₱20,000.00) to One Hundred Twenty Thousand Pesos (₱ 120,000.00) by a certain Nicasia Juan, a teacher and a resident of Cauayan City who based on their interview, is a representative of the Teresa Homes Subdivision, a subdivision developed by JQG.⁴⁷

With respect to the qualifications of a borrower, clearly he said that what the GSIS consider on whether it will grant the loan or not, is not only the "take home pay" of the borrower but also the [ability] to submit other documents. In line with this, he testified that one Miss Emelita Nuguid, a marketing agent of another corporation which has a marketing agreement with JQG Development Corporation, admitted during the interview that applicants signed blank documents making the whole process "bogus" because were it not for this *modus operandi*, then the GSIS would not have released the loan that will enable JQG Development Corporation to construct the housing project.⁴⁸ When further asked to explain why the whole process is a bogus, he said that the house constructed on the land was not finished and that the teachers did not really intend to secure a house and lot. He added another person in the name of accused De Guzman who together with Emelita Nuguid approached the teachers who employed the scheme to obtain the signatures of

⁴⁴ TSN dated July 21, 2014, p. 28

⁴⁵ TSN dated July 21, 2014, pp. 31 to 34

⁴⁶ TSN dated June 5, 2017, p. 9

⁴⁷ TSN dated July 22, 2014, pp. 8 to 18

⁴⁸ TSN dated July 24, 2014, pp. 5 to 16

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the teachers.⁴⁹

He was also questioned as to the veracity of the Transcript of Stenographic Notes taken during the conduct of the interview. It appeared that they did not verify the identities of Miss Nuguid and De Guzman and they just relied on the fact that Tarlac District Office Manager Talon called the two of them for interview. They also interviewed teachers Espinosa, Alberto, Ocampo, Valdevieso, Sandoval and Simsuangco who complained about the loans. He claimed that they were paid Ten Thousand Pesos (P 10,000.00) to sign application [forms]. It was also revealed that accused Inocentes blocklisted JQG but only after the incident happened and then sought the intercession of one Atty. Isagani del Rosario to conduct an investigation. Notwithstanding the same, they charged accused Inocentes because he approved all the loan applications and instructed accused Balagtas and Cabalitanan to make sure that the loans were approved.⁵⁰

Witness Gatpayat admitted that there is no showing that accused Leonardo and Balagtas actually received the memorandum for the conduct of the investigation. More, he emphasized that their group that conducted the investigation indeed ascertained the actual participation of each accused.⁵¹

In explaining the participation of accused Cabalitanan in approving the loan applications, he testified that since he was the Division Chief of the Special Business Unit and served as a supervisor of the the Property Appraiser and Credit Investigation at that time, he was supposed to check if the actions of the Property Appraiser were in accordance with Memorandum Circular No. 22-02 dated October 14, 2002. He further explained that accused Cabalitanan should first determine if the applicant is qualified or not among over a thousand applicants.⁵²

As for accused Balagtas, he explained that since accused Balagtas was the credit investigator at that time, it was his duty to make sure that all loan applicants are qualified. But what happened in these cases was that, he together with [some] employees of JQG and teachers, met on several occasions somewhere in Tarlac, and then collated and submitted all documents to GSIS after loan applicants submitted blank documents.⁵³

Lastly, the amount of over valuations as reflected in the Investigation Report, is merely based on the appraisal made by the GSIS Housing Finance Department .⁵⁴

⁴⁹ TSN dated June 23, 2015, pp. 10 to 13

⁵⁰ TSN dated June 24, 2015, pp. 14 to 30

⁵¹ TSN dated July 19, 2016 pp. 40 to

⁵² TSN dated July 19, 2016 pp. 10 to 22

⁵³ TSN dated July 19, 2016 pp. 42 to 68

⁵⁴ TSN dated June 5, 2017, p. 10

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ANITA M. NAGAÑO, 68 years old, Widow, a retired teacher, residing at 93-Q Valeno St. Adua Centro, Cabanatuan City.

Her direct testimony was partially stipulated⁵⁵ as follows:

1. That she can confirm the contents of her handwritten letter dated May 12, 2005 consisting of five (5) pages (Exhibit G);
2. That she can identify the letter with attachments addressed to GSIS President; and
3. The authenticity of Exhibit OOO.⁵⁶

When asked why her hand written letter has a typewritten version, she said that, the handwritten one was made at the office (Tarlac Field Office) where the investigating team from the GSIS Main Office was there, while her *Sinumpaang Salaysay* was executed at the GSIS Office in Cabanatuan City. She likewise narrated that she executed the said *Salaysay* to prove that she did not apply for a loan although her picture appeared on the application forms because she was on leave for seven (7) months starting from August 2, 2002 to February 14, 2003, the same dates when the loans were made. She later on learned that the manager is already one [Mr.] Talon and no longer accused Inocentes and that an investigating unit from the GSIS Main Office will come. After she told her problem, she was asked to submit some documents like a Certificate from the school, Form 137 of her pupils and bank books. She then went to the National Bureau of Investigation (NBI) to submit all the documents and to verify her signature which turned out to be not the same.⁵⁷

When asked to identify the Real Estate Mortgage⁵⁸, she denied that the signature appearing on the left side of the said document to be her signature because it is different from her signature. She likewise denied that the signatures appearing on the Contract to Sell (Exhibit G9-G), Authority to Deduct (Exhibit G-9-K), Promissory Note (Exhibit G-9-M) were hers but admitted that the signatures appearing on a Letter dated November 3, 2004 (Exhibit G-12), Letter dated November 17, 2004 addressed to Branch Manager of GSIS Tarlac (Exhibit G-13) and Request to Return to Work dated February 14, 2003 (Exhibit G-18) are all her signatures.⁵⁹

Witness was not subjected to cross examination.⁶⁰

⁵⁵ TSN dated September 4, 2017, pp. 14 to 19

⁵⁶ TSN dated September 4, 2017, p. 41

⁵⁷ TSN dated September 4, 2017, pp. 24 to 31

⁵⁸ Exhibit G-9-F

⁵⁹ TSN dated September 4, 2017, pp. 48 to 56

⁶⁰ TSN dated January 17, 2018, pp. 6 to 7

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MIGUELA ORTALEZA ACOSTA, 63 years old, married, a teacher as DepEd Cabanatuan City, residing at Camp Tinio, Cabanatuan City.

Her direct testimony was partially stipulated⁶¹ as follows:

1. That she can confirm the contents of her handwritten letter (*Salaysay*);
2. That she can confirm the contents of her Affidavit (*Salaysay*); and
3. That she can identify her signature above the name Miguela O. Acosta.

She admitted that the signatures appearing on the following documents are her signatures⁶²:

1. Deed of Real Estate Mortgage subject to the qualification that she was enticed to sign the said document⁶³;
2. Authority to Deduct; and
3. Promissory Note;

She, however, denied that the signatures appearing on the Loan document, Contract to Sell and in the Deed of Assignment are her signatures since they are different from her original signature.⁶⁴

Witness was also not subjected to cross examination.⁶⁵

SHY MARIE CASAPAO SANDOVAL, 47 years old, Prosecutor 1, Department of Justice, Office of the City prosecutor, Calamba City, Laguna

Witness testified on direct examination through her Judicial Affidavit.⁶⁶ In essence, her testimony revolves on the following:

1. That she was part of the fact finding team that conducted the investigation at GSIS Tarlac Field Office and she can identify the Fact Finding Report;
2. That there was a connivance between the employees and officers of JQG Homes Development Corporation and the Tarlac Field Office in the evaluation and approval of the loans;

⁶¹ TSN dated September 4, 2017, pp. 64 to 68

⁶² TSN dated September 4, 2017, pp. 74 to 78

⁶³ TSN dated September 4, 2017, pp. 74 to 75

⁶⁴ TSN dated September 4, 2017, pp. 79 to 82

⁶⁵ TSN dated January 17, 2018, p. 8

⁶⁶ dated May 8, 2018, Record, Vol. 6, pp. 251 to 359

When cross examined, she admitted that she has no personal knowledge if a copy of Memorandum Circular No. No. 22-02 was personally given to accused Cabalitan, Leonardo, Balagtas and Inocentes. She also explained that at the time they made the investigation, it was Manager Talon who was the manager of Tarlac Field Office but during the period when the loans were approved, the manager was accused Inocentes. Witness also maintained that it has been the rule even before the issuance of Memorandum Circular No. 22-02 in 2002, that the signature contained on the specimen card must be filed with office where the loan must be applied.⁶⁷

She affirmed that the teachers were induced but not threatened to sign the documents and were promised by the agents of the company that they will get a rebate ranging from ₱ 5,000.00 to ₱ 100,000.00 such that applications for loan started to come in but she is not sure if all loan applications were indeed filed by teachers.⁶⁸

She admitted that they have no data if the teachers' loans were actually deducted from their take home pay but, during the investigations, it came out that billing statements were sent to them⁶⁹

GLORIA ATAYAN SANDOVAL, 66 years old, a retired public school teacher at Pagalanggang National High School, Dimalupihan, Bataan.

Witness testified on direct examination through her Judicial Affidavit dated May 3, 2018.⁷⁰

In essence, she testified that:

1. She is a resident of Bataan which is outside the operational jurisdiction of GSIS Tarlac Field Office;
2. She was not qualified to obtain a loan under the GSIS Bahay Ko Program because her take home pay is only ₱ 4,000.00 and if amortization will be deducted, she will no longer receive any salary at all;
3. She was offered ₱ 1,000.00 in exchange for the use of her GSIS Policy Number in connection with a housing loan application;
4. Out of confidence, assurance and promises of other teachers from Olongapo City and from her co-teachers namely, Elizabeth Valdeviezo, Annie Rohenia, a certain person named Bayani and Jeniffer Libunao, she was given blank loan application forms which she should sign and she was even told to wait for two weeks to claim

⁶⁷ TSN dated May 21, 2018, pp. 24 to 34

⁶⁸ TSN dated May 21, 2018, pp. 39 to 51

⁶⁹ TSN dated May 21, 2018, p. 54

⁷⁰ Record, Vol. 6, pp. 362 to 366

- the additional Ten Thousand Pesos (₱ 10,000.00) payment;
5. Sometime in December 2003 and January 2004, she received a Notice of Deduction from GSIS Tarlac Field Office in connection with the housing loan in Teresa Homes Subdivision under her Policy Number; and
 6. She went to GSIS Tarlac and complained that she never obtained any housing loan or benefit from it.

On cross examination, she claimed that some of the teachers from Olongapo, who were her colleagues when she was still teaching in a private school, came to her and convinced her to the use of her name and policy number for a loan application. Despite her initial reservation not to, because of the distance between Tarlac and Bataan, just the same, she signed all the documents and gave the documents to them. She made it clear, however, that accused Cabalitanan, accused Balagtas and accused Leonardo were not part of the team who convinced her to apply for the loan. When asked if she has copies of said documents, she answered in the negative since the same were destroyed during the onslaught of “Habagat.” She is not aware of what happened to the application form that she signed until she received a Notice of Deduction [from her monthly pay]. The Court also found out that she is not aware who was the developer of the subdivision.⁷¹

**EDEN P. SENO, 63 years old, married, a retired
Corporate Executive Officer II, GSIS Internal Audit
Service.**

Witness testified on direct examination through her Judicial Affidavit dated August 15, 2018.⁷²

In essence, she testified that from 1999 to 2007, she held the position of Corporate Executive Officer II tasked to audit various transactions including the *Bahay Ko Program* and those transaction tagged as “High Risk Transactions” or transactions that involve millions [of pesos] that would greatly affect the actuarial solvency of GSIS. She together with her team composed of Bertile B. Comoro, Roselyn L. Rengel, Flordeliza V. Ongsico, Ma. Soledad M. Soriano, Jose C. Bagasani, Jr., Rolando O. Gudani, Romeo G. De Luna and Juver Paul R. Dolojan conducted an audit from May 12-26, 2004 at the Tarlac Field Office to validate/ confirm the allegations of anomalies contained in the Memorandum of EVP Enriqueta P. Disuanco; evaluate the soundness, adequacy and effectiveness of the internal control system in granting the *Bahay Ko Program* and to determine compliance with existing rules, regulations, policies, and procedural requirements covering the said loans.

⁷¹ TSN dated May 24, 2018, pp. 14 to 25

⁷² Record, Vol. 6, pp. 424 to 671

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In doing the audit, they reviewed loan applications and other relevant documents and interviewed several employees including accused Cabalitan and Balagtas. They came up with a Report on Operations Audit of Housing Loan (*Bahay Ko Program*) Tarlac Field Office- Findings and Recommendations dated May 26, 2004. Significantly, the findings are:

1. Non- verification of the borrower's eligibility and paying capacity which resulted to the granting of loans to unqualified borrowers;
2. Original copies of the payslips/ payroll were not submitted;
3. Non-verification of tampered payslips submitted to support application for BKP loans;
4. Release of BKP loans to two (2) mortgagors without submitting the payslip/ payroll;
5. Approval of BKP loans of member-applicants with arrears in salary / emergency loan;
6. Granting of bigger amount of BKP loan to two (2) mortgagors due to failure to properly include other loan amortizations in determining the Net Take Home Pay;
7. Violation of existing policies on the conduct of credit analysis and investigation of loan applicants;
8. Release of BKP loan proceeds without verifying the authenticity of annotation of mortgage on the owner's duplicate TCT;
9. Non-payment of processing fee prior to release of the loan;
10. Releasing of BKP loan checks by the Special Business Unit without prior certification of the Chief of the Support Services as to availability of funds in violation of the General Accounting and Auditing Manuals of public funds;
11. Releasing of BKP loan checks by the Special Business Unit instead of the Administrative Section of the Support Services Division;
12. Non-acknowledgment of the receipt of check by the payee on the face of the Disbursement Voucher;
13. Failure of the TFO to send Demand Letters to mortgagors with arrears resulted in the accumulation of unpaid installment in the total amount of Php20 million as of April 30, 2004;
14. Processing and approval of loan of applicant-member who acted as co-maker of another borrower's housing loan;
15. Double granting of BKP loans (for Home Construction) to 18 members; and
16. Approval of housing loan by the Manager of Tarlac Field Office in excess of his approval authority.

The said report was submitted to the Internal Audit Service and then to PGM Winston Garcia. PGM Garcia then ordered another group to conduct another fact finding investigation .

On cross examination, she admitted that the top management of GSIS

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was the one who conceived the *Bahay Ko Program*. In fact, there was a Board Resolution on this and instructions were given to proceed with this project to top management down to the processors. Although the project was implemented, the problem was only with the Tarlac Field Office.⁷³

She maintained that they were able to interview and inform accused Inocentes about a document denominated as Audit Objective Report (AOR) that serves as a guide in the conduct of an audit with the purpose of validating alleged anomalies in the GSIS Tarlac Field Office. Admittedly, nothing in the said document will show that they informed accused Inocentes of the purpose of the AOR. She added that as an internal policy of the GSIS, all heads of offices must be furnished with a copy of Memorandum and then, the heads of offices are supposed to disseminate the same to their staff. She herself was furnished with a copy of the AOR including accused Cabalitan since he was then the Division Chief III, although the said fact cannot be seen on the face of the said document.⁷⁴

Although there is nothing in the Audit Objective and Report that mandated them to investigate a specific developer, she explained that they can conduct other procedures not mentioned in the audit procedure. In the course of their investigation and while focusing on the materiality of the disbursements, a big portion of the amount disbursed by the GSIS went to JQG Homes Development Corporation⁷⁵

**ATTY. ENRIQUE LIMGUANGCO TANDAN,
III., 44 years old, GSIS Corporate Secretary, GSIS
Financial Center, J.W. Diokno Boulevard, Pasay
City.**

His direct testimony was dispensed with after the following stipulations⁷⁶ were made:

1. The existence of his Judicial Affidavit and the identification of the documents attached thereto; and
2. That being the custodian of Board Resolutions in his capacity as Corporate Secretary, he can identify GSIS Board Resolutions Number 65, 50 and 129 and the GSIS Resolution approving the Decision dated July 1, 2005 in Administrative Case No. 04-016.

**GRACE PINEDA TAN, 58 years old, Commission
on Audit Auditor, currently assigned at Commission
on Audit, Angeles City, Pampanga.**

⁷³ TSN dated August 28, 2018, pp. 13 to 21

⁷⁴ TSN dated October 8, 2018, pp. 17 to 30

⁷⁵ TSN dated October 8, 2018, pp. 34 to 37

⁷⁶ Order dated October 29, 2018, Record, Vol. 7, pp. 248 to 249

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Witness testified on direct examination through her Judicial Affidavit dated October 10, 2018.⁷⁷

In essence, she testified on the following:

1. That she was the Audit Team Leader of GSIS Tarlac Field Office, responsible for the audit of accounts of said agency;
2. She identified Audit Observation Memorandum No. 2003-04 (Exhibit HH);
3. That during the post audit / verification that she conducted together with Jamima G. Santos, Quirino T. Tabelina and Lea B. Gopez, the following were found:
 - a. The supporting documents of Loan Envelopes of some borrowers, noted that the submitted documents were deficient, which were the basis in the determination of the net paying capacity of the applicants;
 - b. The amount of loan applied for, approval and disapproval of the loan and the payslips were not original copies. Thus, their authenticity and regularity became questionable;
 - c. Certificates of Employments do not bear DepEd's Letterheads and that the certifying officer, was not on the GSIS mainframe system;
 - d. Copies of the Certificates of Titles were not certified or secured from the Registry of Deeds;
 - e. There were no plans and specifications, bill of materials, labor and construction cost estimates submitted by the borrower to determine the total cost of the proposed house being applied for;
 - f. The purpose of the loan was not filled up or not indicated in the loan applications; and
 - g. The monthly deductions of loan borrowers for salary and emergency loan were not reflected / reported in the submitted payslips. As such, they were not considered in the determination of the net paying capacity of the borrower.

On cross examination, she testified that a copy of the Audit Observation Report covering the period from January and February 2003, was actually delivered to the Branch Manager but she has no knowledge who was the custodian of the original copy of the Audit Observation Report and whether other accused received a copy of it.⁷⁸

By way of clarificatory questions from the court, she candidly admitted

⁷⁷ Record, Vol. 7, pp. 117 to 245

⁷⁸ TSN dated October 29, 2018, pp. 28 to 33

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that she had no idea if the recommendations contained in the Audit Observation Memorandum were complied with. With respect to the sufficiency of the documents that must be attached to the loan applications, she emphasized that original copies of the documents are required.⁷⁹

RODOLFO C. SINGIAN, 69 years old, a retired Division Manager of the Support Services Division of GSIS- Tarlac Field Office, and a resident of Bacolor, Pampanga.

Witness testified on direct examination through his Judicial Affidavit dated April 29, 2019.⁸⁰ His further testimony on direct examination was dispensed with after the parties stipulated on the following matters:⁸¹

1. That he was the former Division Manager of the Support Services Division of GSIS-Tarlac Branch at the time material to the case;
2. That he signed the Disbursement Vouchers related to GSIS Bahay Ko Program and that he can identify documents related thereto; and
3. That he can identify his Judicial Affidavit.

On cross examination, he admitted that he knew accused Leonardo and Balagtas. In fact, they were the ones who prepared the vouchers and forwarded those documents to his office to check if there are available funds by issuing a Certificate of Availability of Funds and that accused Inocentes and Cabalitan signed the Disbursement Vouchers.⁸²

By way of clarificatory questions from the Court, he affirmed that the name of the claimant is JQG Homes Development Corporation.⁸³

JOSEPH LAURO TIONGCO PASCUAL, currently the Staff Officer I, Front Line Services Division, GSIS-Tarlac Field Office.

Witness testified on direct examination through his Judicial Affidavit dated June 20, 2019.⁸⁴ His further testimony on direct examination was dispensed with after the parties stipulated on the following matters:⁸⁵

1. That he is a Staff Officer I of the Front Line Services Division of the GSIS-Tarlac Branch;

⁷⁹ TSN dated October 29, 2018, pp. 34 to 36

⁸⁰ Record, Judicial Affidavit Folder, Vol. 1, pp. 1 to 66

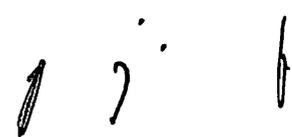
⁸¹ Record, Vol. 7, pp. 320 to 321

⁸² TSN dated May 7, 2019, pp. 9 to 14

⁸³ TSN dated May 7, 2019, p. 16

⁸⁴ Judicial Affidavit Folder, Vol. 1, pp. 67 to 145

⁸⁵ Record, Vol. 7, p. 344



2. That he has official custody of the original copies of the housing loan documents and other supporting documents;
3. That he certified as true copies housing loan documents marked as Exhibits WWW-12, WWW-9, WWW-10-d, WWW-11, WWW-1, WWW-5, WWW-6 and E¹□ and series; and
4. That he can identify his Judicial Affidavit and all documents attached thereto.

**GINAH M . MESINA, 58 years old, Officer I, GSIS
Cabanatuan Branch**

Witness testified on direct examination through her Judicial Affidavit dated June 24, 2019.⁸⁶ Her further testimony on direct examination was dispensed with after the parties stipulated on the purposes of her testimony. In addition, the following matters were stipulated upon:⁸⁷

1. That she can identify her Judicial Affidavit and all attachments thereto;
2. That she is the Division Chief of the Frontline Services Division of GSIS Cabanatuan City Branch;
3. That she heads the division which has official custody of the original copies of the housing loan documents and other supporting documents; and
4. That she was the one who certified as true copy of the original the housing loan documents and other related documents in relation to these cases.

On cross examination, she clarified that loan documents that were presented to her were from GSIS employees from Tarlac and that her office merely keeps them for filing purposes.⁸⁸

By way of clarificatory questions from the Court, she affirmed that loan applicants were from Cabanatuan but they filed their loan in Tarlac GSIS.⁸⁹

There being no more witnesses for the prosecution, the latter moved to file its written Formal Offer of Exhibits. The Prosecution offered the following:

⁸⁶ Judicial Affidavit Folder, Vol. 1, pp. 146 to 160

⁸⁷ Record, Vol. 7, pp. 378 to 379

⁸⁸ TSN dated September 11, 2019, pp. 9 to 18

⁸⁹ TSN dated September 11, 2019, pp. 18 to 22

DOCUMENTARY EXHIBITS

Exhibit	Description
"A"	Affidavit of Alexander M. Rodriguez, Shy Marie Sandoval and Marvin R. Gatpayat executed on September 14, 2014
"B"	Fact Finding Report of the GSIS Investigation Unit with cover letter dated September 13, 2004
"E"	Reply-Affidavit of Alexander M. Rodriguez, Shy Marie Sandoval and Marvin R. Gatpayat executed on September 30, 2004
"G-7"	Loan Application – Bahay KO Program in the name of Anita M. Nagano
"G-8"	Transfer Certificate of Title No. 36465
"G-9", "G-9-a", G9-b, G9-c and G9-d	Deed of Real Estate Mortgage by and between allegedly Anita M. Nagano and GSIS executed on January 24, 2003
"G-9-g"	Contract to Sell by and between allegedly Anita M. Nagano and JQGHDC as represented by accused De Guzman
"G-9-k"	Authority to Deduct allegedly executed by Anita M. Nagano
"G-9-m"	Promissory Note allegedly executed by Anita M. Nagano
"K"	OSVP-Branches Memorandum Circular No. 22-02 dated October 14, 2022
"HH"	Commission on Audit (COA) – Audit Observation Memorandum (AOM) No, 2003-04 dated July 31, 2003
"II"	GSIS Memorandum/dated July 2, 2004 from the Internal Audit Services Group Re: Report on the Audit of the Housing Loan Accounts Administration of the Tarlac Field Office
"G" and Series	Letter if Anita Nagano to the GSIS Investigation Unit dated May 12, 2005
"G-5"	Sinumpaang Salaysay executed by Anita M. Nagano dated June 1, 2005
"G-13"	Letter dated November 17, 2004 by Anita M. Nagano
"G-14"	GSIS last and Final Notice dated November 25, 2004
"G-15"	Letter dated February 19, 2005 by Atty. Carlito R. Inton
"G-20" and series	Payslips of Anita M. Nagano
"TTT"	Handwritten Letter of Miguela O. Acosta
"WWW-1"	Deed of Real Estate Mortgage executed on July 28, 2003 allegedly by and between allegedly Miguela O. Acosta and GSIS
"WWW"	Salaysay of Miguela O. Acosta dated May 31, 2005
"WWW-2", and WWW-3"	
"WWW-5"	Promissory Note allegedly executed by Miguela O. Acosta
"WWW-6"	Authority to Deduct allegedly executed by Miguela O. Acosta
"WWW-9"	Payslips of Miguela O. Acosta
"WWW-10-d	Contract to Sell allegedly by and between Miguela O. Acosta and JQGHDC as represented by accused De Guzman
WWW-10-d-1"	
"WWW-11"	Deed of Assignment allegedly by and between Miguela O.

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& “WWW-11-a	Acosta and JQGHDC as represented by accused De Guzman
“WWW-12”	Certificate of Employment and Compensation allegedly of Muguela O. Acosta
“E ¹⁰ ” and (“E ¹⁰ -1” to “E ¹⁰ -56”	various Disbursement Vouchers
“I ¹⁰ ”	GSIS Board Resolution No. 65 dated July 6, 2005
“J ¹⁰ ”	GSIS Board Resolution No. 50 dated March 7, 2007
“K ¹⁰ ”	GSIS Board Resolution No. 128 dated November 8, 2005
“L ¹⁰ ”	GSIS Board Resolution No. 129 dated November 8, 2005
“M ¹⁰ ”	GSIS Memorandum for the Manager of the Investigation Department dated July 2, 2004
“N ¹⁰ ”	GSIS Board Resolution No. 35 March 29, 2006

In a Resolution dated January 6, 2020⁹⁰, the court admitted Exhibits “A”, “B”, “E”, “G-7”, “G-8”, “G-9”, “G-9-a”, “G-9-b”, “G-9-c”, “G-9-d”, “G-9-g”, “G-9-k”, “G-9-m”, “K”, “HH”, “II”, “G and series”, “G-5”, “G-13”, “G-14”, “G-15”, “G-20”, “TTT”, “WWW-1”, “WWW”, “WWW-2”, “WWW-3”, “WWW-5”, “WWW-6”, “WWW-9”, “WWW-10-d”, “WWW-10-d-1”, “WWW-11”, “WWW-11-a”, “WWW-12”, “E¹⁰” and “E¹⁰-1” to “E¹⁰-56”, “I¹⁰”, “J¹⁰”, “K¹⁰”, “L¹⁰”, “M¹⁰”, and “N¹⁰.”

With the admission of its documentary exhibits, the prosecution rested its case.

EVIDENCE FOR THE DEFENSE

For its part, the defense likewise offered both testimonial and documentary evidence:

TESTIMONIAL

The following witnesses testified:

**CELESTINO TUGAWIN CABALITASAN, 63
years old, residing at 0647 J.P. Rizal Street, Sta.
Barbara, Baliwag, Bulacan.**

The accused. He testified on direct examination through his Judicial Affidavit dated May 20, 2021.⁹¹

On the dates material to these cases, he was the Chief of the Posting, Billing, Reconciliation and Collection Division and was concurrently assigned as the Chief of Special Business Unit of the GSIS Tarlac Field Office from July 1, 2002 to September 24, 2004. During his stint as such, the

⁹⁰ Record, Vol. 8, pp. 93 to 96

⁹¹ Judicial Affidavit Folder, Vol. 1, pp. 161 to 172

performance rating of his unit went up and they were even given a bonus equivalent to three months salary. His duties and obligations include the following:

1. Review work outputs of Appraiser and Credit Investigator;
2. Sign the recommendation for approval of the duly accomplished housing loan applications; and
3. Sign vouchers and check of approved housing loan applications.

On September 24, 2004, he was relieved as the Chief of Special Business Unit because he was accused as part of the group of people (referring to his co-accused⁹²) who committed or perpetuated the anomalies at the Tarlac Filed Office like processing of applications for housing loans even though the applicants do not work or reside in Tarlac which was prohibited based on a Memorandum (Exhibit K) issued by the management of GSIS. He then requested for a formal investigation but he was eventually dismissed from service based on the same accusations, *i.e.* he was part of a group of people committing or perpetuating anomalies in Tarlac Field Office.

As regards the Memorandum issued by the GSIS main office, he denied receiving a copy of it because it was furnished only to the manager of the Tarlac Field Office, who was accused Inocentes at that time. Since he was not aware of the said Memorandum, he acted on those applications submitted by the credit investigator and appraiser.

He claimed that in processing the loan applications coming from Tarlac and nearby provinces like Pampanga, Nueva Ecija, Pangasinan and Bataan, once the GSIS received the applications, the credit investigator looks into the financial status of the applicant, interviews the applicant and conducts loan counselling. If the applicant is evaluated as qualified, the documents submitted shall then be referred to him wherein he will separate the application [form] and other documents pertaining to the payroll or payslip and return the same to the credit investigator, while copies of the title, subdivision plan and sketch plan will be given to the appraiser. The credit investigator will then conduct further investigation looking into the financial capacity of the applicant to pay the loan while the appraiser looks into the value of the property. The findings and recommendations bearing the signatures of the credit investigator and appraiser will then be submitted to the Special Business Unit for review. If found to be supported by records, in his capacity as the Chief of the Special Business Unit, he will recommend the approval of the loan to the branch manager.

On cross examination, it was revealed that it was accused Inocentes who appointed him as Chief of Special Business Unit perhaps for convenience

⁹² TSN dated May 26, 2017, p. 67

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purposes since their respective offices can be found on the same floor of the building they occupied. At that time, accused Balagtas was the credit investigator while accused Leonardo was the appraiser. That he was aware that sometime in May 2004, an Audit team from GSIS Head Office conducted an audit of the *Bahay Ko Program*, interviewed him and eventually came up with an Audit Report which he admitted to have read but cannot remember anymore its contents.⁹³ He did not find it suspicious that some applicants who are from other provinces came to Tarlac to file their loan applications although there are other GSIS Offices that are near them, since everytime they conduct an interview of the applicants, the justifications given are: (1) their children are studying in BSU or (2) some are working in BSU or (3) for investment purposes. When he learned of the complaints of teachers from other provinces, accused Inocentes conducted a meeting with the teachers, in his presence, to find a solution. For his part, he was not able to talk with any of the complainants.⁹⁴ While processing the loan, he noticed that more than ninety percent (90%) of the loans were connected with JQG Home Development Corporation, he cannot attest as to the total amount of the same.⁹⁵

Further, he indentified accused Inocentes as the one who approved the loan applications after accused Leonardo and Balagtas submitted their recommendatory approval. Candidly, he said that it was accused Inocentes, as the branch manager who implemented the loans and dictated the affairs of his office and he merely followed instructions.⁹⁶

By way of clarificatory questions from the Court, he affirmed that there was a written policy with regard to the *Bahay Ko Program*, called Policy and Procedure Guidelines. While he then has the duty to recommend for the approval of the loan, there were also instances that he recommended not to approve some of the loan applications like when the borrower has no paying capacity. He said that, all his recommendations were approved by accused Inocentes. He explained that the surge of the loans happened when the GSIS Main Office included the developer assisted housing program wherein GSIS members can purchase lots being sold by a certain developer. A quota was initially set at two hundred (200) applications but was eventually increased by accused Inocentes to eight hundred (800) quotas after a manager's conference was conducted. Admittedly, he testified that he dealt with all developers in Tarlac but no other developers were interested in the *Bahay Ko Program* other than accused De Guzman. He added that on an average, the equivalent amount of one loan is Three Hundred Thousand Pesos (₱ 300,000.00) as the minimum to about Nine Hundred Ninety-Nine Thousand Pesos (₱ 999,000.00). About sixty percent (60%) of the loan applications came from the nearby provinces or cities outside of their jurisdictional operations. An information drive was

⁹³ TSN dated May 26, 2021, pp. 18 to 21

⁹⁴ TSN dated May 26, 2021, pp. 28 to 32

⁹⁵ TSN dated May 26, 2021, pp. 36

⁹⁶ TSN dated May 26, 2021, pp. 42 to 48

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also conducted to publicize the program to reach their quota.⁹⁷

Although he was one of those persons accused of perpetuating the anomaly, he was the one who requested for the conduct of an investigation from the Legal Department of the GSIS Main Office. He admitted though that the request came only after the fact finding investigation was conducted and after charges were filed against him. When confronted with a copy of Memorandum No. 22-02, he admitted that he first saw this Memorandum when a case was already filed against him and he never knew of its existence because it was not included in the Policy and Procedural Guidelines and accused Inocentes never told him about it.⁹⁸

He also explained that the purposes of the program are to give each GSIS members their own house and for investment, such that if a member already has a house, said member can still apply for a loan to buy a house for investment purposes provided said member is qualified – *i.e.* he has the capacity to pay and permanent employee of the government, among others.⁹⁹

**JERRY M. BALAGTAS, 59 years old, a resident of
Minami, Concepcion, Tarlac**

An accused. He testified on direct examination through his Judicial Affidavit dated June 17, 2021.¹⁰⁰

He was first appointed to the GSIS as a Senior General Insurance Specialist in 1993 mostly to inspect motor vehicles, as well as government buildings and properties applied to be insured with GSIS. When his office got involved in the *Bahay Ko Program*, he was assigned and designated as a Credit Investigator by accused Cabalitan upon orders from accused Inocentes in addition to his duties as Senior General Insurance Specialist. As a credit investigator, his primary duties include interviewing applicants and evaluating the data [submitted during the application] and determining the paying capacity of the borrower-recipient.

After reviewing the application, the same will be submitted to accused Cabalitan in his capacity as Division Chief. This effectively ends his participation in the loan application process. Accused Cabalitan will either approve or disapprove the application. With respect to Memorandum Circular No. 22-02, he was not aware of its existence and was not even oriented about it when he began to discharge his functions as credit investigator because he was not furnished a copy of it since it was addressed to “ALL BRANCH MANAGERS” and heard it only during the time when they were being

⁹⁷ TSN dated May 26, 2021, pp. 50 to 65

⁹⁸ TSN dated May 26, 2021, pp. 67 to 73

⁹⁹ TSN dated May 26, 2021, pp. 75 to 76

¹⁰⁰ Judicial Affidavit Folder, Vol. 1, pp. 174 to 189

investigated.

They were able to reach the quota prescribed by the GSIS Main Office which can be attributed to the information drive initiated by JQG Development Corp and accused Inocentes. He did not participate in such information drive but was rewarded with a bonus.

On cross examination, he said that there is a certain “factor” given by the GSIS and dictated by accused Cabalitan and Inocentes on how to determine the paying capacity and loanable amount of an applicant but he cannot recall any circular or memorandum to that effect. He said that it has been practiced for seventeen (17) years which he merely adopted.¹⁰¹

In assessing the paying capacity of the applicant, payroll for at least three (3) months is required and the minimum salary is in the net amount of Five Thousand Pesos (₱ 5,000.00) which will be verified on the basis of the documents submitted like payroll and a certificate of employment. As far as he can remember, there are other applicants from Cabanatuan because the applicant’s address is indicated in the application form. Without his assessment, the application will not be acted upon.¹⁰²

When he was confronted with The Borrower’s Eligibility Document (Exhibit G-7 [Exhibit 1 for the defense]), he said that his participation is only with respect to the computation part thereof. Whenever an applicant comes from a place that is outside the jurisdictional operation of the Tarlac Field Office, said applicant will still be entertained but they will tell the applicant that application can be also be filed at the GSIS office where the applicant works unless the purpose of the loan is for investment.¹⁰³

Lastly, he insisted that in the performance of his duties, he was never threatened or intimidated by anyone.¹⁰⁴

MA. VICTORIA M. LEONARDO, 54 years old, a housewife, a resident of Barangay San Manuel, Tarlac City.

An accused. She testified in direct examination through her Judicial Affidavit dated June 17, 2021.¹⁰⁵

She first worked with GSIS in 1991 as a casual clerk and later as Member Services Officer and as a Insurance Specialist until her assignment

¹⁰¹ TSN dated June 23, 2021, pp. 21 to 22

¹⁰² TSN dated June 23, 2021, pp. 24 to 35

¹⁰³ TSN dated June 23, 2021, pp. 42 to 50

¹⁰⁴ TSN dated June 23, 2021, p. 38

¹⁰⁵ Record, Judicial Affidavit Folder Vol. 1, pp. 203 to 218

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in 2002 by accused Cabalitan upon oral order of accused Inocentes as Appraiser of the *Bahay Ko Program*. As an appraiser, she is tasked to make an appraisal of the location where the intended units will be constructed and an appraisal of the value of the collateral. In one instance, accused Cabalitan who acted upon orders of accused Inocentes asked her help regarding Appraisal Reports so as to come up with a correct appraisal of properties covered by the *Bahay Ko Program*. As a mere subordinate, she did not notice any sinister move when she was asked for help since she is a mere subordinate who cannot refuse any assignment, order or instructions given to her. She also denied having received a copy of the Memorandum Circular No. 22-02 since the same was addressed only to "ALL BRANCH MANAGERS."

On cross examination, she said that, it was through attending a seminar at the GSIS Main Office and through a mentoring of a fellow appraiser that she learned how to discharge the functions of an appraiser in order to get the collateral loanable amount and without doing the appraisal, the loan application cannot be processed.¹⁰⁶ That also present at the seminar called by GSIS for the *Bahay Ko Program* were accused Inocentes, Cabalitan and Balagtas. They were taught how to determine the loanable amount. She reiterated that it was only during the investigation that she first saw Memorandum Circular No. 22-02 and accused de Guzman never influenced her to perform her duties as an appraiser.¹⁰⁷

When asked by the court, she admitted that she did not use the Appraisal Reports as her defense during the preliminary investigation conducted at the Office of the Ombudsman. Being an appraiser, she is not just confined to office work but also went to field, to check the state of the property and its location. In determining the valuation of the property, she used as her basis the current market value. She insisted that her superiors did not tell her about the directives, notices or instructions coming from the central office.¹⁰⁸

**JOSE Q. DE GUZMAN, JR., of legal age, residing at
Romulo Boulevard, Barangay Tibag, Tarlac City**

An accused. He testified on direct examination through his Judicial Affidavit dated April 21, 2022.¹⁰⁹

He was involved in these cases when he sought accreditation as a developer after he knew of the *Bahay Ko Program* of the GSIS. Since he has an experience on offering housing projects to GSIS, he entered into a marketing agreement with Edeluisa Nuguid and her team, as an independent contractor, for the advertisement and marketing of the subdivisions built by

¹⁰⁶ TSN dated July 7, 2021, pp. 17 to 20

¹⁰⁷ TSN dated July 7, 2021, pp. 26 to 36

¹⁰⁸ TSN dated July 7, 2021, p. 36

¹⁰⁹ Record, Judicial Affidavit Folder Vol. 1, pp. 274 to 367

JQG Homes Development Corporation to interested applicants. He denied having met, interviewed or screened any of the prospective applicants since it was Edeluisa Nuguid who exclusively handled the marketing aspect. It was only after the approval of the loan that JQG Homes Development Corporation got involved itself in the process by accepting the documents for the registration of the title under the name of the applicant and the registration of the Real Estate Mortgage. Once a new title is issued, it would then be submitted to the GSIS and that the GSIS will notify him and his staff that the check for the payment of the property is ready, *i.e.* after the payment voucher has been signed by all signatories.

He likewise denied being aware of the existence of Memorandum Circular No. 22-02 because it was issued internally within the GSIS only. He also denied the allegation that the valuations of the properties that were purchased from them were overvalued. In fact, their valuations is in “close proximity” with the valuation of other surrounding properties.

On cross examination, he admitted that the letters JQG in JQG Homes Development Corporation stands for “Jose Q. De Guzman.” Said company was registered with the Securities and Exchange Commission in 1996 and since then up to present, he serves as its President and Chief Executive Officer (CEO), responsible for its general supervision and management of its affairs.¹¹⁰ The marketing agreement was covered by a Board Resolution stating among others that he was authorized by the Board to sign the marketing agreement.¹¹¹ He explained that once the GSIS approved the applications, the same will then be forwarded to JQG for registration of the title and the Real Estate Mortgage with the Register of Deeds under the name of the applicant. JQG also pays for the taxes and registration fees. The transaction with GSIS ends once checks were issued. As to the appraisal report, he insisted that the same was submitted to the GSIS.¹¹²

It was in fact a certain Vice President of GSIS [Main Office] who approached him to build and supply housing units for the *Bahay Ko Program* because he is an accredited developer in Tarlac and since all his projects are in Tarlac. In fact, he already had one (1) project with GSIS in the past but clarified that he entered for the construction of Teresa Homes Phase 1 prior to the *Bahay Ko Program* and then Phase 2 is the *Bahay Ko Program* itself which was 100% completed in 1999.¹¹³

It was also revealed that the Marketing Agreement was notarized on January 12, 2002 but the Residence Certificate of Miss Nuguid was issued on April 12, 2002. With respect to the Jaraville Subdivision Appraisal Report

¹¹⁰ TSN dated July 11, 2022, pp. 25 to 27

¹¹¹ TSN dated July 11, 2022, pp. 29 to 30

¹¹² TSN dated July 11, 2022, pp. 34 to 41

¹¹³ TSN dated July 11, 2022, pp. 43 to 54

dated September 30, 2002 made by Mr. Nestor Salvador of Philippine National Bank, there were two appraisal reports issued on the same day, reflecting two appraised values in the amount of ₱ 3,300.00 and ₱ 5,500.00. In explaining the existence of two (2) appraisal reports reflecting two (2) different amounts, he explained that Jaraville Subdivision is surrounded by other development projects or subdivisions, one is a high end development and the other is a mass housing projects.¹¹⁴

By way of clarificatory questions from the court, he explained that the discrepancy in the appraised value as reflected in the Appraisal Reports can be traced on the fact that portion of the property passed along the highway. The ₱ 5,500.00 appraised value is for the property in the commercial area while the appraised value of ₱ 3,300.00 is for the property inside the subdivision. These amounts were determined before the properties were offered to the applicants in 2003 or even before the Memorandum of Agreement was made in January of 2002. More, since Miss Nuguid was the one who handled the marketing aspect, he never got to meet the prospective buyers. He added that it was Miss Nuguid who handles the processing of payments.¹¹⁵

There being no more witnesses to present, the defense moved to formally offer its Exhibits. The defense offered the following:

DOCUMENTARY EXHIBITS

During the hearing on July 7, 2021, counsel for accused Leonardo and Balagtas orally offered the following:

FOR ACCUSED LEONARDO

Exhibits	Description
"1"	Application of Anita M. Nagano
"1-a"	Collateral Evaluation Clause
"1-b"	Loans Evaluation Clause
"1-a-1"	Signature of Ms. Leonardo in the Collateral Evaluation Clause above the item Proj. Evaluator
"1-b-1"	Signature of Ms. Leonardo in the Loans Evaluation Clause above item Proj. Evaluato
"1-c"	Signature of Mr. Cabalitan in the Collateral Evaluation Clause above the item Appraiser
"1-d"	Signature of Mr. Cabalitan in the Loans Evaluation Clause above the item Appraiser
"1-e"	Signature of Mr. Cabalitan in the Loans Eligibility Clause above the item Appraiser

¹¹⁴ TSN dated July 11, 2022, pp. 56 to 67

¹¹⁵ TSN dated July 11, 2022, pp. 70 to 80

- “1-f” Signature of Mr. Inocentes inside the Loan Eligibility Confirmed Clause above the item appraiser
- “2” Metrobank Appraisal Report for Jara Ville
- “3” Metrobank Appraisal report for Teresa Homes Phase 1
- “4” PNB Appraisal Report for Jaraville
- “5” PNB Appraisal Report for Teresa Homes Phase I
- “K” Memorandum Circular No. 22-02
- “6-a” For item 1
- “6-b” For item 3

FOR ACCUSED BALAGTAS

- “1” Application of Anita M. Nagano
- “1-a” Nagano’s name and signature in the Certification Clause
- “1-b” Accused Balagtas’ name and signature under the Borrower’s Eligibility Clause
- “1-c” Signature under Loan Eligibility Clause
- “1-d” Signature under Collateral Evaluation
- “1-e” Signature under Loans Evaluation Clause
- “1-f” Signature within the Loan Eligibility Clause above the denomination “Head-Authorized Signature, HFAD”
- “1-g” Signature on the Loan Eligibility Confirmed Clause above the word “manager, HFSD/BO”
- “2” OVSP Branches Memorandum Circular No. 22-02
- “2-a” Portion “TO ALL BRANCH MANAGERS”
- “2-B” Portion “Subject”

Following the oral offer of documentary exhibits, the court admitted “1”, “1-a”, “1-b”, “1-a-1”, “1-b-1”, “1-c”, “1-d”, “1-e”, “1-f”, “2”, “3”, “4”, “5”, “6”, “6-a” and “6-b” for accused Leonardo.¹¹⁶

On the other hand, for accused Balagtas, the court were admitted Exhibits “1”, “1-a”, “1-b”, “1-c”, “1-d”, “1-e”, “1-f”, “1-g”, “2”, “2-a” and “2-b” in an Order dated July 7, 2021.¹¹⁷

For his part, accused Cabalitanan offered only Memorandum Circular No. 22-02 as his Exhibit “1” which was admitted by the court in an Order dated August 18, 2022.¹¹⁸

Meanwhile, accused de Guzman offered the following documentary exhibits:

Exhibit	Description
“1”	Marketing Agreement
“1-A”	Signature of Nuguid
“1-B”	Signature of de Guzman
“22”	Appraisal Report by PNB dated

¹¹⁶ Vol. 8, pp. 290 to 293

¹¹⁷ *id*

¹¹⁸ Record, Vol. 9, pp. 392 to 394

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	August 13, 2003
“23”	Appraisal report by PNB dated September 20, 2003
“24”	Appraisal Report dated October 1, 2003 by Metropolitan Bank and Trust Company
”25”	Appraisal Report dated October 1, 2003 by Metropolitan Bank and Trust Company
“26”	Appraisal Report dated October 1, 2003 by Metropolitan Bank and Trust Company
27”	Appraisal Report dated November 21, 2003 by Metropolitan Bank and Trust Company
“28”	Appraisal Report dated November 21, 2003 by Metropolitan Bank and Trust Company
“29”	Appraisal Report by Valencia Appraisal Corporation dated February 2, 2005.

After going over the record of the case, the court admitted **Exhibits “1” to “1-B” and “22” , “23” , “24” ,”25” , “26” , “27” , “28” and “29” in an Order dated July 7, 202.**¹¹⁹

There being no more witnesses to be presented, all three (3) accused rested their case.

By way of Rebuttal Evidence, the prosecution presented:

IMELDA D. NICOLAS, Filipino, of legal age, Staff Officer I, Government Service Insurance System-Cabanatuan City Branch, 2021 Pan-Philippine highway, Supermarket, Cabanatuan City, Nueva Ecija

Witness testified on direct examination through her Judicial Affidavit dated September 28, 2022.¹²⁰ The parties stipulated that said witness can identify her Judicial Affidavit and the attachments thereto.¹²¹

She was an Account Specialist I at the GSIS Tarlac Branch from 2002 to 2004. As an Account Specialist, she is not involved in the processing of loans under the *Bahay Ko Program*. She stepped in the said program after post-application and approval for collection and updating of loan accounts.

¹¹⁹ *supra*, Note 116

¹²⁰ Record, Judicial Affidavit Folder, pp. 384 to 390

¹²¹ TSN dated October 6, 2022, p. 20

This being the case, she was informed and oriented about the said program. The *Bahay Ko Program* was approved by the GSIS Head Office through various circulars which were cascaded to officers and employees in their office through OSVP-Branches Memorandum Circular No. 22-02 dated October 14, 2002 that was implemented in Tarlac Business Office as soon as it was received on October 2002. Since she was familiar with the handwritings of all accused, she testified that accused Inocentes then indicated his initials on the top portion of the said Memorandum Circular while accused Cabalitan wrote the words "For implementation." Accused Leonardo indicated her initials and date below the handwritten words of accused Cabalitan. Lastly, accused Balagtas indicated his initials and date below that of accused Leonardo.

On cross examination, she testified that Memorandum Circular No. 22-02 dated October 14, 2002 was cascaded to four (4) or five (5) employees assigned at the Special Business Unit headed by accused Cabalitan and Support Services Group. In fact, even the Team Leader Jean Versoza Salazar was given a copy of the said Memorandum Circular although her signature does not appear therein. To explain this, she said that there were instances when employees were furnished with copies of memorandum circulars but were not able to sign on the receiving copies.¹²² She was not the one who disseminated the said Memorandum Circular such that she has no idea what transpired when the same was disseminated. She insisted that the person tasked to disseminate it was not required to affix his / her signature.¹²³

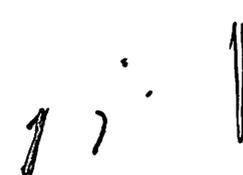
In answering clarificatory questions from the Court, she said that as an Account Specialist, she was not involved in the processing of the loan applications but once the applications are approved, she steps into the procedure but just for collection and account maintenance. She admitted that she requested for a photocopy of the said memorandum from her supervisor Jean Salazar. The original copy of which, is in the possession of the Office Branch Manager. Obviously, the copy that is routed does not contain the signatures. It was accused Cabalitan, her Division Chief who informed her and oriented her about the *Bahay Ko Program* but not on the total procedure on the granting but only given a copy of the procedures to go through it.¹²⁴

With the termination of the testimony of this witness on rebuttal and since there was no sur-rebuttal evidence presented, these cases were submitted for decision.

¹²² TSN dated October 6, 2022 pp. 22 to 30

¹²³ TSN dated October 6, 2022, p. 32

¹²⁴ TSN dated October 26, 2022, pp 34



ISSUE TO BE RESOLVED

In these two related cases, the essential issue for the court to resolve is, whether the prosecution was able to prove the guilt of accused Cabalitan, Leonardo, Balagtas and De Guzman beyond reasonable doubt which would warrant their conviction for the crimes charged.

FINDINGS AND RULING OF THE COURT

To start with, it should be noted that these two (2) cases are to be resolved simultaneously, it appearing that:

1. They relate to the same facts and series of facts which when taken together, constitute the crimes charged. Clearly, only the amounts of the damage allegedly caused to the government vary.
2. They relate to the same persons as alleged perpetrators of the the crimes charged. and,
3. They raise the same issue, *i.e.* whether or not all accused are guilty as charged.

To pin down all accused, the prosecution pointed out that all accused acted in conspiracy with each other in carrying out the *Bahay Ko Program* by processing and approving loan applications and eventually paying JQG Homes Development, Inc. despite irregularities, on: (a) the qualifications of the applicants, and (b) the classification and valuation of the land used as site of the housing program. Verily, the acts of the accused of processing and approving the loan applications despite the irregularities earlier mentioned, among others, when taken together, caused damage to the government.

Conspiracy

With the prosecution asserting that there exists conspiracy between the accused herein in the perpetration of the crimes charged, allow this court to discuss conspiracy first.

Conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. While direct proof is not necessary to establish conspiracy, it is vital for the prosecution to prove beyond reasonable doubt, that all participants performed overt acts with such closeness and coordination as to indicate a common purpose or design to commit a felony. The overt acts may consist of active participation in the actual commission of the crime itself or it may consist of moral assistance to his co-conspirators or by exerting moral ascendancy over the other co-conspirators by moving them to execute or implement the conspiracy. The community of design to commit an offense must be a conscious one. Mere knowledge, acquiescence, or agreement to cooperate, mere presence at the scene of the crime at the time of its commission, and mere companionship,

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are insufficient to constitute conspiracy. In sum, the prosecution must be able to clearly show the accused's participation in the planning, preparation and perpetration of the alleged conspiracy to defraud the government.¹²⁵

In terms of proving its existence, conspiracy takes two forms¹²⁶, namely:

1. Express form, which requires proof of an actual agreement among all the co-conspirators to commit the crime. However, conspiracies are not always shown to have been expressly agreed upon.
2. An implied conspiracy exists when two or more persons are shown to have aimed by their acts towards the accomplishment of the same unlawful object, each doing a part so that their combined acts, though apparently independent, was in fact connected and cooperative, indicating closeness of personal association and a concurrence of sentiment. Implied conspiracy is proved through the mode and manner of the commission of the offense, or from the acts of the accused before, during and after the commission of the crime indubitably pointing to a joint purpose, a concert of action and a community of interest.

In these two cases, the prosecution theorizes that accused Cabalitanan, Leonardo and Balagtas conspired and confederated with accused de Guzman in the processing and approval of home loans under the *Bahay Ko Program* although the borrowers / grantees were not qualified and were not under the territorial jurisdiction of GSIS Tarlac Field Office and by processing, approving and granting of loans to fifty-three (53) borrowers despite the lots covered by the loans were intended for commercial purposes which caused the over appraisal of their values. In both cases, the prosecution argues that these two acts caused undue injury to the government.

From the evidence adduced by the prosecution, the court finds clear indication that there is a unity of action and purpose among the accused to perpetrate the acts complained of.

In arriving at such conclusion, the participation of each of the accused is hereunder discussed.

For accused Cabalitanan and Balagtas

As established during the trial of these cases and as admitted by accused Cabalitanan himself, he held the position of Chief of the Posting,

¹²⁵ Eufrocina N. Macairan vs. People of the Philippines, GR No. 215104, March 18, 2021

¹²⁶ Macapagal-Arroyo vs. People of the Philippines, GR No. 220598, July 19, 2016

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Billing, Reconciliation and Collection Division and concurrently as the Division Chief of the Special Business Unit of the GSIS Tarlac Field Office.¹²⁷ As such, his duties and obligations include to “review the work outputs of the Appraiser and Credit Investigator, sign the recommendation for the approval of the duly accomplished housing loan application and sign vouchers and checks relating to the approved housing loan application.” As the Chief of the Posting, Billing, Reconciliation and Collection Division and as the Division Chief of the Special Business Unit of the GSIS Tarlac Field Office, he is supposed to check if the actions of the credit investigator (accused Balagtas) and the actions of property appraiser (accused Leonardo) are in accordance with Memorandum Circular No. 22-02 dated October 14, 2002, specifically on the requirement that **“credit analysis and investigation must be conducted by the GSIS Office which has operational jurisdiction over the applicant.”**

For Accused Balagtas and as proven during the trial, his tasks include interviewing the applicants and the determination of their paying capacity. Thereafter, he will endorse the application to accused Cabalitan who has a discretion to either approve or disapprove it.

On this premise, the logical conclusion that can be made is that, both accused Cabalitan and Balagtas are expected to carefully work together to initially screen loan applicants such that, if found to be qualified, the loan application will be endorsed for approval. Conversely, if found that an applicant is not qualified based on the existing GSIS financial loan parameters, the recommendation will not be approved. Unfortunately, both accused Cabalitan and Balagtas did not do what was expected of them.

As testified by witness Gatpayat, he said that during the fact finding investigation, the following were found:

1. Granting of the BKP loans to unqualified borrowers;
2. Unauthorized conduct of credit analysis and investigation by the Tarlac Field Office;
3. Granting of two (2) loans to one (1) member;
4. Granting of loans involving properties from JQG Home Development Corporation; and
5. Tampering of Transfer Certificates of Titles.

Going over the evidence presented by the prosecution, indeed, the findings were substantiated, much more, that the defense never presented any evidence to belie them. In fact, the prosecution witnesses in the person of Nagaño and Sandoval, related to the court their stories about the *Bahay Ko Program*.

¹²⁷ Judicial Affidavit dated May 20, 2021

Witness Nagaño testified that she is a resident of Cabanatuan City, [Nueva Ecija] and she was on leave for seven (7) months *i.e.* from August 2, 2002 to February 14, 2003¹²⁸, the very same dates when the loans were allegedly made. That because she was on leave on the mentioned dates, she did not make the alleged application prompting her to execute a “*Sinumpaang Salaysay*” which was filed with the GSIS Main Office. She maintained that she did not apply for a loan and that, the signatures appearing on the supporting documents are not her signatures¹²⁹, Despite her testimony to this effect, no controverting evidence was presented to destroy this testimony. In fact, she was not even cross examined about this.

When witness Sandoval testified¹³⁰, she said that she is a resident of Bataan and as such, she is not eligible to apply for a loan besides the fact that her take home pay is only ₱ 4,000.00. If amortization will still be deducted from her ₱ 4,000.00 take home pay, she will no longer receive any salary at all. However, since she was convinced by her former colleagues, she pursued her application. The same was approved and eventually, she received a Notice of Deduction from her monthly pay. Again, no controverting evidence was presented to negate witness Sandoval’s claim. How can it be controverted when it is crystal clear that she could not qualify as a loan applicant.

From the unrebutted testimonies of these two witnesses alone, what can be interpreted is, despite the non-filing of an application for housing loan by Nagaño and the obvious disqualification of witness Sandoval to avail the loan, witnesses Nagaño and Sandoval apparently have an approved loan applications with the GSIS Tarlac Field Office. Who then made this possible, if not accused Cabalitan as reviewing and approving official and Balagtas as credit investigator. In other words, if accused Cabalitan and Balagtas did their duties well like any other government employee should do under the premises, there could be no charges filed against them. Or, for obvious reasons, they could have not been dismissed from service.

More, the Report on Operations Audit of Housing Loan dated May 26, 2004 likewise noted that the original copies of the payslips / payroll of the two (2) loan applicants were not submitted and some of the payslips submitted to support the loan applications were found to have been tampered and not properly verified. The court cannot ignore the importance of payslips to establish the paying capacity of a loan applicant in order to ward off ineligible applicants so as to prevent wastage of public funds. Payslips are supporting documents that are required to be carefully scrutinized in order to determine the loan eligibility of an applicant.

¹²⁸ TSN dated September 4, 2017, p. 30

¹²⁹ TSN dated September 4, 2017, p. 46

¹³⁰ Judicial Affidavit, Record, Vol. 6, pp. 362 to 366

Had accused Balagtas recommended disapproval of the loan applications the moment he noticed that applicants are disqualified to avail of the loan like being a non-resident, insufficient supporting documents or non-compliance with the requirements during his initial review of the applications or assessment of the loan applications, then the finding about the irregularities could have been avoided. For his part, accused Cabalitan has his fault too. Prudence could have dictated him to go over the loan applications before recommending them for approval. Unfortunately, these did not happen in these cases. Instead, both accused closed their eyes to the irregularities resulting to a big loss on the part of the government. There being no concrete proof that both accused were not motivated by bad faith, the court could not simply accept their defense that they did their respective tasks in all good faith for they never received a copy of Memorandum Circular No. 22-02 dated October 14, 2002, which could have guided them in the implementation of the *Bahay Ko Program* as this was addressed only to accused Inocentes.

Also, the court finds that accused Balagtas exerted extra effort to make good an evil plan. The prosecution was able to convincingly show that accused Balagtas, together with some employees of JQG Homes Development, Inc., and some teachers met on several occasions somewhere in Tarlac¹³¹. While there, they collated blank documents which were submitted to GSIS.¹³² This is contrary to accused Balagtas' duties as a credit investigator, foremost of which is to interview loan applicants to determine who are qualified or not. Moreover, the court cannot see any justifiable reason why a government employee would meet teachers from outside the territorial jurisdiction of their office and lure them to apply for a loan. And why is he in the company of some employees of JQG Homes Development, Inc., the same corporation which was doing business with the government agency that he is connected with. If these are not "foul" acts, how will one call them.

In sum, the joint efforts of accused Cabalitan and Balagtas, when taken collectively, would lead to the conclusion that indeed they conspired with each other in committing the charges filed against them.

For accused Leonardo

Accused Leonardo herself testified that as an appraiser of the GSIS Tarlac Field Office, she is tasked to make an appraisal of the location that will be used as site for the *Bahay Ko Program*. In discharging her duties as an appraiser and as admitted by her, she is tasked to make an appraisal of the location where the intended units will be constructed and as appraisal value of the collateral. In short, do field work to determine not only the location of the property but also its condition. Unfortunately, there was no showing that

¹³¹ TSN dated July 19, 2015, pp. 43 to 44

¹³² TSN dated July 19, 2015, p. 42

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she did her job. Had she performed her duties well, there could have been no finding of over valuation

This being so, the accusation of the prosecution that accused acted in conspiracy with each other in carrying out the *Bahay Ko Program* by processing and approving loan applications and eventually paying JQG Homes Development, Inc. despite an over appraisal of the housing site for the Jaraville Subdivision is true, much more that accused Leonardo only relied on the appraisal made by one Nestor Salvador of the Philippine National Bank without conducting her own appraisal using all means available to her, forgetting that her work is to appraise properties to be used in the implementation of the *Bahay Ko Program*, making her role material in the proper implementation of the *Bahay Ko Program*.

Of course, the court could not consider accused de Guzman's testimony in her favor when he said that, there was no over appraisal because the appraisal of the property was done by Nestor Salvador of the Philippine National Bank. With respect to two different appraisal values reflecting the amount of ₱ 3,300.00 and ₱ 5,500.00 issued on the same day, he explained to the court that the appraised value of ₱ 3,300.00 is for the property inside the subdivision while the appraised value of ₱ 5,500.00 is for the property in the commercial area. In short, there were two appraisal values because the Jaraville Subdivision is surrounded by other development projects and that a highway traversed through some portions of Jaraville Subdivision. If at all, this testimony can just be considered as accused de Guzman's explanation of the variation in the appraisal values submitted to the court but not Leonardo's reliance to these appraisal values or her failure to make her own appraisal of the property, subject of the *Bahay Ko Program*.

In this regard, on the issue of over valuation, the court finds that this was sufficiently addressed for the following reasons:

1. A plain reading of the Information for SB-12-CRM-0128 will reveal that the over appraisal of the properties subject of the *Bahay Ko Program* are properties located at Teresa Homes and not the properties at Jaraville Subdivision. Thus, the explanation offered by accused de Guzman as regards the two (2) appraisal values reflecting two different appraisal values cannot be taken in his favor nor in favor of accused Leonardo.

2. There was no indication on the part of accused Leonardo that she indeed performed her task as an appraiser to safeguard the interest of the government which is to secure the most economical appraisal value of the property that will be used as a site for the *Bahay Ko Program*. For reasons only known to her, instead of making an ocular inspection which she admitted as part of her job, she merely relied on the appraisal made by Nestor Salvador of the Philippine National Bank despite the two (2) glaring different values of

the properties.

For accused de Guzman

As he himself admitted, he entered into a marketing agreement with one Eduluisa Nuguid for the advertisement and marketing of the subdivisions built by his company to interested applicants.¹³³ That once the loan application is approved and after the proceeds were paid to him, his company will process the Transfer Certificates of Title under the name of the applicants.¹³⁴ With such allegations, can he be considered as a co-conspirator in these two cases filed?

Firstly, De Guzman's allegations could have been believed, had there been no showing of irregularities on his part or of his company, his subordinates, and even with Miss Nuguid. Discovered during the trial of these cases are as follows: (a) that the Transfer Certificates of Title issued were tampered, (b) the housing units cannot be occupied either because the same were not completed or not in a habitable condition, (c) accused de Guzman together with Miss Nuguid, approached teachers in order to obtain their signatures for the application forms,¹³⁵ (d) he executed a Contract to Sell ("*Exhibit G-9-G*") with Anita Nagano who denied her signature appearing therein when said witness was placed on the witness stand and (e) JQG Homes Development, Inc. through its marketing arm headed by Jennifer Libunao paid transportation allowance ranging from ₱ 1,400.00 to ₱ 1,600 to teachers just for them to go to Tarlac and likewise promised a rebate in the amount ranging from ₱ 5,000.00 to ₱ 100,000.00 be given to these teachers should they avail of the loan. What is more intriguing as far as the court is concerned is the fact that when witnesses for the prosecution testified on these matters, no evidence was offered to counter them.

In sum, the concerted actions of all accused when taken together, demonstrate a common design which will justify the finding of conspiracy.

It must be emphasized that accused public officers all belong to the Special Business Unit of the GSIS Tarlac Field Office where all loan applications and their supporting documents will be scrutinized and evaluated and thereafter, when approved will be signed by them. Without their signatures, loan applications would not have been processed in the first place. But despite the irregularities of the documents submitted, still they proceeded in processing the loan applications and consequently approving them. After approval of the loan, proceeds were given to JQG Homes Development, Inc. owned by accused de Guzman.

¹³³ Judicial Affidavit, dated April 21, 2022

¹³⁴ *id*

¹³⁵ TSN dated June 23, 2015, pp. 10 to 13

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To conclude, without these concerted actions by all accused, the GSIS would not have parted with a huge amount of money which it holds in trust for all its members who contributed their hard earned money only to be paid to JQG Homes Development, Inc. owned and headed by accused de Guzman which undeniably benefited from the whole scheme perpetrated by no less than by all of the accused.

Let us now proceed to the elements of the crimes charged.

The crimes charged

Under *Section 3(e) of Republic Act No. 3019*, the law provides:

“Section 3. Corrupt practices of public officers. — In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

X X X X

(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official, administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.”

In *Canlas vs. People of the Philippines and the Sandiganbayan (Third Divison)*¹³⁶, the Supreme Court reiterated the well-settled elements of Violation of Section 3 (e) of Republic Act No. 3019 which the prosecution must sufficiently establish:

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

¹³⁶ GR No. 236308-09, February 17, 2020

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Based on the pieces of evidence presented, documentary and testimonial, allow this court to discuss whether all the elements have been proven by the prosecution in order to effectively negate the constitutional presumption that an accused is considered innocent until proven guilty.

First element: that the accused must be a public officer discharging administrative, judicial, or official functions, or a private individual acting in conspiracy with such public officers

Accused Leonardo is a public officer during the time and date material to these cases. She exercises official functions as employee of the GSIS. This was stipulated upon by the parties and included in the Pre-Trial Order.¹³⁷

With respect to accused Cabalitan, he himself admitted that on the dates material to these cases, he was the Chief of the Posting, Billing, Reconciliation and Collection Division and concurrently assigned as the Chief of Special Business Unit of the GSIS Tarlac Field Office from July 1, 2002 to September 24, 2004. Hence, he is a public officer.

Accused Balagtas likewise admitted that he was assigned and designated as a Credit Investigator by accused Cabalitan upon orders from accused Inocentes in addition to his duties as Senior General Insurance Specialist for the implementation of the *Bahay Ko Program*. As a credit investigator, his primary duties include interviewing applicants and evaluating the data submitted with the application and determining the paying capacity of the borrower-recipient.

Notably, the admissions made by accused Cabalitan, Balagtas and Leonardo are in the form of judicial admissions. A judicial admission is an admission, oral or written, made by a party in the course of a proceedings in the same case, does not require proof.¹³⁸ Thus, making the three of them public officers.

Accused de Guzman was likewise indicted for violation of Section 3 (e) despite being a private person since the two Informations **alleged that he acted in conspiracy with accused public officers.**

It was established during the trial of these cases that the letters "JQG" in JQG Homes Development, Inc., the private corporation alleged to have been given undue preference and benefit in the granting of the GSIS loans relative to the *Bahay Ko Program*, actually stands for "Jose Q. De Guzman", his full name. More, from the time JQG was registered with the Securities and Exchange Commission in 1996 up to present, he serves as its President and

¹³⁷ dated January 14, 2014, Vol. 3, pp. 527 to 558

¹³⁸ Section 4, Rule 129, Revised Rules on Evidence

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Chief Executive Officer.

The well-settled rule is that private persons, when acting in conspiracy with public officers, may be indicted and, if found guilty, be held liable for the pertinent offenses under Section 3 of RA 3019, in consonance with the avowed policy of the anti-graft law to repress certain acts of public officers and private persons alike constituting graft or corrupt practices act or which may lead thereto.¹³⁹

With these findings, the court concludes that the prosecution was able to prove this first element.

Second Element: that accused acted with manifest partiality, evident bad faith, or inexcusable negligence.

A review of the Information under SB-12-CRM-0127 filed against accused Cabalitan, Leonardo, and Balagtas would readily show that they were charged for violating Section 3 (e) of R.A. No. 3019. The prosecution alleged that they took advantage of their official functions through manifest partiality, evident bad faith or gross inexcusable negligence by giving undue preference, benefit or advantage to Jose de Guzman in the processing and approval of housing loans to 491 borrowers knowing fully well that said borrowers / grantees are not qualified and are not under the territorial jurisdiction of GSIS Tarlac City Field Office.

On the other hand, a reading of the Information under SB-12-CRM-0128 showed that accused Cabalitan, Leonardo, and Balagtas took advantage of their official functions when they approved and granted loan to 53 borrowers of accused de Guzman's land development project (Teresa Homes) despite knowledge that the lots covered were intended for commercial purposes, which caused an over appraisal of its value.

In both cases, it was alleged that accused de Guzman connived and confederated with accused public officers resulting to the damage of the government.

A violation of Section 3 (e) of RA 3019 may be committed in three (3) ways, *i.e.*, through manifest partiality, evident bad faith or gross inexcusable negligence. **Proof of any of these three (3) in connection with the prohibited acts mentioned in Section 3 (e) is enough to convict.**¹⁴⁰ (emphasis supplied)

In order to evaluate whether the prosecution was able to prove the

¹³⁹ *supra* at Note 125

¹⁴⁰ People of the Philippines vs. Lionel Eschavez Bacaltos, GR No. 248701, July 28, 2020

existence of this element in any of the modalities mentioned, this court deems it proper to first define the terms mentioned therein to guide it in the proper disposition of these cases.

The Supreme Court in the case of *Demie L. Uriarte vs. People of the Philippines*¹⁴¹, explained these terms in the following manner:

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

Guided by these legal principles, did the prosecution prove the existence of all or any of these modalities that would warrant the conviction of all accused?

The oft-repeated constitutional provision on the accountability of public officers as enshrined under **Section 1, Article XI of the Constitution** is worth reiterating. Thus:

“Section 1. Public office is a public trust. Public officers and employees must, at all times, be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency; act with patriotism and justice, and lead modest lives.”

Based on the evidence presented and after careful evaluation thereof, accused Cabalitan, Leonardo and Balagtas as public officers in these two (2) cases, had exhibited manifest partiality and acted in bad faith in processing and approving the housing loans in favor of JQG Home Development.

¹⁴¹ GR No. 169251, December 20, 2006

Accused Cabalitanan, Leonardo and Balagtas acted with evident bad faith

To reiterate, jurisprudence instructs that evident bad faith referred to under Section 3 (e) of RA. No. 3019 does not simply connote bad judgment or negligence but of having a palpably and patently fraudulent and dishonest purpose to do some moral obliquity or conscious wrongdoing for some perverse motive, or ill will. It connotes a state of mind affirmatively operating with furtive design or with some motive or self-interest or ill will or for ulterior purposes. It is a breach of sworn duty through some motive or intent or ill will and partakes of the nature of fraud.¹⁴² That is, it is a manifest deliberate intent on the part of the accused to do wrong or to cause damage.¹⁴³

In essence, Accused Cabalitanan, Leonardo and Balagtas proffered that all of them acted in good faith in the performance of their respective duties under the *Bahay Ko Program*.

Particularly, accused Cabalitanan insisted that he did not receive a copy of Memorandum Circular No. 22-02 (Memorandum). He insisted that it was only accused Inocentes who actually received it since it was addressed and routed only to "ALL MANAGERS." True or not, accused Cabalitanan was not able to prove this defense. He alleged that he merely acted on the loan applications endorsed by accused Balagtas, the credit investigator and accused Leonardo, the appraiser and because of this, he acted well within the bounds of his duties. In fact, the over-all office performance of their office went up and that they were given a bonus equivalent to one month. He asserted that when the irregularities of the loan applications were exposed, he even requested for the conduct of a formal investigation. Again, while this may appear true, his allegations are not sufficient sans proof that before he acted on the loan applications, he verified its contents and determine whether the applications are compliant with the requirements imposed, if there be any, like any responsible government employee.

In trying to escape criminal liability, accused Leonardo also insisted that the first time she saw a copy of the Memorandum was when a case was already filed against them although she is aware of the existence of a written policy called Policy and Procedure Guidelines with regard to the *Bahay Ko Program*. She maintained that it was accused Inocentes who dictated the affairs of their office and she merely followed his instructions. To this, what the court can say is, since she admitted the existence of the Policy and Procedure Guidelines of the *Bahay Ko Program*, it can be presumed that she knows about these Guidelines but despite knowing these guidelines, she did nothing to prevent the processing of the questionable loan applications and

¹⁴² Roberto P. Fuentes vs. People of the Philippines, GR No. 186421, April 17, 2017

¹⁴³ *supra* at Note 141

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worse, she was not able to explain these irregularities to the court. While following the instructions of a superior makes a person a good employee, blind obedience is frowned upon in government service specially for an appraiser like her.

Accused Balagtas, on the other hand, also maintained that he was not furnished a copy of the said Memorandum and was not even oriented about its existence. As earlier discussed, while this defense may be true, there was no prior showing to prove this defense. On the contrary, the prosecution was able to prove that he knows about said Memorandum. Mere allegations without proof cannot be considered as evidence in the court of law.

This being so, good faith used by all accused as their defense cannot be appreciated in their favor.

Good faith is an intangible and abstract quality with no technical meaning or statutory definition, and it encompasses, among other things, an honest belief, the absence of malice and the absence of design to defraud or to seek an unconscionable advantage. It implies honesty of intention, and freedom from knowledge of circumstances which ought to put the holder upon inquiry. **The essence of good faith lies in an honest belief in the validity of one's right, ignorance of a superior claim and absence of intention to over reach another.**¹⁴⁴ (emphasis supplied)

The invocation of good faith is not a magical wand that will exculpate an accused from criminal liability. As cited above, the essence of good faith lies in the honest belief or freedom from ignorance of a superior claim. Unfortunately, in these cases, the court is constrained to brush aside the claim of good faith because of the following observations which were established during the trial of these two cases:

1. The claim of accused Cabalitan, Leonardo and Balagtas that they did not receive a copy of the Memorandum Circular No. 22-02 which provides details on how loan applications shall be processed and approved will not translate to a presumption that they were in good faith when they performed their respective duties and responsibilities because it was established during the trial that they attended a seminar which made them aware of the contents and mechanisms on how the *Bahay Ko Program* will be implemented. No less than accused Leonardo testified in this matter.

Portion of her testimony is quoted:

“TSN dated July 7, 2021, pages 26 to 28

¹⁴⁴ Florentino, Troadio and Pedro, all surnamed Ochoa vs. Mauro Apeta and Apolonia Almazan, GR No. 146259, September 13, 2007

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Q: And then, Madam Witness, you said that GSIS Main Office conducted a seminar, correct?

A: Yes, sir.

Q: This seminar was conducted after the Bahay Ko Program was launched, is it not?

A: I cannot recall anymore, sir.

Q: But Bahay Ko Program was already in place when the GSIS Main Office conducted what you said a seminar to personnel of GSIS Tarlac, correct?

Atty. David: She answered she can no longer recall, Your Honor.

Associate Justice Hidalgo: Yes, Atty. Mauricio, she said she could not remember.

Atty. Mauricio: We will proceed to another point, Your Honor.

Q: Where was that seminar conducted, Madam Witness?

A: I cannot recall the place exactly, Sir. It has been a long time.

Q: Can you tell the Honorable Court who were present in that seminar?

A: There were other branches, Mr. Cabalitan, me, Mr. Balagtas, I think so.

Q: Mr. Inocentes is present, correct?

A: Yes, sir.

Q: And madam Witness, would I be correct to say that the seminar was conducted because of the Bahay Ko Program?

A: Paki-ulit, Sir.

Q: I was asking if the seminar, which you referred to and testified to as having taken place, was conducted after the Bahay Ko Program was launched, correct?

A: I do not remember, sir

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Q: What was tackled during the seminar?

A: Bahay Ko?

Q: Yes. Bahay Ko Program

A: Bahay Ko Program, Sir.

Q: Yes. The seminar was all about the Bahay Ko Program, correct?

A: Yes, Sir.

X x x”

To stress, assuming that they were not really furnished a copy of the said Memorandum, fact is, they attended a seminar about the *Bahay Ko Program*. The logical conclusion that can be inferred from their attendance to the said seminar is that, they were made fully aware about the *Bahay Ko Program* and how it should be implemented.

2. To negate the defense of accused Cabalitanan that he did not receive a copy of Memorandum Circular No. 22-02 dated October 14, 2002, because it was addressed only to accused Inocentes as the Branch Manager, witness Nicolas testified on rebuttal¹⁴⁵ that it was accused Cabalitanan who actually wrote “**For Implementation**” as evidenced by “**Exhibit A-Rebuttal-2**” (*Figure 1.1* below).

3. Witness Nicolas further testified that, accused Leonardo indicated her initials and date below that of accused Cabalitanan as per “**Exhibit A-Rebuttal-3**” (*Figure 1.2* below).¹⁴⁶ This testimony effectively negates the defense of accused Leonardo that it was only during the case was filed against them that she saw a copy of the said Memorandum. Same is true with accused Balagtas. Miss Nicolas testified and identified the initials and the date also found in the Memorandum to belong to accused Balagtas as evidenced by “**Exhibit A-Rebuttal-4**” (*Figure 1.3* below).¹⁴⁷

A copy of the Memorandum Circular No. 22-02 dated October 14, 2002 reflects what witness Nicolas testified.

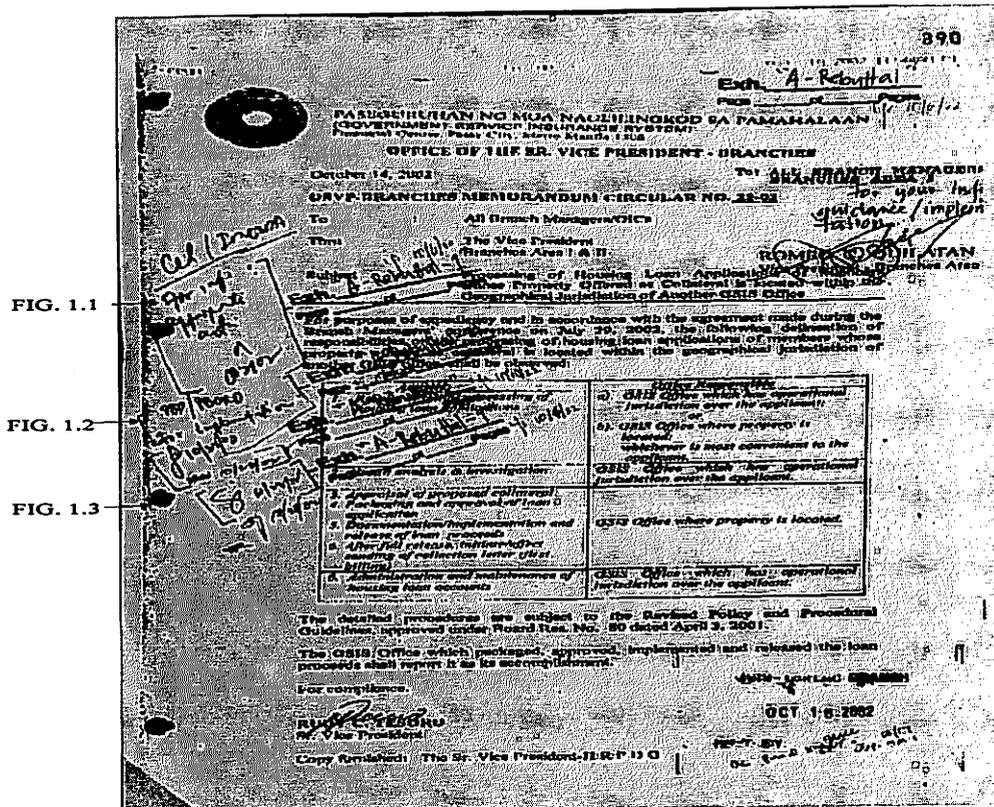
¹⁴⁵ Judicial Affidavit, dated September 28, 2022

¹⁴⁶ *id*

¹⁴⁷ *id*

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FIGURE 1 – Memorandum Circular No. 22-02 dated October 14, 2002



Interestingly, this testimony of witness Nicolas relating to her familiarity with the handwritings, initials and signatures of Cabalitanan, Leonardo and Balagtas, was never challenged. Simply put, the defense never negated witness Nicolas' assertion had there been no truth in it.

4. More, witness Nagaño testified in court that she did not apply for the loan although she wondered why her photograph appeared in the application form. She likewise denied her signatures appearing on the Real Estate Mortgage (Exhibit G-9-F), Contract to Sell (Exhibit G-9-G), Authority to Deduct (Exhibit G-9-K) and Promissory Note (Exhibit G-9-M). Likewise, witness Acosta also came to the court and testified that the signatures appearing on the loan documents, Contract to Sell and in the Deed of Assignment are not her signatures since the signatures appearing therein are different from her original signatures.¹⁴⁸

These documents are vital supporting documents needed for the approval of the loan applications that should pass through the discerning eyes of accused public officers. Without these vital documents passing through their careful evaluation, the loan application will never be processed, approved and its proceeds related to JQG Home Development Inc.

¹⁴⁸ TSN dated September 4, 2017, pp. 24 to 31

Handwritten marks and initials at the bottom of the page.

5. Also, during the conduct of the Post Audit Verification, it was found out that the Certificates of Employment of the teachers-applicants do not bear the letterhead of the Department of Education and the certifying officer of the Certificates of Employment was not listed in the GSIS mainframe. This notwithstanding, loan applications using these certificates were processed and approved. It should be emphasized that a certificate of employment is a very strong evidence that an applicant is a government employee and therefore, can be a qualified beneficiary of the *Bahay Ko Program*.¹⁴⁹

Taking into consideration the irregularities that surrounded the implementation of the Bahay Ko Program, it is therefore safe to conclude that the public officers indicted herein acted in bad faith in the implementation of the *Bahay Ko Program*. As for accused de Guzman, the court finds that he likewise did his part to ensure the implementation of the program, much more, to benefit from the program.

When accused de Guzman testified on direct examination through his Judicial Affidavit, he admitted that he already had an experience in offering housing loans to GSIS- the construction of Phase 1 of Teresa Homes, which he entered into with GSIS prior to the implementation of the *Bahay Ko Program*. That is why he entered into a marketing agreement with Edeluisa Nuguid for the advertisement and marketing of the subdivision built by his company. This being so, he is therefore not new to this kind of transaction. He is presumed to be aware of the fundamentals of this kind of transaction. He is basically aware of all the required documents and the requirements to be complied with for the orderly processing of the loan applications. Assuming that all the loan documents submitted in these cases are in order as processed by accused public officers and considering his admission that it is his company which will process the Transfer Certificate of Titles under the name of the applicants, why then were there findings, that Transfer Certificates of Title were tampered, as per testimony of witness Gatpayat. For reasons only known to accused de Guzman, he did not explain this in the first place. Also, he could have explained the allegations of the teachers against him and his subordinates. While one may call his actions or that of the people under him of hiring applicants to avail of the *Bahay Ko Program* by offering incentives as a "marketing strategy", the court cannot understand the existence of these tampered Transfer Certificates of Title and why in the first place did he not ensure that the houses he is offering to the applicants of the *Bahay Ko Program* are habitable and in good condition.

All these observations amounted to fraud, the gravamen of the modality of evident bad faith as one of the means of committing the crime of Violation of Section 3 (e), RA 3019.

¹⁴⁹ *supra* at Note 77

In short, the defenses of accused Cabalitanan, Balagtas and Leonardo that they acted in good faith to prove their innocence, cannot be appreciated in view the peculiar circumstances surrounding these cases and this holds true to accused de Guzman when the court finds to have done his part in defrauding the loan applicants in particular or the government in general.

Third element: that his action caused any undue injury to any party, including the government, or giving any private party unwarranted benefits, advantage, or preference in the discharge of his functions.

In *Librado M. Cabrera and Fe M. Cabrera vs. People of the Philippines*¹⁵⁰, the Supreme Court discusses that this element refers to two (2) separate acts that qualify as a violation of Section 3 (e) of R.A. No. 3019. An accused may be charged with the commission of either or both. The use of the disjunctive term "or" connotes that either act qualifies as a violation of Section 3(e) of R.A. No. 3019.

The **first punishable act** is that, the accused is said to have caused undue injury to the government or any party when the latter sustains actual loss or damage, which must exist as a fact and cannot be based on speculations or conjectures. The loss or damage need not be proven with actual certainty. However, there must be some reasonable basis by which the court can measure it. Aside from this, the loss or damage must be substantial. It must be more than necessary, excessive, improper or illegal.

The **second punishable act** is that the accused is said to have given unwarranted benefits, advantage, or preference to a private party. Proof of the extent or quantum of damage is not thus essential. It is sufficient that the accused has given unjustified favor or benefit to another.

In the instant cases, accused's violation of Section 3 (e), RA 3019 basically hinges on two delictual acts, namely: (1) the processing and approving of housing loans of Four Hundred Ninety-One borrowers of accused de Guzman's housing project under the *Bahay Ko Program* amounting to ₱ 241, 053, 600.00, knowing fully well that said borrowers / applicants were not qualified and were not under the territorial jurisdiction of the GSIS Tarlac Field Office, and (2) approving and granting of loans under the same GSIS program to Fifty-three borrowers of accused de Guzman's land development project known as Teresa Homes amounting to ₱ 52, 107, 000.00 despite knowledge of the fact that the lots covered were intended for commercial purposes causing over appraisal in the amount of ₱ 33,242,848.36 thus causing injury to the government.

Weighing the totality of the evidence presented by both the prosecution

¹⁵⁰ GR No. 191611 to 14, July 29, 2019

and the defense, the court finds that accused committed both punishable acts. Hence, the existence of the third element.

The acts of accused public officers, taken together, caused undue injury to the government resulting to giving unwarranted benefits, advantage or preference to accused de Guzman

The term "undue injury" in the context of Section 3 (e) of the Anti-Graft and Corrupt Practices Act punishing the act of causing undue injury to any party, has a meaning akin to that civil law concept of actual damage.¹⁵¹

Undue injury is consistently interpreted as actual damage. Undue has been defined as more than necessary, not proper, [or] illegal;" and injury as any wrong or damage done to another, either in his person, rights, reputation or property, that is, the invasion of any legally protected interest of another. Actual damage, in the context of these definitions, is akin to that in civil law.¹⁵²

The term "unwarranted" within the contemplation of the second punishable act discussed above, means lacking adequate or official support; unjustified; unauthorized or without justification or adequate reason. "Advantage" on the other hand, means a more favorable or improved position or condition; benefit, profit or gain of any kind; benefit from some course of action. "Preference" signifies priority or higher evaluation or desirability; choice or estimation above another.¹⁵³

As pointed out by the prosecution during the trial, the Report on Operations Audit of Housing Loan (*Bahay Ko Program*) dated May 26, 2004 visibly established undue injury committed against the government. Particularly, the following findings are significant:

1. Non-verification of the borrower's eligibility and paying capacity which resulted to the granting of loans to unqualified borrowers.
2. Release of *Bahay Ko Program* loans to two (2) mortgagors without submitting payslips / payroll.
3. Approval of loans with arrears in salary / emergency loan.
4. Granting of bigger amount of loan to two (2) mortgagors due to failure to properly include other loan amortizations in determining the net take home pay.
5. Release of loan proceeds without verifying the authenticity of

¹⁵¹ Virginia M. Guadines vs. Sandiganbayan and People of the Philippines, GR No. 164891, June 6, 2011

¹⁵² Cresente Y. Llorente, Jr., vs. Sandiganbayan and Leticia G. Fuertes, GR No. 122166, March 11, 1998

¹⁵³ Alejandro C. Rivera vs. People of the Philippines, GR No. 156577, December 3, 2014

- annotation of mortgage on the owner's duplicate Transfer Certificate of Title.
6. Non-payment of processing fee prior to the release of the loan.
 7. Releasing of loan checks by the Special Business without prior certification from the Chief of the Support Services as to availability of funds in violation of the General Accounting and Auditing Manuals of Public Funds.
 8. Failure of the Tarlac Field Office to send Demand Letters to mortgagors with arrears that resulted in the accumulation of unpaid installment in the total amount of Twenty Million Pesos (₱ 20,000,000.00) as of April 30, 2004.
 9. Double granting of loans to eighteen (18) members.

The above-mentioned findings were testified by witness Seno. Interestingly, although she was cross examined, she was never asked about the said findings. Thus, these were never negated. Couched differently, despite these glaring irregularities, accused public officers nevertheless still processed and approved loan applications and eventually released the proceeds of the loan to JQG Home Development, Inc.

Although there has been a confusion on the actual total amount that was actually released in favor of accused de Guzman's company, the court opines that the determination of the actual amount is of no moment. It is enough that the government has parted with a portion of its money specifically reserved to members of the GSIS payable upon the members retirement. To emphasize, jurisprudence dictates that loss or damage need not be proven with actual certainty.¹⁵⁴ It is enough that there appears that the government was damnified as the result of the delictual acts committed by accused.

THE PENALTY

Under Sec. 9 of R.A. No. 3019, the penalty for violation of Sec. 3(e) of R.A. No. 3019 is imprisonment for not less than six (6) years and one (1) month nor more than 15 years, and perpetual disqualification from public office. Pursuant to Sec. 1 of the Indeterminate Sentence Law, if the offense is punished by a special law, the accused is punished with an indeterminate sentence the maximum of which does not exceed the maximum fixed by the law violated, and the minimum is not less than the minimum term prescribed by the law violated.¹⁵⁵

Accordingly, the Court imposes the indeterminate penalty of imprisonment ranging from **six (6) years and one (1) month**, as minimum, to **ten (10) years**, as maximum. The penalty of perpetual disqualification from

¹⁵⁴ Librado M. Cabrera and Fe M. Cabrera vs. People of the Philippines, GR No. 191611 to 14, July 29, 2019

¹⁵⁵ Reyes v. People, G.R. Nos. 177105-06, August 4, 2010

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public office shall also be imposed on each of the accused.

WHEREFORE, premises considered and on the basis of the disquisitions above, the court finds:

1. In **SB-12-CRM-0127**, accused Celestino Tugawin Cabalitan, Ma. Victoria Magat Leonardo, Jerry Manansala Balagtas and Jose Quiambao De Guzman **GUILTY** beyond reasonable doubt of the crime of Violation of Section 3 (e) of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act. Applying the Indeterminate Sentence Law, each accused is hereby sentenced to suffer: (a) an imprisonment for a period of six (6) years and one (1) month, as minimum, to ten (10) years as maximum; and (b) perpetual disqualification from public office.
2. In **SB-12-CRM-0128**, accused Celestino Tugawin Cabalitan, Ma. Victoria Magat Leonardo, Jerry Manansala Balagtas and Jose Quiambao De Guzman **GUILTY** beyond reasonable doubt of the crime of Violation of Section 3 (e) of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act. Applying the Indeterminate Sentence Law, each accused is hereby sentenced to suffer: (a) an imprisonment for a period of six (6) years and one (1) month, as minimum, to ten (10) years as maximum; and (b) perpetual disqualification from public service.

SO ORDERED.


GEORGINA D. HIDALGO
Associate Justice

WE CONCUR:


MA. THERESA DOLORES C. GOMEZ-ESTOESTA
Associate Justice, Chairperson


ZALBY V. TRESPESSES
Associate Justice

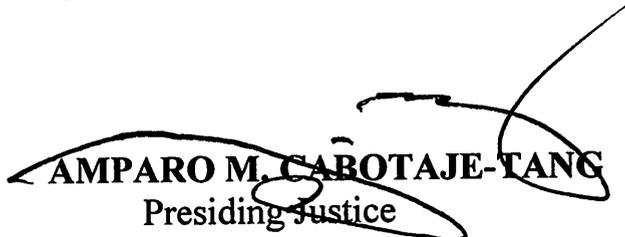
ATTESTATION

I attest that the conclusions in the above Decision were reached after deliberation and consultation pursuant to Section 1, Rule IX of the 2018 Revised Rules of the Sandiganbayan before the case was assigned to the writer of the opinion of the Court's Division.


MA. THERESA DOLORES C. GOMEZ-ESTOESTA
Chairperson, Seventh 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 Resolution were reached in consultation before the case was assigned to the writer of the opinion of the court's Division.


AMPARO M. CAROTAJE-TANG
Presiding Justice

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