



Republic of the Philippines
SANDIGANBAYAN
Quezon City

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

Crim. Case No.
SB-19-CRM-0005

For: violation of Section 3 (e)
of R.A. No. 3019, as
amended

MOSIBICAK L. GUIABEL,
JOHN ESTELITO G. DOLLOSA, JR.,
OSMEÑA M. BANDILA,
KASAN I. MACAPENDEG (+),
ENGR. NORIE K. UNAS (+),
DATUALI K. ABPI AL HAJ, and
ENGR. LANDAP P. GUINAID (+),
Accused.

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PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

Crim. Case No.
SB-19-CRM-0006

For: violation of Section 3(e),
Republic Act No. 3019,
(Anti-Graft and Corrupt
Practices Act), as amended

DATU SAJID ISLAM U. AMPATUAN,
MOSIBICAK L. GUIABEL,
JOHN ESTELITO G. DOLLOSA, JR.,
OSMEÑA M. BANDILA,
KASAN I. MACAPENDEG (+),
ENGR. NORIE K. UNAS (+),
DATUALI K. ABPI AL HAJ, and
ENGR. LANDAP P. GUINAID (+),
Accused.

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PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus -

Crim. Case No.
SB-19-CRM-0007

For: Complex Crime of
Malversation through
Falsification of Public
Documents (Article 217 and
171, paragraph 2, in
relation to Article 48 of the
Revised Penal Code)

MOSIBICAK L. GUIABEL,
JOHN ESTELITO G. DOLLOSA, JR.,
OSMEÑA M. BANDILA,
KASAN I. MACAPENDEG (+),
ENGR. NORIE K. UNAS (+),
DATUALI K. ABPI AL HAJ, and
ENGR. LANDAP P. GUINAID (+),
Accused.

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PEOPLE OF THE PHILIPPINES,
Plaintiff,

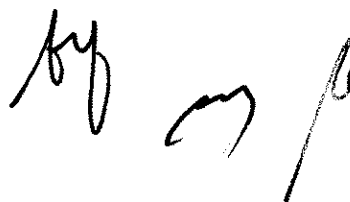
- versus -

Crim. Case No.
SB-19-CRM-0008

For: Complex Crime of
Malversation through
Falsification of Public
Documents (Article 217 and
171, paragraph 2, in
relation to Article 48 of the
Revised Penal Code)

DATU SAJID ISLAM U.
AMPATUAN,
MOSIBICAK L. GUIABEL,
JOHN ESTELITO G. DOLLOSA, JR.,
OSMEÑA M. BANDILA,
KASAN I. MACAPENDEG (+),
ENGR. NORIE K. UNAS (+),
DATUALI K. ABPI AL HAJ, and
ENGR. LANDAP P. GUINAID (+),
Accused.

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Present:

CABOTAJE-TANG, A.M.*P.J., Chairperson***FERNANDEZ, B.R., J.****MORENO, R.B., J.**

Promulgated on:

MAY 10, 2028 

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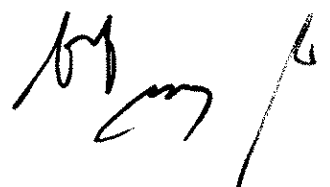
DECISION

FERNANDEZ B. R., J.

Before this Court are four (4) consolidated cases against the named accused for two (2) counts of violation of Sec. 3 (e) of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, as amended (Criminal Cases Nos. SB-19-CRM-0005 and SB-19-CRM-0006) and for two (2) counts of malversation through falsification of public documents described in Arts. 217 and 171, par. 2, in relation to Article 48 of the Revised Penal Code, as amended, (Criminal Cases Nos. SB-19-CRM-0007 and SB-19-CRM-0008), the specific accused and the specific accusatory portions of each Informations successively read, as follows - -

Crim. Case No. SB-19-CRM-0005

That on September 26, 2008, or sometime prior or subsequent thereto in the Province of Maguindanao, Autonomous Region in Muslim Mindanao (ARMM), Philippines, and within the jurisdiction of this Honorable Court, accused MOSIBICAK L. GUIABEL, Provincial Agriculturist, JOHN ESTELITO G. DOLLOSA, JR., Provincial Accountant, OSMEÑA M. BANDILA, Provincial Treasurer and Member, Bids and Awards Committee (BAC), KASAN I. MACAPENDEG, Provincial General Services Officer and Chairman, BAC, NORIE K. UNAS, Provincial Administrator and Member, BAC, DATUALI K. ABPI AL HAJ, Provincial Budget Officer and Member, BAC, and LANDAP P. GUINAID, Officer-In-Charge (OIC), Provincial Engineer and Member, BAC, all high ranking public officials



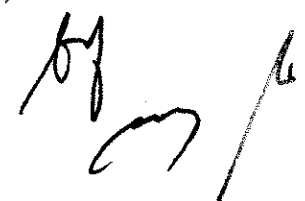
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being department heads of the Provincial Government of Maguindanao, ARMM, committing the offense in relation to office while in the performance of their respective administrative and/or official functions, conspiring and mutually aiding each other, together with then Provincial Governor DATU ANDAL S. AMPATUAN (deceased), acting with evident bad faith, manifest partiality or gross inexcusable negligence, did then and there wilfully, unlawfully and criminally cause undue injury to the Government in the aggregate amount of Forty-Nine Million Nine Hundred Ninety-Nine Thousand Nine Hundred Ninety-Three Pesos and 15/100 (P49,999,993.15), more or less, by misappropriating and/or causing the misappropriation of the said public funds when accused made it appear that the same were disbursed for the procurement of *palay*, corn, seeds and fertilizers from Tamoni Enterprises, when in truth and in fact, no such purchases were made to the purported supplier Tamoni Enterprises, to the damage and prejudice of the government in the aforesaid amount.

CONTRARY TO LAW.

Crim. Case No. SB-19-CRM-0006

That on June 03, 2009, or sometime prior or subsequent thereto in the Province of Maguindanao, Autonomous Region in Muslim Mindanao (ARMM), Philippines, and within the jurisdiction of this Honorable Court, accused DATU SAJID ISLAM U. AMPATUAN, Provincial Governor, MOSIBICAK L. GUIABEL, Provincial Agriculturist, JOHN ESTELITO G. DOLLOSA, JR., Provincial Accountant, OSMENA M. BANDILA, Provincial Treasurer and Member, Bids and Awards Committee (BAC), KASAN I. MACAPENDEG, Provincial General Services Officer and Chairman, BAC, NORIE K. UNAS, Provincial Administrator and Member, BAC, DATUALI K. ABPI AL HAJ, Provincial Budget Officer and Member, BAC, and LANDAP P. GUINAID, Officer-In-Charge (OIC), Provincial Engineer and Member, BAC, all high ranking public officials being department heads of the Provincial Government of Maguindanao, ARMM, committing the offense in relation to office while in the performance of their respective administrative and/or official functions, conspiring and mutually aiding each other, acting with evident bad faith, manifest partiality or gross inexcusable negligence, did then and there wilfully, unlawfully and criminally cause undue injury to the Government in the aggregate amount of Ninety Eight Million Two Hundred Forty Nine Thousand Eight Hundred Fifty Pesos (P98,249,850.00), more or less, by misappropriating and/or causing the misappropriation of the said public funds when accused made it appear that the same were disbursed for the procurement of *palay*, corn, seeds and fertilizers from Tamoni Enterprises, when



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in truth and in fact, no such purchases were made to the purported supplier Tamoni Enterprises, to the damage and prejudice of the government in the aforesaid amount.

CONTRARY TO LAW.


Crim. Case No. SB-19-CRM-0007

That on September 26, 2008, or sometime prior or subsequent thereto in the Province of Maguindanao, Autonomous Region in Muslim Mindanao (ARMM), Philippines, and within the jurisdiction of this Honorable Court, accused MOSIBICAK L. GUIABEL, Provincial Agriculturist, JOHN ESTELITO G. DOLLOSA, JR., Provincial Accountant, OSMEÑA M. BANDILA, Provincial Treasurer and Member, Bids and Awards Committee (BAC), KASAN I. MACAPENDEG, Provincial General Services Officer and Chairman, BAC, NORIE K. UNAS, Provincial Administrator and Member, BAC, DATUALI K. ABPI AL HAJ, Provincial Budget Officer and Member, BAC, and LANDAP P. GUINAID, Officer-In-Charge (OIC), Provincial Engineer and Member, BAC, all high ranking public officials with JOHN ESTELITO G. DOLLOSA, JR. and OSMEÑA M. BANDILA, as accountable officers by reason of their respective offices while in the performance of their respective administrative and/or official functions, conspiring and mutually aiding each other, together with then Provincial Governor DATU ANDAL S. AMPATUAN (deceased), did then and there wilfully, unlawfully and feloniously appropriate, take or misappropriate and convert for their own use and benefit the total amount of Forty-Nine Million Nine Hundred Ninety-Nine Thousand Nine Hundred Ninety-Three Pesos and 15/100 (P49,999,993.15), more or less, in public funds, by falsifying and/or using falsified Disbursement Vouchers and/or Journal Entry Vouchers, Purchase Requests and other supporting documents for the ghost purchase of *palay*, corn seeds and fertilizers from Tamoni Enterprises and thereby making it appear that Tamoni Enterprises was paid and had received aforesaid amount as payment from the Province of Maguindanao when in truth and in fact, Tamoni Enterprises did not receive from the Province of Maguindanao the said sum of money or any part thereof, to the damage and prejudice of the government.

CONTRARY TO LAW.

Crim. Case No. SB-19-CRM-0008

That on June 03, 2009, or sometime prior or subsequent thereto in the Province of Maguindanao, Autonomous Region in Muslim Mindanao (ARMM), Philippines, and within the jurisdiction of this Honorable



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Court, accused DATU SAJID ISLAM U. AMPATUAN, Provincial Governor, MOSIBICAK L. GUIABEL, Provincial Agriculturist, JOHN ESTELITO G. DOLLOSA, JR., Provincial Accountant, OSMEÑA M. BANDILA, Provincial Treasurer and Member, Bids and Awards Committee (BAC), KASAN I. MACAPENDEG, Provincial General Services Officer and Chairman, BAC, NORIE K. UNAS, Provincial Administrator and Member, BAC, DATUALI K. ABPI AL HAJ, Provincial Budget Officer and Member, BAC, and LANDAP P. GUINAID, Officer-In-Charge (OIC), Provincial Engineer and Member, BAC, all high ranking public officials with JOHN ESTELITO G. DOLLOSA, JR. and OSMEÑA M. BANDILA, as accountable officers by reason of their respective offices while in the performance of their duties in relation to and/or taking advantage of their official positions and functions as such, and conspiring and confederating with one another, did then and there wilfully, unlawfully and feloniously appropriate, take or misappropriate and convert for their own use and benefit the total amount of Ninety Eight Million Two Hundred Forty Nine Thousand Eight Hundred Fifty Pesos (P98,249,850.00), more or less, in public funds, by falsifying and/or using falsified Disbursement Vouchers and/or Journal Entry Vouchers, Purchase Requests and other supporting documents for the ghost purchase of *palay*, corn seeds and fertilizers from Tamoni Enterprises and thereby making it appear that Tamoni Enterprises was paid and had received aforesaid amount as payment from the Province of Maguindanao when in truth and in fact, Tamoni Enterprises did not receive from the Province of Maguindanao the said sum of money or any part thereof, to the damage and prejudice of the government.

CONTRARY TO LAW.

Prior to arraignment, information reached this Court that accused Kasan Indong Macapendeg, accused Norie Kamaong Unas and accused Landap Guinaid already died. After the submission of their respective Certificates of Death and verifications made by the prosecution, this Court, upon motion, dismissed the cases against them, pursuant to Article 89 of the Revised Penal Code (Minutes, June 3, 2019).

On the other hand, accused John Estelito G. Dollosa, Jr., and Osmeña M. Bandilla remain at large.

Hence, this Decision pertains only to accused Datu Sajid Islam Ampatuan (accused Ampatuan), Datuali Abpi Al Haj (accused Abpi), and Mosibicak L. Guiabel (accused Guiabel).



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When arraigned, the three accused, represented by their respective counsels, pleaded not guilty to all the charges (Order, August 23 and 30, 2019).

Thereafter, pre-trial ensued and eventually terminated. The parties agreed to stipulate on the following (Pre-Trial Order, November 8, 2019) - -

1. Accused Mosibicak L. Guiabel, Datu Sajid Islam U. Ampatuan, and Datuali K. Abpi Al Haj admit their identities as the same persons named in the Information/s;

With respect to accused Mosibicak L. Guiabel:

2. Accused Mosibicak L. Guiabel admits that at the time material and relevant to the cases, he was the Provincial Agriculturist of Maguindanao, ARMM;

With respect to accused Datuali K. Abpi Al Haj:

3. Accused Datuali K. Abpi admits the positions of the accused at the time of the incidents in question, as indicated in the Information/s;

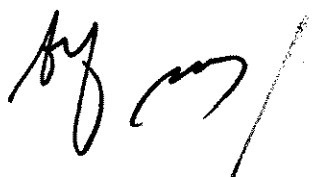
With respect to accused Datu Sajid Islam U. Ampatuan (in SB-19-CRM-0006 and 0008 only):

4. Accused Datu Sajid Islam U. Ampatuan admits that at the time material and relevant to the cases, he was the Officer-in-Charge of the Province of Maguindanao, performing the duties and functions of the Provincial Governor.

Trial ensued.

The first prosecution witness was **Wilfredo Ismael Picazo III**, a Trade and Industry Development Specialist of the Competitiveness Bureau of the Program Management Team, Bureau Registration of the Department of Trade and Industry (DTI).

He substantially testified that he received a subpoena from the Office of the Special Prosecutor; that, in compliance with the said Subpoena, he brought with him a Certification (Exh. "BB") dated November 20, 2019, issued by one Lilian G. Salonga, stating that, based on the records of the DTI, Tamoni Enterprises is registered under the name of Herbert Tamoni; that there is no existing business name registration for Tamoni Agri Supply; that Lilian G. Salonga was the director



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of the Bureau Registration; and, that his signature/initial was placed below the name of Lilian Salonga, indicating that he was the one who searched the records and prepared the said Certification.

When cross-examined by accused Abpi, witness Picazo III testified that he handles all certifications issued to government offices and is also the custodian of the said records. He merely relies on the database of their Office and does not know the details of the transactions of Herbert Tamoni. Further, in preparing the subject Certification, he did not contact the registrants to determine whether they are actually registered or not.

On cross-examination conducted by accused Guiabel, witness Picazo III testified that he is well-versed with the business system registration and explained that an application for DTI registration is required before one can apply for a business permit from a local government unit.

When cross-examined by accused Ampatuan, witness Picazo III admitted that a certification is based only on the existing business name requested to be verified, *i.e.* Tamoni Enterprises, not for the name of the registered business owner.

Upon queries from the Court, witness Picazo III clarified that Tamoni Enterprises had a prior business name registration in February 23, 2005 until February 23, 2010, as renewal of the registration is done every five years. Thus, on September 26, 2008, the material date of these cases, Tamoni Enterprises was registered. He added that the business name registration of Tamoni Enterprises in November 30, 2006 and December 2, 2009, pertain to the registrations of the branches of Tamoni Enterprises and not a renewal of the one registered in 2005.

Thereafter, the prosecution presented **Arnel G. Pascual**, a State Auditor IV of the Special Audits Office (SAO) of the Commission on Audit (COA). His direct testimony was made through his sworn Judicial Affidavit dated December 27, 2019.

He testified that he was among the state auditors who conducted a special audit on the Province of Maguindanao (Maguindanao) and selected component municipalities to



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determine the propriety and effectiveness of the utilization of funds in 2008 and the period from January to September 30, 2009. This special audit was pursuant to COA Office Orders Nos. 2009-874 dated December 11, 2009; 2010-874B dated June 17, 2010; 2010-550 dated August 23, 2010 and 2010-605 dated September 15, 2010 as well as Travel Order No. 2010-098 dated September 14, 2010 (Exhs. TT to TT-4, respectively).

Witness Pascual further confirmed that the Special Audit Team (SAT) gathered pertinent data including identifying the sources of funds, conducting ocular inspections of the projects, confirming various transactions and validating the suppliers in Cotabato, Maguindanao and Sultan Kudarat from February 2010 to January 2011. The SAT was able to obtain from Maguindanao, vouchers and their supporting documents, including general journals, trial balances and bank statements; while from the Municipality of Esperanza, Sultan Kudarat, confirmations regarding business permits, capitalization, and the existence of business establishments. The SAT also requested from the Philippine National Bank (PNB)-Cotabato validated checks in connection with the transactions under audit but these were not provided.

After their validation and confirmation, it was revealed, among others, particularly from the personal verification of Auditors Raquel C. Gorgonio and Mila Lopez in Sultan Kudarat, that all the business establishments under audit, except Tamoni Enterprises, were non-existent or cannot be located in their addresses on record. During an ocular inspection on October 28, 2010, the auditors were able to personally talk to Herbert Tamoni, the proprietor of Tamoni Enterprises, and he informed them that a representative from Maguindanao came and demanded, under threat, that he issue receipts.

Witness Pascual also enumerated the significant findings of the SAT, to wit - - (a) the purchases were made without public bidding; (b) the payments made to Tamoni Enterprises for the purported delivery of *palay* and corn seeds and fertilizers were charged to cash advance; (c) the transactions were not supported by any document to establish their necessity during a calamity or conflict; (d) there were no receipts showing deliveries to the users or recipients; (e) there were even no inspection and acceptance



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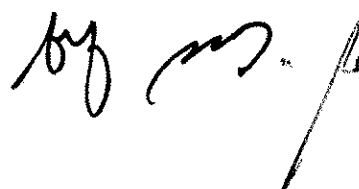
reports to support the alleged deliveries; and, (f) Tamoni Enterprises was issued a business permit by the Municipal Government of Esperanza, Sultan Kudarat, with a reported capitalization of only P200,000.00 and gross receipts of only P1.8 million in the year 2009 and P800,000.00 in the years 2007 and 2008.

He thereafter explained the requirement for a public bidding, as a general rule, under R.A. No. 9184 and confirmed that Maguindanao resorted to negotiated procurement without any document to justify the use of this alternative mode of procurement, despite requests made by the SAT.

Witness Pascual also noted that payments made to Tamoni Enterprises were charged to cash advances which is a violation of COA Circular No. 97-002 dated February 10, 1997, allowing cash payments only for transactions not exceeding P15,000.00. Herein, the transactions involved amounts ranging from P2.5 million to P7.7 million.

He further testified that there were no inspection and acceptance reports to prove that the purported purchased *palay*, corn seeds and fertilizers were actually delivered. He also noted that the capitalization and gross receipts of Tamoni Enterprises for the years 2007 to 2009 (Exh. "CCC") will show that it was not financially capable of supplying items worth P148.25 million to Maguindanao.

After completing its verifications and confirmations, the SAT submitted its Special Audit Report No. 2010-02 (Exh. UU) dated July 1, 2011, covering the period from January 2008 to September 2009, based on the following documents, namely: three (3) Memoranda of Agreements (MOA) (Exhs. "A", "R" and "R-1", respectively notarized on September 8, 2008, June 15, 2009 and June 15, 2009), entered into by the Department of Agrarian Reform (DAR) with Maguindanao; disbursement vouchers (DV); purchase requests (PR); purchase orders (PO); bid quotations; abstracts of bids; general journals; trial balances; bank statements; charge invoices; delivery receipts; official receipts purportedly from Tamoni Enterprises; and, business permits capitalization, gross receipts and existence of business establishments (Exhs. "A" to "Q"; Exhs. "R" to "QQ"). Witness Pascual added that, during the special audit, there was no master list of beneficiaries and certificates of project completion and acceptance from the beneficiaries.



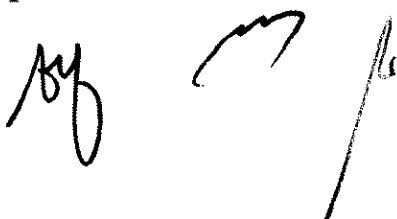
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Witness Pascual further testified that, after furnishing the then incumbent and the former provincial governors of Maguindanao, copies of the said Special Audit Report, the Special Audit Team (SAT) issued Notices of Disallowance (ND) (Exh. "VV") dated December 28, 2011, respectively. The SAT found liable accused Ampatuan, Sr. (+), as the then approving officer in Disbursement Vouchers Nos. 401-2008-10-01 to 401-2008-10-08 (Exhs. "J" to "Q"), all dated October 20, 2008, specifically pertaining to the GMA Rice and Corn Program, with the total disallowed amount of P49,999,993.15. On the other hand, accused Ampatuan was also found liable for the transaction involving the Cropping Enhancement and Production/Farm Inputs and Substances covered by Disbursement Vouchers Nos. 400-2009-06-48 to 400-2009-06-65 (Exhs. "AA" to "QQ", respectively), all dated June 8, 2009, with a total disallowed amount of P98,269,850.00. The foregoing disallowed amounts were verified by the SAT from bank statements provided by Maguindanao.

Furthermore, witness Pascual elaborated that the foregoing DVs (Exhs. "J" to "Q") approved by accused Ampatuan, Sr. (+) and the DVs (Exhs. "AA" to "QQ") approved by accused Ampatuan, pertain to funds released to Tamoni Agri Supply/Enterprises and Tamoni Enterprises, respectively. These two suppliers were paid in cash, through cash advances, received by accused Bandila and approved by accused Ampatuan, Sr. (+), and accused Ampatuan, respectively. Witness Pascual claims that this is contrary to COA Circular No. 97-002 dated February 10, 1997, requiring payment through checks if the amounts involved is more than P15,000.00.

Witness Pascual also testified that accused Guiabel and accused Abpi were also named as liable in the aforesaid NDs, for being the requisitioner and member of the Bids and Awards Committee (BAC), respectively. He also confirmed that the NDs are still with the Legal Division on appeal.

When cross-examined by accused Abpi, witness Pascual admitted that, prior to their special audit, he has neither seen the signatures of accused Ampatuan, Sr. (+), accused Ampatuan, accused Guiabel and accused Abpi nor saw them sign the subject documents. Likewise, the Special Audit Team (SAT) did not have the signatures of the accused examined by an expert.

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He added that, although copies of their Special Audit Report and the Notices of Disallowance were furnished the incumbent officials and other officials of Maguindanao as a standard operating procedure, the SAT had no personal knowledge if these officials actually received them.

Witness Pascual reiterated that the transactions were paid in cash, through cash advances, given to accused Bandila. On the participation of accused Abpi, witness Pascual testified that when the former signed the Abstract of Bids, he ensured that the procurement process is correct. He further clarified that an abstract of bids only summarizes the various quotations submitted by suppliers or contractors and is submitted for public bidding, not negotiated procurement, as in this case.

He also added that there were no documents submitted to justify the conduct of negotiated procurement. In the absence of these documents, it can be concluded that no public bidding was conducted.

Witness Pascual further confirmed that accused Abpi was the Budget Officer and a member of the Bids and Awards Committee (BAC) during the time material to these cases and that a request was made to the Provincial Auditor on the documents related to the negotiated procurement.

On cross-examination conducted by accused Guiabel, witness Pascual testified that the special audit of Maguindanao was conducted during martial law declared in the area with escorts from the military. He then explained the procedures for public bidding as well as the flow of the funds and distinguished a special audit report from an annual audit report, although both reports have the same purpose of auditing the utilization of funds.

When cross-examined conducted by accused Ampatuan, witness Pascual testified that the other members of the SAT conducted an on-site verification and validation of Tamoni Enterprises, Willy Enterprise, and Sotto Enterprises, among others, and submitted documents from the licensing offices of the concerned municipalities. He reiterated that Herbert Tamoni issued receipts under threat from an unidentified person and denied that the subject transactions occurred. He further restated that no documents were

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submitted to prove a calamity or conflict existed, despite requests for their production.

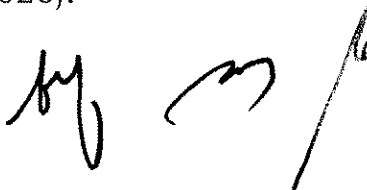
On re-direct examination, witness Pascual testified that the amounts appearing on the issued checks and other transaction documents were consistent with each other and that signatures thereon appeared authentic. He added that, after the issuance of the Notices of Disallowance, none of the persons named as liable contested the authenticity of their respective signatures.

When re-cross examined by accused Abpi, witness Pascual reiterated that there were no issues relative to the signatures of the accused on the documents and that opportunity was given to Maguindanao to submit supporting documents to justify the subject transactions.

On re-cross examination conducted by accused Guiabel, witness Pascual stated that he did not witness accused Guiabel affix his signatures on all the audited documents.

When queried by the Court, witness Pascual admitted that the Special Audit Team (SAT) was unaware as to whether a letter or a report triggered their superiors to order a special audit. Moreover, he clarified that only the Abstract of Bids (Exhs. "J-6"; "K-6"; L-6"; M-6"; "N-6"; "O-6"; P-6" and "Q-6") respectively dated September 18; 19; 19; 16; 18; 18; 17; 18, 2008) were the basis for SAT finding that the negotiated mode of procurement will be resorted to. Neither was there proof that instructions were given not to conduct public bidding.

The next witness for the prosecution was **Lolita Soriano**. Her testimony was dispensed with after the parties agreed to stipulate on the following: (1) That the intended witness is the Administrative Officer and Records Custodian of the COA; (2) That, in her official capacity as custodian, she was in custody of the Memorandum of Appeal dated January 3, 2014; (3) That, by virtue of a subpoena issued by the Ombudsman, she brought with her the original copy of the Memorandum of Appeal dated January 3, 2014; (4) That the Memorandum of Appeal has been marked by the prosecution as Exhibit "XX"; (5) That the principal issue raised by accused Datu Sajid Islam U. Ampatuan is the Notice of Disallowance; and, (6) That the Memorandum of Appeal dated January 3, 2014 as reflected was filed on January 8, 2014 at 4:10 p.m. (Order, January 14, 2020).

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Thereafter, the prosecution presented **Atty. Vic T. Escalante, Jr.** His direct testimony was made through his sworn Judicial Affidavit dated January 21, 2020.

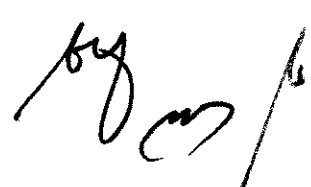
He testified that he is currently a Graft Investigation and Prosecution Officer III, assigned at the Field Investigation Office (FIO) of the Office of the Ombudsman. In 2016, he was one of the team leaders assigned to conduct further fact-finding for the cases filed by the Commission on Audit (COA) against Ampatuan, Sr. (+) and accused Ampatuan, *et al.*

Thus, in relation with his duties and responsibilities, he prepared a Subpoena (Exh. "AAA-2") dated May 5, 2016, signed by Dir. Ferdinand San Joaquin, addressed to Herbert Tamoni, the proprietor of Tamoni Enterprises, for the case docketed as FF-C-14-0230. This Subpoena was issued to verify or confirm whether Herbert Tamoni supplied *palay*, corn, seeds and fertilizers to Maguindanao amounting to P148,249,843.15. In response, Herbert Tamoni submitted an Affidavit of Denial (Exh. "AAA-1") dated June 8, 2016. This was turned over to the Special Panel conducting the preliminary investigation.

When cross-examined, witness Atty. Escalante, Jr. clarified that, when he referred the Affidavit of Denial of Tamoni to the Special Panel, a preliminary investigation was already on-going. This same Affidavit was only referred to them to re-confirm in writing the verbal statement of Tamoni that he issued official receipts under threat.

Upon queries by this Court, witness Atty. Escalante, Jr. clarified that the cited Subpoena to Herbert Tamoni was sent to his address at Poblacion Esperanza, Sultan Kudarat. He testified that the Affidavit of Denial on the non-issuance of official receipts by Maguindanao will prevail over the COA Special Audit Report findings since the former was made under oath.

The next witness for the prosecution was **Hernel S. Gervacio**. For purposes of expediency, the parties agreed to stipulate on the following: (1) That if the witness will be made to testify, his testimony would only be to the effect that, in his capacity as Administrative Aide VI assigned at the Central Records Division of the Ombudsman, he was the one who personally received on October 26, 2016 the original copy of the Joint Counter-Affidavit of Herbert and Evelyn Tamoni, together with its attachments; (2) That if he will be made to



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identify the same, he can identify the said Joint Counter-Affidavit with its attachments; and, (3) That the witness has no personal knowledge as to the facts or matter alleged in the said Joint Counter-Affidavit (Order, January 28, 2020).

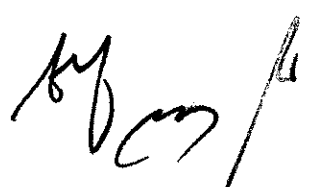
The next witness for the prosecution was **Mila Lopez**, currently employed as a State Auditor III of the COA-Special Audits Office. Her direct testimony was made through her sworn Judicial Affidavit dated January 10, 2020.

After enumerating her duties, witness Lopez recalled that, in 2010 to 2011, she became a member of a Special Audit Team (SAT) tasked to conduct a special audit on Maguindanao for the period of February 2010 to January 2011, by virtue of COA Office Orders Nos. 2009-874 (Exh. "TT") dated December 11, 2009; 2010-874B (Exh. "TT-1") dated June 17, 2010; 2010-550 (Exh. "TT-2") dated August 23, 2010; 2010-605 (Exh. "TT-3") dated September 15, 2010, and Travel Order No. 2010-098 (Exh. "TT-4") dated September 14, 2010. As SAT member, she, together with Auditor Raquel Gorgonio, was tasked to conduct an ocular inspection to: (a) verify the existence of Tamoni Enterprises/Agri Supply; (b) confirm the receipts and invoices it allegedly issued; and (c) verify the deliveries to Maguindanao of the items in the said invoices and receipts.

Witness Lopez further explained the verification procedures the SAT conducted, including identifying the source of the funds and gathering records from Maguindanao, the PNB-Cotabato branch and the business permit offices of concerned local government units. Particular to Tamoni Enterprises, the SAT was able to receive a reply to its undated Confirmation Letter (Exh. "CCC-1"), showing its capitalization and gross receipts and secured official receipts and charge invoices indicating that the business address and residence of Herbert Tamoni are the same.

She further retold the narration of Herbert Tamoni that the latter was demanded by a representative from Maguindanao, to issue, under threat, delivery receipts and charge invoices in the total amount of P100 million, when his transactions do not even involve million of pesos.

Witness Lopez further testified that, after completing its verifications, the SAT submitted its Report No. 2010-02 (Exh. "UU") dated July 1, 2011, furnishing the then incumbent Gov.



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Esmael Mangundadatu and the former Governor, accused Ampatuan, Sr. (+). The SAT also submitted its Joint Affidavit (Exh. "SS") dated January 13, 2014 to the then COA Chairman Pulido Tan and the Office of the Ombudsman

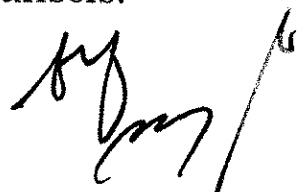
When cross-examined by accused Abpi, witness Lopez testified that the Provincial Auditor of Maguindanao supplied them with all the documents necessary for the audit, indicating where the signatures of all the accused appear. He further narrated the procedure used to verify the existence of Tamoni Enterprises, which included corresponding with the Municipality of Esperanza and its business permits office. He added that Tamoni Enterprises was issued a business permit on February 9, 2010, February 16, 2010, and February 15, 2010 (Exh. "CCC"). The Business Permit No. 2010104 issued on February 9, 2010 indicated the following: registered owner – Herbert De Belen Tamoni; address - Poblacion, Estrada, Sultan Kudarat - address; gross receipts – P1.8Million; capitalization – P200,000.00. During 2008 and 2009, its capitalization was P200,000.00 while its gross receipts was P800,000.00.

Witness Lopez added that, although Tamoni Enterprises was registered to engage in business, its owner, Herbert Tamoni, denied transacting with Maguindanao. He also reiterated the narration of Herbert Tamoni that the latter was demanded, under threat, from a representative of Maguindanao to issue receipts totalling to more than P100 million.

During the cross-examination conducted by accused Guiabel, witness Lopez admitted that she was not present when the accused signed the documents and that all the standards or principles were complied with as shown in their Report. She also recalled that, during the audit of Maguindanao, the team was escorted by the police.

She cited their Joint Affidavit (Exh. "SS") dated January 13, 2014, stating that the cash advances were granted to Osmeña Bandila as the Provincial Treasurer and that no cash advances were made in the name of accused Guiabel and accused Abpi. She also confirmed that the date on the subject Disbursement Vouchers were the same.

For his part, accused Ampatuan adopted the cross-examination conducted by the other defense counsels.



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However, on additional cross-examination, witness Lopez admitted that only Herbert Tamoni was interviewed relative to the subject transactions. She also confirmed that the persons mentioned as liable in the Special Audit Report (Exh. "UU") dated July 1, 2011 appealed the COA findings.

On re-direct examination, witness Lopez noted that Disbursement Voucher No. 401-2008-09-141 (Exh. "C") dated September 12, 2008 showed that accused Bandila made the cash advances, as approved by Ampatuan, Sr. (+) while Disbursement Voucher No. 401-2009-06-212 (Exh. "D") dated September 12, 2008, indicated that the payment was received by accused Bandila and approved by accused Ampatuan.

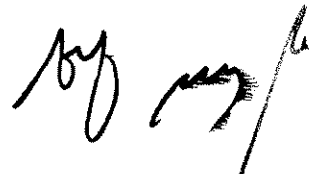
When queried by the Court, witness Lopez clarified that the documents allegedly issued by Tamoni Enterprises were submitted by the Provincial Auditor of Maguindanao to the Special Audit Team (SAT). These same documents were shown to Herbert Tamoni during their ocular inspection, however, he did not mention the name of the representative of Maguindanao who allegedly threaten him to issue receipts. She added that Herbert Tamoni informed the SAT during its ocular inspection that he indeed issued receipts under threat, but the actual purchases involving millions of pesos.

Although she was unable to see the Informations concerned, witness Lopez however clarified that the amount of P150 million indicated therein was the fund transfer from DAR, and the amount of P148,250.00, out of the said P150 million, pertained to the cash advances of accused Bandila for the alleged purchase of *palay*, corn seeds, and fertilizers based on the liquidation vouchers.

Witness Lopez further elaborated that accused Bandila liquidated the cash advances given to him by making it appear that he used the money to purchase *palay*, corn seeds, and fertilizers. Furthermore, based on the documents submitted by accused Bandila, it appears that no public bidding was conducted.

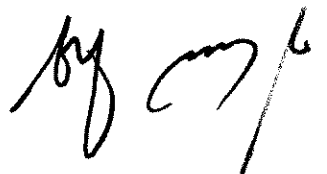
Thereafter, the prosecution presented witness **Dennis G. Ramos**. His direct testimony was made through his sworn Judicial Affidavit dated February 6, 2020.

He testified that he is the officer-in-charge (OIC) of the Accounting Division – Department of Agrarian Reform (DAR)



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Central Office since September 2018; that as OIC, his duties include, among others: (a) certify disbursements of funds; (b) advise management on financial matters of the DAR; (c) supervise the day-to-day operations of the division; and (d) safekeep financial records and reports; that, in relation to his duties and functions of safe-keeping financial records and reports, he recalled receiving a Subpoena from the Office of the Special Prosecutor (OSP), endorsed by the Legal Affairs Office of DAR; that the said Subpoena requested for the documents relative to the MOA with Datu Andal S. Ampatuan, Sr. (+), in the amount of P50 million, namely: (a) letter of intent and project proposal based on the work and financial plan of corn and rice; (b) master listing of farmer beneficiaries; (c) *Sangguniang Panlalawigan* Resolution authorizing Datu Andal Ampatuan, Sr. (+) to contract for and in behalf of the Province of Maguindanao with DAR, including the adoption of the same agreement and project proposal; (d) the official receipt for the fund; (e) report of disbursement audited and certified by the COA of the Province of Maguindanao; (f) monthly progress and financial reports; (g) any proof of the refund/return to DAR of any unused funds; and, (h) other pertinent and related documents; that the same Subpoena also requested for documents relative to the MOA entered into with accused Ampatuan in the amount of P60 million for the implementation of the *Ginintuang Masaganang Ani* (GMA Rice and Corn Program), namely: (a) financial report for the release of funds; (b) physical accomplishment report/s; (c) lists of proposed and actual beneficiaries; (d) certificate of completion and acceptance of the project; (e) status reports of the Province of Maguindanao's fund expenditures, obligations incurred or liquidated, total disbursements, unliquidated obligations and unexpended balances and result of the implementation; (f) any proof of the refund/return to DAR of any unused funds; and, (g) other pertinent and related documents; that the same Subpoena further requested for documents in relation to the MOA with accused Ampatuan in the amount of P40 million for farm inputs and substances for farming and cultivation, namely: (a) financial report for the release of funds; (b) lists of proposed and actual beneficiaries; (c) audited financial reports and physical accomplishment of the project; (d) status reports of the Province's fund expenditures, obligations incurred or liquidated, total disbursements, unliquidated obligations and unexpended balances and result of the implementation; (e) any proof of the refund/return to DAR of any unused funds; and, (f) other pertinent and related



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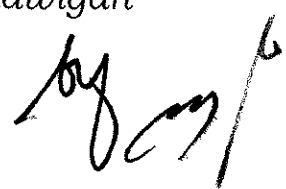
documents; that the subpoena was endorsed by the Legal Affairs Office to his Office because the latter receives reports of disbursements and their supporting documents; and, that, after he and four other Accounting Office personnel searched for the requested documents, none can be found.

When cross-examined by accused Guiabel, witness Ramos confirmed that if there were unused or unutilized funds, these will be returned to the DAR Central Office and proof of such return/refund is required under government accounting procedures and rules.

On cross-examination conducted by accused Abpi and Ampatuan, witness Ramos testified that his Office only retain copies of financial reports/transactions for a period of ten (10) years and that the original copies of documents are supposed to be transmitted to the COA Resident Auditor after a month from the occurrence of the transaction.

The last witness for the prosecution was **Maribel B. dela Rosa**. Her direct testimony was made through her sworn Judicial Affidavit dated February 7, 2020.

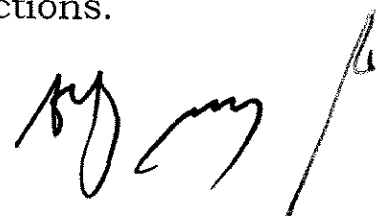
She testified that she is currently a State Auditor IV with the Commission on Audit (COA) assigned as COA Team Leader at the Department of Agrarian Reform (DAR) since August 2018; that as COA Team Leader, her duties and responsibilities, among others, are: (a) direct and supervise the audit of accounts and the review of transactions of the agencies assigned to the audit jurisdiction of the team; (b) assign audit work and review outputs of team members; and (c) responsible for the custody and safe-keeping of the documents and records in the office; that among the documents and records her Office keeps are originals of disbursement vouchers of DAR and their supporting documents, financial reports and statements; that she recalled receiving a Subpoena directing her to present the originals and submit certified true copies of documents related to the Memorandum of Agreement (MOA) entered into by the DAR with Datu Andal S. Ampatuan, Sr. (+) in 2008, and with accused Ampatuan in 2009; that the same Subpoena requested for the following documents regarding the MOA with Ampatuan, Sr. (+) in the amount of P50 million, namely: (1) letter of intent and project proposal based on the work and financial plan of corn and rice; (b) master listing of farmer beneficiaries; (c) *Sangguniang Panlalawigan*



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Resolution authorizing Ampatuan, Sr. (+) to contract for and in behalf of the Province of Maguindanao with DAR, including the adoption of the same agreement and project proposal; (d) the official receipt for the fund; (e) report of disbursement audited and certified by the COA of the Province of Maguindanao; (f) monthly progress and financial reports; (g) any proof of the refund/return to DAR of any unused funds; and, (8) other pertinent and related documents; that same Subpoena also requested for documents in relation to the MOA accused Ampatuan in the amount of P60 million for the implementation of the *Ginintuang Masaganang Ani* (GMA Rice and Corn Program), namely: (a) financial report for the release of funds; (b) physical accomplishment report/s; (c) lists of proposed and actual beneficiaries; (d) certificate of completion and acceptance of the project; (e) status reports of the Province of Maguindanao's fund expenditures, obligations incurred or liquidated, total disbursements, unliquidated obligations and unexpended balances and result of the implementation; (f) any proof of the refund/return to DAR of any unused funds; and, (g) other pertinent and related documents; that the same Subpoena also requested for documents relative to the MOA with accused Ampatuan in the amount of P40 million for farm inputs and substances for farming and cultivation, namely: (a) financial report for the release of funds; (b) lists of proposed and actual beneficiaries; (c) audited financial reports and physical accomplishment of the project; (d) status reports of the Province's fund expenditures, obligations incurred or liquidated, total disbursements, unliquidated obligations and unexpended balances and result of the implementation; (e) Any proof of the refund/return to DAR of any unused funds; and, (f) other pertinent and related documents; that, although she and other administrative staff diligently searched for the requested documents, none can be found; and, that she executed a Certification on Non-Availability of Documents (Exhs. "GGG" and series) dated February 6, 2020.

When cross-examined by the counsel of accused Guiabel, witness de la Rosa recalled that under the remarks made in Sec. B of the Certification of Non-Availability of Documents dated February 6, 2020, indicated that the requested documents were not submitted to them, but to the COA Resident Auditor of Maguindanao, being the standard procedure in the subject transactions. However, he cannot recall if there was an outstanding Notice of Disallowance or Notice of Suspension relative to these transactions.



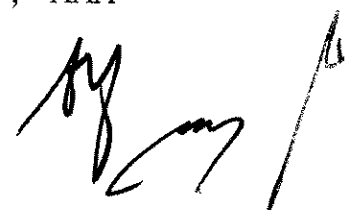
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When queried by this Court, witness de la Rosa clarified that the requested documents were not on file but are supposed to be with the COA-Maguindanao because the project was implemented there. However, she no longer communicated with COA-Maguindanao because her Office is under the national government while the COA-Magundanao is under the local government unit.

She nevertheless admitted that the original copies of the MOAs were on file in her Office. She likewise narrated the standard operating procedure for fund transfer, in that the MOA or at least the list of beneficiaries of the project or the letter of intent or resolution of the *Sangguniang Panlalawigan* should be attached to the fund transfer. However, herein, only the MOA and the official receipt showing that funds were duly received by Maguindanao, were attached. She added that when a project is implemented, the concerned LGU should prepare a disbursement or liquidation report to be submitted to the resident auditor of Maguindanao. This will then be transmitted to the COA Central Office. Witness de la Rosa reiterated that she did not exert efforts to request from Maguindanao for documents.

Thereafter, the prosecution filed its Formal Offer of Evidence dated March 3, 2020 with *ex-parte* Motion to remark its exhibits. With the Comment/Objections of accused Datuali K. Abpi dated May 6, 2020; of accused Datu Sajid Islam U. Ampatuan dated June 22, 2020; and, of accused Mosibicak L. Guiabel dated August 26, 2020, this Court ruled (Minutes, September 7, 2020) - -

to admit the following prosecution Exhibits, to wit - -
For SB-19-CRM-005 and SB-19-CRM-0007: Exhibits "A", "B", "B-1", "B-2", "C", "D", "E", "F", "G", "H", "I", "J", "J-1" to "J-9", "K", "K-1" to "K-9", "L", "L-1" to "L-9", "M", "M-1" to "M-9", "N", "N-1" to "N-9", "O", "O-1" to "O-9", "P", "P-1" to "P-9", "Q", "Q-1" to "Q-9"; For SB-19-CRM-0006 and SB-19-CRM-0008: Exhibits "R", "R-1", "S", "S-1", "S-2", "T", "T-1", "T-2", "U", "V", "W", "X", "Y", "Z", "Z-1" to "Z-8", "AA", "AA-1" to "AA-8", "BB", "BB-1" to "BB-8", "CC", "CC-1" to "CC-8", "DD", "DD-1" to "DD-8", "EE", "EE-1" to "EE-8", "FF", "FF-1" to "FF-8", "GG", "GG-1" to "GG-8", "HH", "HH-1" to "HH-8", "II", "II-1" to "II-8", "JJ", "JJ-1" to "JJ-8", "KK", "KK-1" to "KK-8", "LL", "LL-1" to "LL-8", "MM", "MM-1" to "MM-8", "NN", "NN-1" to "NN-8", "OO", "OO-1" to "OO-8", "PP", "PP-1" to "PP-8", "QQ", "QQ-1" to "QQ-8"; For all cases: Exhibits "RR", "SS", "TT", "TT-1" to "TT-4", "UU", "VV", "WW", "XX", "ZZ", "ZZ-1" to "ZZ-42", "AAA", "AAA-1", "AAA-



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2", "BBB", "CCC", "GGG", and "GGG-1" to "GGG-5. This Court also granted the ex parte motion to remark Exhibit "BB" to Exhibit "BBB"

Subsequently, accused Ampatuan filed a Motion seeking leave to file a demurrer to evidence dated October 6, 2020. When given time (Minutes, October 9, 2020), the prosecution filed its Opposition dated October 21, 2020. After evaluating the arguments raised, this Court ruled to deny the Motion for lack of merit (Resolution, November 11, 2020).

Trial on the merits continued.

The first defense witness for accused Datu Sajid Islam U. Ampatuan was **Norudin S. Utto**, the former Chairman of the Barangay Development Council.

Although his direct testimony was suppose to be made through his sworn Judicial Affidavit dated April 20, 2021, to principally prove his duties and functions as *Barangay* Captain of *Barangay Bakat*, Maguindanao, the disasters or emergencies that befell the said *barangay* in the year 2009 and that Maguindanao distributed foodpacks, relief goods, fertilizers, and seeds to evacuees, calamity victims and farmers within *barangays* of Datu Saudi Ampatuan, Maguindanao, his testimony was dispensed with after the parties agreed to stipulate on the following: (a) that there is no written record of the names of the recipients of the relief goods and other items mentioned in his sworn Judicial Affidavit; (b) that the said witness has no knowledge as to the source of the funds that were used to purchase the said relief goods; and, (c) that the relief goods and other items were distributed in response to the *barangay* officials' requests after their *barangays* were affected by flood and armed conflict (Order, May 14, 2021).

The parties likewise agreed to adopt the aforementioned stipulations on the intended testimonies of the other witnesses for accused Ampatuan, namely: (1) Andamen M. Tending; (2) Mutin T. Rajah Pandalat; and, (3) Faisal M. Elian. Hence, the presentation of these three intended witnesses was dispensed with (Order, *ibid.*).

Thereafter, accused Ampatuan presented **Racma P. Sangguyod**. Her testimony was likewise dispensed with after the parties agreed to stipulate on the following: (1) that the

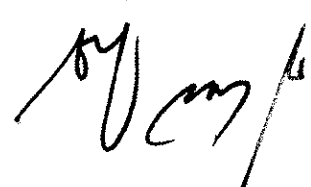
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witness was employed in the Province of Maguindanao as Administrative Assistant VI in the Office of the Human Resource Management from 2008 to 2009; (2) that, in December 2009, the Human Resource Management Office was ransacked and the Provincial Capitol Building was closed and taken over by the Philippine National Police (PNP) and the military; and, (3) that the witness has no inventory list of the items alleged to have been lost during the closure of the Human Resource Management Office (Order, May 31, 2021).

The next witness for accused Ampatuan was **Omar E. Sissay**. His testimony was also dispensed with after the parties agreed to stipulate on the following: (1) that the witness was appointed as Administrative Officer IV (SG15/1) in a temporary capacity at the Office of the Provincial Governor, Province of Maguindanao, beginning January 1, 2007 and remained at the same position in 2009; (2) that the witness personally knows and has worked for accused Datu Sajid Islam U. Ampatuan, the latter being the then elected Vice-Governor of Maguindanao; (3) that the witness transmits documents for the signature of the accused to the Office of the Provincial Governor, Maguindanao, but when he is unavailable, another member of the staff performs this task; (4) that the witness will testify that he is among the few trusted employees of the accused in the Provincial Capitol of Maguindanao; and, (5) that, on the occasions that the witness brings documents for accused Ampatuan's signature, he never witnessed said accused using a rubber stamp to affix his signature nor does he know anyone who had been authorized to do so in the said accused's behalf (Order, June 2, 2021).

Defense witness **Sadrudin Alegria Masukat** was then called to testify for accused Ampatuan. His testimony was also dispensed with after the parties agreed to stipulate on the following: (1) that he was the former Officer-In-Charge (OIC)/Municipal Treasurer of Datu Saudi Ampatuan, Maguindanao in the year 2009; (2) that as OIC Treasurer of the said Municipality, he happened to receive relief packs, medicine, and some agricultural products and turned-over the same to the *Punong Barangays* of *barangay* beneficiary; (3) that disasters or emergencies befell some *barangays* of Datu Saudi Ampatuan, Maguindanao, Province of Maguindanao in the years 2008 and 2009; and (4) that the Province of Maguindanao distributed food packs, relief goods, fertilizers and seeds to evacuees, calamity victims and



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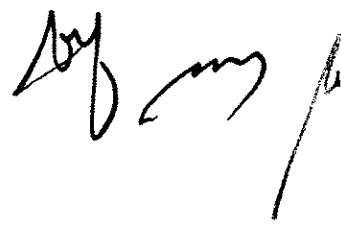
farmers within the *barangays* of Datu Saudi Ampatuan, Maguindanao, Province of Maguindanao; (5) that the disasters or emergencies referred to are armed conflict and flooding; (6) that Masukat, the witness, did not present any list of the items received and also the list of recipients of the items; and, (7) that the witness has no knowledge of the source of the funds used in procuring the items distributed among the different *barangays* (Order, July 5, 2021).

The last defense witness for accused Ampatuan was **Childa Chavez**, a member of the Questioned Documents Examination Division of the PNP. She was allowed to testify as an expert (Order, October 13, 2021). Her direct testimony was made through her sworn Judicial Affidavit dated February 19, 2022.

She narrated that she conducted her initial document examination on November 23, 2021 at the COA–Central Office in Quezon City, accompanied by a co-employee from the PNP, a legal staff from the counsel of accused Ampatuan, and a prosecutor from the Office of the Ombudsman. They were brought to a room where the documents for examination were located. She brought with her a magnifying lens and a Canon DSLR digital camera with a macrolens, explaining the purposes for each.

Expert witness Chavez narrated the procedure she followed beginning with determining whether the questioned documents to be examined are original documents and whether the signatures appearing thereon are natural handwriting, not e-signatures, rubber-stamped or machine generated signatures. Thereafter, the questioned documents were placed under a magnifying glass and marked as follows: “Q-1” to “Q-59” (Exhs. “5” to “63”). She then took a picture of the signatures thereon using the Canon DSLR digital camera with macro-lens, to preserve the signatures for the continuation of her examination in her office. This included the printing of the signatures and comparing them with the specimen signatures.

She added that she examined fifty-nine (59) documents and photographed the signatures thereon (Exhs. “64” to “122”), and compared them with the specimen signatures (Exhs. “123” to “136”) submitted by accused Ampatuan. These same signatures were enlarged (Exhs. 137” to “154”).

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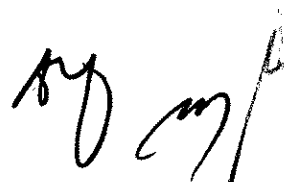
Thereafter, expert witness Chavez examined the specimen signatures by studying the manner of execution, line quality, skill, stroke structure and other individual handwriting characteristics to determine if these were written by one and the same person. These same specimen signatures were marked as "S-1" to "S-18" and then compared with the questioned signatures. She added that she was able to compare eighteen (18) specimen signatures of accused Ampatuan from different documents.

Based on her scientific comparative examination and analysis of the questioned signatures allegedly of accused Ampatuan marked as "Q-1" to "Q-59" with the submitted standard signatures submitted by accused Ampatuan marked as "S-1" to "S-18", it appears that there are divergence in the manner of execution, line quality, skill, stroke structure and other individual handwriting characteristics.

She emphasized that, in the questioned signatures, the manner of execution is moderate, revealing pen stops and pen lifts found in unusual places. However, in the standard specimen signatures, although executed also in a moderate manner, the pen stops and pen lifts were found in usual places.

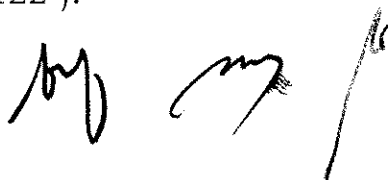
Furthermore, the line qualities in the questioned signatures are poor while in the standard specimen signatures, the line qualities are good. On the skill of the writer to write letters, the questioned signatures reveal that the writer possesses a low skill in writing a signature, while on the standard specimen signatures, the writer possesses a high ability in writing a signature. She also found divergences in the stroke structure in the series of lines within a single letter.

Expert witness Chavez then enumerated the significant differences she discovered in her examinations, to wit - - (a) the number "1" in the questioned signature marked "Q-1" represents the initial stroke of the signature and that initial strokes are blunt, while the number "1" in the standard signature forms a tic or hitch. A hitch is a backward introductory stroke that can be seen in the initial or the terminal stroke, while a tic is a dot or added ink deposited on that particular initial stroke. It appears that it stopped before it went up; (b) the number "2" marked in "Q-1" refers to the

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loop. In the questioned signature, the loop marked as number "2" is elongated and shows hesitation. There is awkwardness in the execution. In the standard signatures, the number "2" represents the loop which is semi-angular and it looks like a bow and smoothly written; (c) the marked number "3" represents the space between the upward and the downward stroke. In the questioned signature, the spaces between the upward and the downward stroke are narrow compared to the standard or specimen signature, which is wider; (d) the marked number "4", represents multiple strokes. The multiple strokes appearing on the questioned signatures marked as number "4" are long while the multiple strokes on the specimen signatures are short; (e) On the marking number "5" representing the upper portion of a letter "S", the questioned signature shows hesitation and is inflated at the top portion, while the standard signatures have good curvature; (f) the number "6" marking is the lower projection or the double loop. The double loop is elongated and both sides of the loop are semi-angular compared to the arrow "6" of the standard or specimen signatures, where the double loop are semi-rounded in both sides. (g) mark number "7" refers to a small letter "A" at the center of the signature. In the questioned signature, the upper portion of the letter "A" is closed, more or less, at the twelve o'clock position and looks like a small letter "d" and bigger in size, while the upper portion of the standard signature is closed at more or less the two o'clock position and it is continuously written; (h) for the terminal stroke marked as number "8", it is long in the questioned signature but is short on the specimen signature; (i) number "9" represents the upper projection or the loop. In the questioned signature, the upper portion forms a loop, similar to the upper portion of the small letter "f", while in the specimen signature, it formed a letter "P" pointed at the top; (j) For marked number "10", the questioned document reveals that the lower portion of the stroke are continuously going upward without any disconnection from the next letter or strokes, while the specimen signatures looks like the letter "J" and the end of the stroke tic before it goes upward; and (k) the marking number "11" on questioned document refers to the terminal stroke of the signatures. The terminal strokes pertain to a hitch pointed at the left side of the signatures, while in the standard signatures, there is no hitch but it is a stroke of the signature and is blunt or forms a short hitch pointed upward. In addition, there were also numbers "1" to "11" marked by witness to the documents "Q-2" to "Q-59" (Exhs. "65" to "122").



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After her examination, expert witness Chavez issued her Report No. 052-21 (Exh. "155") dated January 24, 2022 and submitted it to her superior, Leynet V. Aguila. She concluded that - -

The questioned signatures of DATU SAJID ISLAM UY AMPATUAN marked as "Q-1" to "Q-59" inclusive, appearing in the above-mentioned documents and the submitted standard signatures of Datu Sajid Islam Uy Ampatuan marked as "S-1" to "S-18" inclusive, WERE NOT WRITTEN BY ONE AND THE SAME PERSON.

During cross-examination, expert witness Chavez testified that the standard signatures, in its original form, appears on the originals of the Community Tax Certificate and PhilHealth ID submitted by a staff of accused Ampatuan. She also testified that she knew that the examination she will conduct pertains to a falsification case involving documents containing 59 questioned signatures signed in 2009. However, none of the standard specimen signatures were derived from documents dated earlier than 2009. Only eight (8) standard specimen signatures came from documents dated 2015 and above or six (6) years after 2009. He emphasized that under the Citizens Charter of the PNP Crime Laboratory, the requirement for signature identification and examination is the submission of eight (8) documents, showing at least eight (8) signatures signed five (5) years before and after the execution of the deed containing the questioned signature.

She, thereafter, substantially reiterated her findings in her Report (Exh. "155") dated January 24, 2022 and claimed that her reports are 99.99% accurate with some room for typographical errors.

On re-direct examination, expert witness Chavez admitted that, although she required accused Ampatuan or his representative to submit documents executed five (5) years before and after, specifically dated 2009, she was however told by the staff of accused Ampatuan that they cannot comply because accused Ampatuan was already in prison then.

Expert witness Chavez further testified that the submitted specimen signatures (S-1 to S-18) were written by one and the same person. Based thereon, specifically those from 2008 onwards, there is natural variation on the

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specimen signatures. She added that the 5-year requirement is only for the purpose of determining whether there is a yearly change in the signature. However, herein the signatures from S-1 to S-18 were smoothly written and only had natural variations. She again substantially reiterated her findings in her Report.

On re-cross examination, expert witness Chavez further restated her testimony focusing on her findings anew.


When queried by the Court, expert witness Chavez substantially reiterated her testimony. She maintained that even many years had passed, the habits or characteristics of the penmanship of the signature subsists. She likewise cited particular signatures that were written by one and the same person, particularly in Exhibits "5" to "63"; "137" to "154"; and, "64" to "122".

Expert witness Chavez further narrated that she stored the photographs of the questioned signatures in a thumb drive and had them enlarged and printed at Photo Digital Concept.

She likewise explained that when one lifts a pen, it is a pen lift, while a hesitation is when the writer stops on a particular place then continues. She added that a hesitation is similar to an ink blot, depending on the pen used. When a person hesitates, the pen remains on the paper thus creating a blot. She distinguishes them by stating that a hesitation is shaky while an ink blot can be found in different places and that when there are several ink blots, then there can be hesitation. Thus, hesitation cannot be determined by a single ink blot.

Likewise, if the writer of the particular signature is educated, he can sign with rhythm, legibly, and with smoothness on the particular signature. However, one with a low writing ability skill cannot legibly execute the same signature.

She also reiterated that the percentage of reliability in these cases is 99.9%, but the average is 80% to 85%. She however admitted that some of the factors that can contribute to the 80 to 85% average reliability are, namely: scientific examination, psychological state of the one signing,

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succession of documents presented for signature, difference in the examiners' findings, and the requesting party.

Thereafter, **Monib T. Usman** was called to the witness stand as a witness for accused Guiabel. His direct testimony was by way of his sworn Judicial Affidavit dated June 30, 2021.

Witness Usman testified that he is familiar with the name of accused Mosibicak Guiabel because the latter was previously appointed as Provincial Agriculturist when the former was appointed as Division Chief.

He further testified that the project involving fertilizers, *palay* seeds and other inputs to be supplied by Tamoni Enterprises is worth P150 million. He recalled that Sonny Akil, the Administrative Assistant in the Provincial General Services Office (PGSO) was tasked to prepare the documentation for the said project and had them signed by the different provincial officials concerned. However, when Sonny Akil brought these documents to the office of accused Guiabel, he heard the latter say: *Kunin mo eto at hindi ko pirmahan*. Akil returned a few days later, but accused Guiabel still refused to sign them. He further narrated that Gov. Ampatuan, Sr. (+), together with armed men, went to the office of accused Guiabel to demand that the same documents be signed by accused Guiabel. After the group left, accused Guiabel said: *Ano pa magagawa ko? Nilagay na niya yung .45 sa taas ng papel at sabi pa niya, ano man, pipirma ka o ito na ang tatapos sa iyo?*

Witness Usman further admitted that they were all afraid at that time and that it was public knowledge that, although accused Ampatuan was the Governor, still, the decision of his father, Datu Andal Ampatuan, Sr. (+) prevailed. He knew that accused Guiabel refused to sign the documents because of the doubtful work of the finance personnel, specifically, Provincial Accountant Dollosa, Provincial Treasurer Bandilla and Provincial Budget Officer, Datuali Abpi Al Haj.

During cross-examination, witness Usman clarified that he was appointed Supervising Agriculturist in 2008; that sometime between 2008 and 2009, he knew of a project between the province of Maguindanao and the DAR; that he was unable to read the Memorandum of Agreement (MOA)



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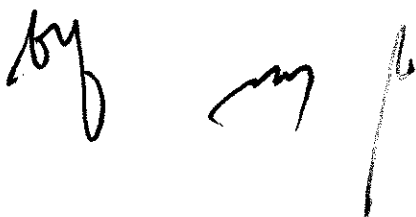
relating to it; that the participation of his Office was limited only to the preparation of proposals for the consideration and approval of Gov. Ampatuan, Sr. (+); that his Office had no part in the actual implementation of the project; that he was seated about five (5) meters away from the office of accused Guiabel during the earlier narrated signing incident; that, although there was a divider, the door of the office of accused Guiabel remained open the whole time, so he heard everything; that he assumed that accused Guiabel signed the documents under duress or intimidation; that no report was made to the law enforcement agency, such as the NBI or PNP; that he does not know if the incident was reported by accused Guiabel to the DAR; that the intimidation only occurred once; that no other incident similar to it happened even when accused Ampatuan was already governor; and, that he knew that the COA was conducting a special audit in the province of Maguindanao.

On re-direct examination, witness Usman admitted that he will not report a similar incident of intimidation if he ever witnessed one because he was afraid for his life.

When questioned by this Court, witness Usman clarified that the two and half inches thick bundle of documents brought by Sonny Akil to the office of accused Guiabel were disbursement vouchers and that accused Guiabel refused to sign them because the alleged fertilizers and *palay* seeds were never delivered.

In describing the narrated signing incident that occurred in the office of accused Guiabel, witness Usman further narrated that he saw, from the open door, the late Ampatuan Sr. (+) placing a .45 caliber pistol on top of a bunch of documents while asking accused Guiabel to sign them. He also saw accused Guiabel sign the documents in front of the late Ampatuan Sr. (+), who left even before accused Guiabel could finish signing all the documents. Akil returned the following days to get all the signed documents.

Although it was already the turn of accused Abpi to present his witnesses, he manifested, through counsel, that he will no longer present a witness. Instead, accused Abpi will adopt all the evidence presented by his co-accused (Order, April 20, 2022).

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Thereafter, accused Ampatuan submitted his Formal Offer of Documentary Evidence with Motion to re-mark exhibits dated April 29, 2022. For his part, accused Abpi adopted the Formal Offer of Exhibits of co-accused Ampatuan (Minutes, May 31, 2022). After accused Guiabel filed his separate Formal Offer of Evidence with *ex-parte* Motion to mark exhibits dated April 28, 2022 and with the Consolidated Comment/Opposition dated June 10, 2022 of the prosecution, this Court ruled (Minutes, June 30, 2022) as follows

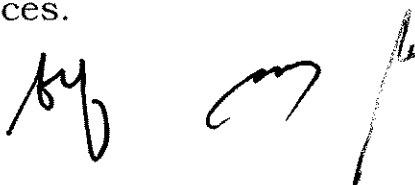
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Resolved to partially grant the said motion of accused Ampatuan insofar as Exhibits "12", "13", "15" and "16" are re-marked as Exhibits "156", "157", "159", and "160", respectively; and to admit accused Ampatuan's Exhibits "1" "1-A", "2" to "129", "130", "130-A", "131", "131-A", "131-B", "132" to "154", "155", "155-A", "155-B", "155-C", "156", "157", "159" and "160"; and accused Guiabel's Exhibits "27-C" (Exh. "AA-3"), "28-C" (Exh. "BB-3"), "29-C" (Exh. "CC-3"), "30-C" (Exh. "DD-3"), "31-C" (Exh. "EE-3"), "32-C" (Exh. "FF-3"), "33-C" (Exh. "GG-3"), "34-C" (Exh. "HH-3"), "35-C" (Exh. "II-3"), "36-C" (Exh. "JJ-3"), "37-C" (Exh. "KK-3"), "38-C" (Exh. "LL-3"), "39-C" (Exh. "MM-3"), "40-C" (Exh. "NN-3"), "41-C" (Exh. "OO-3"), "42-C" (Exh. "PP-3"), "43-C" (Exh. "QQ-3"), "44", "44-A", "44-B", "44-C", "44-D", "44-E", "44-F", "44-G", "44-H", "44-I", "44-J", "44-K", "44-L", and "44-M".

From the evidence submitted by the parties, this Court found the following relevant facts - -

These four consolidated cases stem from the special audit conducted by the Special Audit Team (SAT) of the Commission on Audit (COA) on the Province of Maguindanao (Maguindanao) and the selected component municipalities of the Autonomous Region of Muslim Mindanao (ARMM) on February 2010 to January 2011, relative to transactions for the period from January 2008 to September 2009.

After the conduct of the special audit, the SAT released its Special Audit Office Report No. 2010-02 (Exh. "UU") dated July 1, 2011, showing that, during the period covered by the special audit, the Department of Agrarian Reform (DAR) transferred a total of P150 million to the account of Maguindanao intended for the implementation of the *Ginintuang Masasaganang Ani* (GMA) rice and corn program, and cropping enhancement and production/farm inputs and substances.



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The transfer of P50 million was made by virtue of a Memorandum of Agreement (MOA) (Exh. "A") notarized on September 8, 2008, signed by the then DAR Secretary Nasser C. Pangandaman and the then accused Provincial Governor Datu Andal S. Ampatuan, Sr. (+). The remaining P100 Million was covered by another MOA (Exh. "R") notarized on June 15, 2009, signed this time by the then DAR Undersecretary Narciso B. Nieto and the then accused Provincial Governor Datu Sajid Islam Uy Ampatuan.

Of the said P150 million, P148.250 million was granted as cash advances to accused Provincial Treasurer Bandila for the procurement of fertilizers, *palay* and corn seeds. As appearing in the Liquidation Reports and Disbursement Vouchers (Exhs. "J" to "Q" and "AA" to "QQ", respectively), it was discovered that the said items were purchased from Tamoni Enterprises and paid in cash, as evidenced by receipts. However, after an ocular inspection was conducted on and verification made with the supplier, Tamoni Enterprises, its owner, Herbert Tamoni, denied having any transaction with Maguindanao involving millions of pesos.

It was also revealed that, around eight o'clock in the evening of June 7, 2009, representatives from Maguindanao visited Herbert Tamoni and demanded that he issue receipts under threat. Additionally, it was also discovered that the financial capacity of Tamoni Enterprises to supply fertilizers, *palay* and corn seeds in the amount of P148.250 million was questionable considering that, per the records of the Municipality of Esperanza, it only had a capitalization of P200,000.00, and a reported gross receipts of P1.8 million for the year 2009 and P800,000.00 each for the years 2007 and 2008.

Aside from the foregoing, the SAT findings also revealed that the purchases of fertilizers, *palay* and corn seeds were made without the benefit of a public bidding in violation of Republic Act No. 9184, otherwise known as the Government Procurement Act. Moreover, these purchases were not supported by documents that are required before resorting to the other alternative mode of procurement, including negotiated procurement, such as a certificate of state of calamity/conflict and a resolution from the provincial board.

Furthermore, the Disbursement Vouchers (Exh. "AA" to "QQ", all dated June 8, 2009 and Exhs. "J" to "Q", all dated October 20,



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2008), particularly from the receipts of Tamoni Enterprises, showed that the purchases were paid in cash. Likewise, there were no inspection and acceptance reports submitted to support the alleged deliveries to Maguindanao. Neither was there proof or supporting documents to show these items reached the intended users or beneficiaries. There was also no certificate of project completion as required by the MOAs and that several Notices of Disallowance (Exhs. "VV"; "WW") were issued on December 28, 2011.

On the other hand, the main defense of the accused, particularly accused Ampatuan, was that the signatures appearing on the documents submitted by the prosecution, namely: disbursement vouchers, purchase requests, and purchase orders, relative to the alleged procurement of fertilizers, *palay* and corn seeds, were not his signatures.

Although this Court allowed accused Ampatuan to present witness Chavez to testify as an expert, the prosecution noted that he did not raised this forgery issue when he appealed the Notices of Disallowance and the Report of the Special Audit Team and that the same defense witness was unable to examine all the documents presented by the prosecution but only those included in the Judicial Affidavit of expert witness Chavez. Furthermore, the specimen signatures were not compliant with the "five-year before and five-year after" requirement under the Citizens Charter of the PNP Crime Lab for signature identification.

Although accused Ampatuan presented witnesses Utto and Masukat, they however testified that there is no written record of the names of the recipients of the relief goods and that they had no knowledge as to the source of the funds used to purchase the said relief goods.

Witnesses Sangguyod and Sissay were also presented to support the cause of accused Ampatuan. However, their testimonies were only limited to the fact that the human resources office was ransacked in December 2009 and that they never witnessed accused Ampatuan use a rubber stamp to affix his signature or knew anyone who was authorized to do so.

For their respective parts, accused Guiabel mainly focused on his being threatened by the accused Governor Ampatuan Sr. (+) into signing the voluminous documents,

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specifically the disbursement vouchers pertaining to the purchase of fertilizers, *palay* and corn seeds. While accused Abpi did not present any witness and instead adopted the evidence presented by his co-accused.

As underscored earlier, only accused Ampatuan, Guiabel and Abpi proceeded to trial, hence, are the only ones subjects of this Decision.

On the other hand, accused John Estelito G. Dollosa, Jr., the Provincial Accountant, and Osmena M. Bandila, the Provincial Treasurer, Canvassing Officer and BAC Member, remain at large. While the cases against accused Engr. Landap P. Guinaid, the Provincial Engineer and BAC Member; accused Kasan I. Macapendeg, the PGSO Head and BAC Chairman; and, accused Engr. Norie K. Unas, the Provincial Administrator and BAC Member, were dismissed due to their respective deaths (Minutes, June 3, 2019).

We now rule.

**Criminal Cases Nos.
SB-19-CRM-0005 and
SB-19-CRM- 0006**

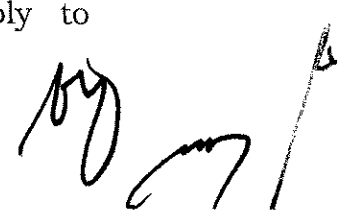
Criminal Case No. SB-19-CRM-0005 indicts accused Guiabel and Abpi while Criminal Case No. SB-19-CRM-0006 charges accused Ampatuan, Guiabel and Abpi, all for violations of Section 3 (e) of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, as amended.

Let us revisit the provision - -

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

(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 though manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to



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officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

As may be gleaned from the above, the elements of the offense are as follows - - (1) 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 gross 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 (Cambe vs. Ombudsman, G.R. No. 212014-15, December 6, 2016, citing Presidential Commission on Good Government vs. Navarro-Gutierrez, G.R. No. 194159, October 21, 2015).

The first element is undisputed and was in fact admitted (Pre-Trial Order, November 8, 2019).

At the time material to these cases, accused Ampatuan was the Officer-in-Charge of the Province of Maguindanao, performing the duties and functions of the Provincial Governor while accused Guiabel and accused Abpi were the Provincial Agriculturist and Provincial Budget Officer/BAC member, respectively, thus, all public officers discharging their respective official and administrative functions as such.

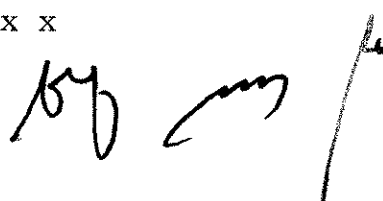
Particular to accused Ampatuan, Section 465 of the Local Government Code enumerates the powers and duties of a provincial governor, to wit - -

SECTION 465. The Chief Executive: Powers, Duties, Functions, and Compensation. - (a) The provincial governor, as the chief executive of the provincial government, shall exercise such powers and perform such duties and functions as provided by this Code and other laws.

(b) For efficient, effective and economical governance the purpose of which is the general welfare of the province and its inhabitants pursuant to Section 16 of this Code, the provincial governor shall:

(1) Exercise general supervision and control over all programs, projects, services, and activities of the provincial government, and in this connection, shall:

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(vi) Represent the province in all its business transactions and sign in its behalf all bonds, contracts, and obligations, and such other documents upon authority of the Sangguniang Panlalawigan or pursuant to law or ordinance;

x x x

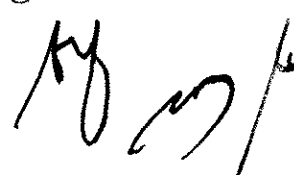
Likewise, when accused Ampatuan, representing the Province of Maguindanao, entered into the Memorandum of Agreement (MOA) (Exh. "R") notarized on June 15, 2009 with the Department of Agrarian Reform (DAR) for the transfer of P100 million intended for the implementation of the Cropping Enhancement and Production/Farm Inputs and Substances and approved the pertinent Disbursement Vouchers all dated June 8, 2009 (Exhs. "AA" to "QQ") for the procurement of the fertilizers, *palay* and corn seeds, he exercised his general supervision and control as OIC-Provincial Governor of Maguindanao.

On the second element, a violation of Section 3 (e) of R. A. No. 3019 may be committed in three (3) modes, namely manifest partiality, evident bad faith or gross inexcusable negligence. These are not separate offenses and proof of the existence of any of these three (3) in connection with the prohibited acts committed, is sufficient to convict (*Abubakar vs. People*, G.R. Nos. 202408, 202409 and 202412, June 27, 2018).

In *Uriarte vs. People* (G.R. No. 169251, December 20, 2006, (511 SCRA 471, 2006), the Supreme Court had the occasion to define these terms, to wit - -

x x x. There is "manifest partiality" when there is 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 of 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.

Pivotal in these cases is the determination of the existence of evident bad faith, manifest partiality or gross



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inexcusable negligence on the part of accused Ampatuan, Guiabel and Abpi, respectively, as alleged in the Informations.

In the instant cases, the alleged violation of Section 3 (e) of R. A. No. 3019 by accused Ampatuan, Guiabel and Abpi, basically hinges on the act of purchasing fertilizers, *palay* and corn seeds from Tamoni Enterprises through negotiated procurement, without complying with the requirements for the resort to this alternative mode, thereby evading the conduct of competitive public bidding.

At the outset, it is imperative to return to the applicable laws and rules, particularly, Section 10, Article IV of Republic Act (R.A.) No. 9184 or the Government Procurement Reform Act. It mandates that all procurement shall be done through competitive public bidding, except as provided for in Article XVI of the same Act.

A competitive public bidding aims to protect public interest by giving it the best possible advantages through open competition. It is precisely the mechanism that enables the government agency to avoid or preclude anomalies in the execution of public contracts (*Rivera vs. People*, G.R. No. 156577, December 3, 2014, 749 Phil. 124, 145-146 (2014)).

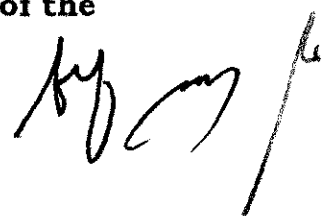
Strict observance of the rules, regulations, and guidelines of the bidding process is the only safeguard to a fair, honest, and competitive public bidding (*Office of the Ombudsman-Mindanao vs. Martel*, G.R. No. 221134, March 1, 2017).

However, alternative modes of procurement are allowed under R.A. No. 9184 but only in highly exceptional cases and under the conditions set forth in Article XVI thereof. One of these alternative modes of procurement is negotiated procurement, which, pursuant to Section 53 of R. A. No. 9184, may be availed of by the procuring entity only in the following instances, to wit - -

SEC. 53. Negotiated Procurement. – Negotiated Procurement shall be allowed only in the following instances:

(a) In cases of two failed biddings, as provided in Section 35 hereof;

(b) In case of imminent danger to life or property during a state of calamity, or when time is of the



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essence arising from natural or man-made calamities or other causes where immediate action is necessary to prevent damage to or loss of life or property, or to restore vital public services, infrastructure facilities and other public utilities;

- (c) Take-over of contracts, which have been rescinded or terminated for causes provided for in the contract and existing laws, where immediate action is necessary to prevent damage to or loss of life or property, or to restore vital public services, infrastructure facilities and other public utilities;
- (d) Where the subject contract is adjacent or contiguous to an on-going infrastructure project, as defined in the IRR: x x x; or
- (e) Subject to the guidelines specified in the IRR, purchases of Goods from another agency of the Government. x x x (*bold ours*)

Thus, negotiated procurement can be resorted to if it can be shown that: (a) there is an existing emergency; (b) there is a prior approval to resort to negotiated procurement; and, (c) the chosen supplier is technically, legally and financially capable.

In this connection, Section 23.6 of the IRR-A of R.A. No. 9184 requires, among others, that the supplier must have: (a) a valid business or mayor's permit; (b) a valid Bureau of Internal Revenue (BIR) taxpayer's identification number; and (c) a Department of Trade and Industry business name registration, or a Securities and Exchange Commission registration certificate.

Hence, to justify the resort to an alternative mode of procurement as an exception to the general rule of public bidding, proof of compliance with the aforesaid requisites becomes crucial.

Herein, accused Ampatuan, Abpi and Guiabel conspired with one another to evade the conduct of a public bidding.

It is undisputed that Maguindanao did not conduct a public bidding for the purchase of fertilizers, *palay* and corn seeds. Instead, it resorted to negotiated procurement by directly negotiating with a supplier, Tamoni Enterprises, that



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was not even proven to be technically, legally and financially capable.

This was justified, albeit erroneous, by indicating unspecified emergencies without any certifications of their existence.

Moreover, although Tamoni Enterprises possesses the necessary permits, its financial capacity to supply the fertilizers, *palay* and corn seeds remains doubtful. This could be seen from the undated Reply Schedule (Exh. "CCC"), provided by the Municipality of Esperanza, stating that the supplier, Tamoni Enterprises, was issued a business permit with a capitalization of only P200,000.00 and gross receipts of P800,000.00 and P1.8 million in 2008 and 2009, respectively.

Furthermore, during the ocular inspection conducted by the Special Audit Team (SAT), the declared business address of Tamoni Enterprise was also the residence of its owner, and there were no stocks of fertilizers, *palay* or corn seeds thereat, enough to supply the P148 million allegedly procured by Maguindanao.

Taken together, there is clearly evident bad faith and manifest partiality to favor the supplier, Tamoni Enterprises.

On the other hand, gross negligence is the negligence characterized by the want of even slight care, acting or omitting to act, in a situation where there is a duty to act, not inadvertently but willfully and intentionally with a conscious indifference to consequences in so far as other persons may be affected. It is the omission of that care which even inattentive and thoughtless men never fail to take on their own property (Ferrer, Jr. vs. People, G.R. No. 240209, June 10, 2019).

Guided by this definition, this Court is not persuaded by the claims advanced by the defense. It cannot likewise merely brush aside the glaring irregularities in the subject transactions, particularly in the absence of vital documents, such as liquidation reports, the acceptance and inspection reports, certification of receipt of deliveries of said goods, and more importantly, the list of beneficiaries, all in the hands of the accused. Instead, the accused, particularly accused Ampatuan, insisted, in refutation, that the signatures

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appearing in Disbursement Vouchers Nos. 400-2009-06-48 to 400-2009-06-65 (Exhs. "AA" to "QQ", respectively) were not his.

In addition, the documents clearly reveal that payments made to the supplier, Tomani Enterprises, were made in cash, secured through cash advances, as certified to by accused Bandila, being the then Provincial Treasurer and approved by accused Ampatuan himself.

COA Circular No. 97-002 dated February 10, 1997, allows the payment of cash for transactions not exceeding P15,000.00. However, each transaction herein involved amounts ranging from P2.5 million to P7.7 million, a far cry from the allowable threshold.

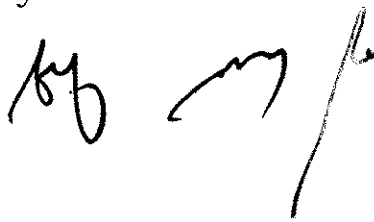
Undoubtedly, these badges of fraud and bad faith have convinced this Court that there was a grand scheme of simulating purchases to cause undue injury to the government in the amounts of P49,999,993.15 and P98,269,850.00.

Additionally, accused Ampatuan, being the approving authority of the purchase orders, purchase requests and disbursement vouchers, cannot escape criminal liability by simply claiming that his signatures on these documents were forged, despite the overwhelming and independent proof that the subject transactions were simulated.

This Court remembers the Government Auditing Code of the Philippines (Section 2, Presidential Decree No. 1445, June 11, 1978) when it states that - -

It is the declared policy of the State that all resources of the government shall be managed, expended or utilized in accordance with law and regulations, and safeguard against loss or wastage through illegal or improper disposition, with a view to ensuring efficiency, economy and effectiveness in the operations of government. **The responsibility to take care that such policy is faithfully adhered to rests directly with the chief or head of the government agency concerned.** *(bold ours)*

The same Code, particularly Section 102 thereof, emphasizes that - - It is the head of any agency of the government that has the immediate and primary responsibility for all government funds and property pertaining to his agency.



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Clearly, accused Ampatuan, being the Provincial Governor, is primarily responsible in ensuring that the provisions of pertinent laws and regulations are strictly complied with. This duty does not require mere affixing ones signatures but rather entails the exercise of discretion.

Also, it should be noted that, by entering into a MOA with the DAR, and representing the Province of Maguindanao, accused Ampatuan is further tasked with duties and responsibilities relative to the transactions subject of the MOA. This does not end by merely affixing his signature. It extends to having oversight powers and control in its implementation until its ultimate completion.

Citing the MOA, it states - -

The LGU shall:

- (1) Act as the administrator of the project by receiving the funds and oversee the implementation x x x;
- (2) Prepare financial reports, x x x;
- (3) Ensure that the proposed beneficiaries of the project are among the CARP beneficiaries;

x x x

(8) Provide the DAR with necessary audited financial reports as to the disbursement of funds and physical accomplishment of the Project being implemented;

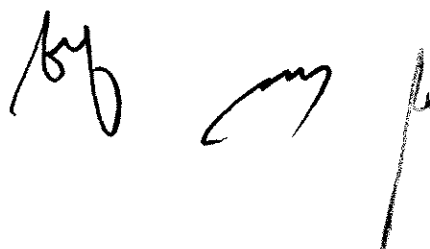
(9) Submit Certificate of Project Completion and Acceptance of the Project being implemented;

(10) Ensure that the funding must be strictly used for the purpose for which the fund is allocated;

(11) Comply with all laws and regulations applicable to fund disbursements, accounting and auditing, and procurement policies and rules.

Thus, he must make himself aware of the progress of the project, especially considering that the amount of public funds involved is in the millions.

On the charge against accused Abpi, it must be underscored that this is based not only for his being a Provincial Budget Officer but also as a member of the Bids and Awards Committee (BAC) during the time material to these cases.



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Recalling, Section 12 of the 2009 Implementing Rules and Regulations (IRR) of R.A. No. 9148, enumerates the functions of the BAC, to wit - -

Sec. 12. Functions of the BAC. – The BAC shall have the following functions: advertise and/or post the invitation to bid, conduct pre-procurement and pre-bid conferences, determine the eligibility of prospective bidders, receive bids, conduct the evaluation of bids, undertake post-qualification proceedings, recommend award of contracts to the Head of the Procuring Entity or his duly authorized representative: Provided, That in the event the Head of the Procuring Entity shall disapprove such recommendation, such disapproval shall be based only on valid, reasonable and justifiable grounds to be expressed in writing, copy furnished the BAC; recommend the imposition of sanctions in accordance with Article XXIII, and perform such other related functions as may be necessary, including the creation of a Technical Working Group from a pool of technical, financial and/or legal experts to assist in the procurement process.

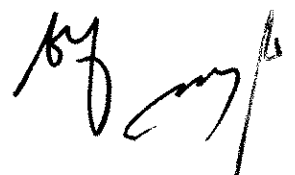
In proper cases, the BAC shall also recommend to the Head of the Procuring Entity the use of Alternative Methods of Procurement as provided for in Article XVI hereof.

The BAC shall be responsible for ensuring that the Procuring Entity abides by the standards set forth by this Act and the IRR, and it shall prepare a procurement monitoring report that shall be approved and submitted by the Head of the Procuring Entity to the GPPB on a semestral basis. The contents and coverage of this report shall be provided in the IRR. (*bold ours*)

At the risk of being repetitive, R.A. No. 9184 requires that the BAC must sufficiently justify the resort to any alternative mode of procurement through a resolution.

However, nothing supports the resorting to a negotiated procurement, other than the Abstract of Bids (Exhs. “J-6”; “K-6”; “L-6”; “M-6”; “N-6”; “O-6”; “P-6” and “Q-6”) respectively dated September 18; 19; 19; 16; 18; 18; 17 and 18, 2008, containing the approval of the BAC of its recommendation by the requisitioner, accused Guiabel.

Neither was there a certification of the presence of a state of calamity, whether man-made or otherwise, to justify an emergency purchase. Likewise, there appears no record compliance with a pre-bid conference, written invitations to



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observers, and posting of the Invitation to Apply for Eligibility to Bid (IAEB).

Evidence is thus sufficient to find the BAC members, including accused Abpi, to have grossly disregarded the laws and rules and manifestly remiss in their duties to strictly observe the directives of RA 9184, resulting, as it did, to cause undue injury to the government.

Of note is the case of Field Investigation Office vs. Piano, (G.R. No. 215042, November 20, 2017), where the Supreme Court held that the affixing of signatures by the committee members are not mere ceremonial acts but proofs of authenticity and marks of regularity.

On the part of accused Guiabel, being the Provincial Agriculturist and Requisitioner, the charge against him basically hinges on his signing the undated Purchase Orders (Exhs. "J-5"; "K-5"; "L-5"; and "M-5") and those respectively dated September 23, 2008 (Exh. "N-5"), September 29, 2008 (Exh. "O-5"), September 23, 2008 (Exh. "P-5") and September 25, 2008 (Exh. "Q-5"), unjustifiably recommending the resort to negotiated procurement to the BAC and eventually approving the same, as shown in the Abstract of Bids, respectively dated September 18, 2008 (Exh. "J-6"); September 19, 2008 (Exh. "K-6"); September 19, 2008 (Exh. "L-6"); September 16, 2008 (Exh. "M-6"); September 18, 2008 (Exh. "N-6"); September 18, 2008 (Exh. "O-6"); September 17, 2008 (Exh. "P-6"); and, September 18, 2008 (Exh. "Q-6"). This act of accused Guiabel is contrary to the mandates of the R.A. No. 9184.

Had the BAC members diligently performed their avowed duty of conducting competitive public bidding, by complying with the initiatory procurement processes, instead of merely relying on the recommendation of the requisitioner, no illegal disbursements of public funds would have resulted. It must be remembered that a requisitioner is not a part of the BAC.

This Court is thus morally convinced that the totality of the acts of the accused carved a grand scheme of simulating purchases, with each accused contributing their respective parts in achieving their ultimate criminal end, namely: accused Guiabel for unjustifiably recommending the resort to alternative mode of negotiated procurement and signing the purchase requests and purchase orders for unspecified emergencies; accused Abpi for recommending to accused



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Ampatuan, the HoPE, to resort to negotiated procurement in order to unlawfully favor supplier Tamoni Enterprises, despite the absence of the necessary certifications and compliance with proper procedures; and, accused Ampatuan for blindly approving the recommendation of the BAC and disbursing public funds in favor of the said supplier, despite the lack of an inspection and acceptance report, and proof of deliveries.

This calls to mind *Jaca vs. People* (G.R. Nos. 166967, 166974, 167167, January 28, 2013), where the Supreme Court ruled, to wit - -

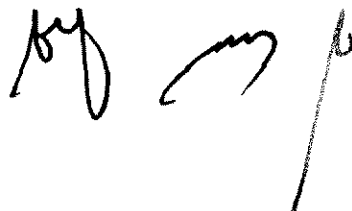
x x x it bears stressing that the separate acts or omissions of all the accused in the present case contributed in the end result of defrauding the government. Without anyone of these acts or omissions, the end result would not have been achieved. **Suffice it to say that since each of the accused contributed to attain the end goal, it can be concluded that their acts, taken collectively, satisfactorily prove the existence of conspiracy among them.** *(bold ours)*

On the last 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* - this Court finds its existence.

Consistent in jurisprudence are the two (2) ways by which a public official violates Section 3 (e) of R.A. 3019 in the performance of his functions, namely: (a) by causing undue injury to any party, including the Government; or (2) by giving any private party any unwarranted benefit, advantage or preference.

The accused may be charged under either mode or both. The disjunctive "or" connotes that the two modes need not be present at the same time. In other words, the presence of one would suffice for conviction.

Further, the term "undue injury" in the context of Section 3 (e) of RA 3019 has a meaning akin to that civil law concept of "actual damage" (*Coloma, Jr. vs. Sandiganbayan*, G.R. No. 205561, September 24, 2014).



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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 (Cedeño vs. People, G.R. No. 193020, 193040-42 & 193349-54, November 8, 2017).

It is an undeniable conclusion that undue injury was suffered by the government in the total amount of over P148 million (P49,999,993.15 and P98,269,850.00) when by the concerted actions of accused Abpi, in relying on the recommendation of accused Guiabel, and accused Ampatuan, in causing the disbursement of the said public funds without any proof that the supplies procured were actually delivered and received by the beneficiaries.

The insistence of accused Ampatuan that his signatures on the pertinent documents were forged deserves scant consideration.

Critical in the signature comparison conducted by the expert witness is that the specimen signatures provided by accused Ampatuan did not come from issuing government agencies themselves. Likewise, only two of the documents subjected to comparison were dated 2009, while the rest were dated 2015 onwards, contrary to the acceptable five-year-before and five-year-after rule.

This could be seen from the clarificatory questions propounded by the Court on expert witness Chavez (pp. 48-68, TSN, March 21, 2022), to wit - -

AJ MORENO:

Let us go to the questioned documents. Ma'am, what is the procedure for getting the specimen signature in your PNP Manual? How you should get specimen signature?

Witness:

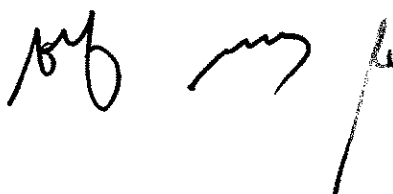
The specimen signature should be submitted in our office.

Q: Submitted.

A: Yes, Your Honor.

Q: Are you not supposed to be the one who should take the signatures from reliable government agencies?

A: No, Your Honor.

Three handwritten signatures in black ink, likely belonging to the court members, are written at the bottom of the page.

X-----X

Q: So they will just be submitted to you?

A: Yes, Your Honor.

Q: Pursuant to what Manual, if you can cite?

A: It was submitted in our office.

Q: No no, I'm after the basis. Why does PNP allow filing or submission of standard signatures? What is the basis? Is there a Manual? x x

A: In our Manual, Your Honor, it was stated there that the specimen signature should be submitted.

x x x

Q: So having been in the PNP for a closed to 21 years, at least you could cite to us the provision. x x

A: Yes, Your Honor.

x x x

Q: x x x. The accused was the one who submitted - Actually, it was not the accused. It was a mere representative of the accused, correct?

A: Yes, Samir is the one who submitted it in our office.

Q: Who is Samir?

A: The staff of Ampatuan, I think, Your Honor.

x x x

Q: Do you agree with me that there is nothing in the Manual allowing that a Questioned Document be compared with a document submitted by the accused himself. Yes or no?

A: No, Your Honor.

Q: There is?

A: There is no specific provision.

Q: Allowing your office to accept documents from the accused?

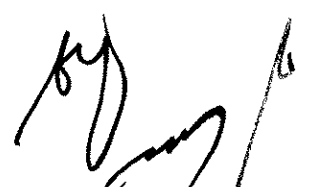
A: Yes, Your Honor. x x x

x x x

Q: Landbank, PNB, DBP, GSIS. Do you think would it be more credible had you been to these offices to look for the original of this Notice of Assumption to Office, yes or no?

A: Yes, Your Honor. x x x

Furthermore, expert witness Chavez even admitted that she did not individually examine the specimen signatures.

A handwritten signature in black ink, appearing to be 'Jy' followed by a stylized flourish and a vertical line.

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She merely concluded that the signatures were written by one and the same person, and different from the one who signed the subject Disbursement Vouchers.

Expert witness Chavez further testified in this wise (pp. 73-74, TSN, March 21, 2022) - -

AJ MORENO: Exhibits "137" to "154" written by one person but different person from the one who signed the disbursement vouchers?

Witness: Yes, Your Honor.

Q: Where is your finding about these documents shown to you, the specimen signatures, containing your findings that they were written by one and the same person? Is there in the report?

A: Not one by one, Your Honor, "S-1" to "S-8".

Q: So you did not examine them one after another, you just have made the general conclusion that they were written by one and the same person?


A: That is our format in our office, Your Honor.

Q: Format again. So where can we find that format in your Manual?

A: I cannot— We have the format in our Manual, Your Honor.

It must be remembered that the authenticity of a signature, though often the subject of proffered expert testimony, is a matter that is not so highly technical as to preclude a judge from examining the signature himself and ruling upon the question of whether the signature on a document is forged or not. It is not as highly technical as questions pertaining to quantum physics, topology or molecular biology. A finding of forgery does not depend exclusively on the testimonies of expert witnesses as judges can and must use their own judgment, through an independent examination of the questioned signature, in determining the authenticity of the handwriting (*Belgica vs. Belgica*, G.R. No. 149738, August 28, 2007, 558 Phil 67-76).

On the allegation of conspiracy, it is a well-settled definition that conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it (Article 8, Revised Penal Code, as amended). Conspiracy is not presumed.

A handwritten signature in black ink, consisting of stylized, cursive letters that appear to be 'M' and 'C' followed by a long, sweeping flourish.

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Like the physical acts constituting the crime itself, the elements of conspiracy must be proven beyond reasonable doubt. While conspiracy need not be established by direct evidence, for it may be inferred from the conduct of the accused before, during and after the commission of the crime, all taken together, however, the evidence must be strong enough to show the community of criminal design. For conspiracy to exist, it is essential that there must be a conscious design to commit an offense. Conspiracy is the product of intentionality on the part of the cohorts (*Bihilidad vs. People*, G.R. No. 185195, March 17, 2010).

In sum, this Court holds that, with the totality of the evidence presented, it was satisfactorily established that the elements for a violation of Sec. 3 (e) of R.A. No. 3019 exist and that accused Ampatuan, Al Haj and Guiabel are guilty as charged.

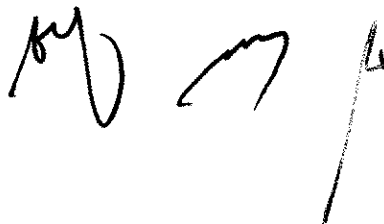
**Criminal Cases Nos.
SB-19-CRM-0007 and
SB-19-CRM- 0008**

Criminal Case No. SB-19-CRM-0007 indicts accused Guiabel and Abpi, while Criminal Case No. SB-19-CRM-0008 charges accused Ampatuan, Guiabel and Abpi, for the complex crime of malversation through falsification of public documents as described in Articles 217 and 171, par. 2, in relation to Article 48, of the Revised Penal Code, as amended.

Article 217 reads - -

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

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

Handwritten signature and initials in black ink, consisting of a stylized 'M' followed by a checkmark-like symbol and a vertical line.

X-----X

Malversation may be committed by appropriating public funds or property; by taking or misappropriating the same; by consenting, or through abandonment or negligence, by permitting any other person to take such public funds or property; or by being otherwise guilty of the misappropriation or malversation of such funds or property (Pondevida vs. Sandiganbayan, G. R. Nos. 160929-31, August 16, 2005, 467 SCRA 219, 241-242).

The essential elements common to all acts of malversation are as follows - - (1) That the offender be a public officer; (2) That he had the custody or control of funds or property by reason of the duties of his office; (3) That those funds or property were public funds or property for which he was accountable; and, (4) That he appropriated, took, misappropriated or consented, or through abandonment or negligence, permitted another person to take them (Legrama vs. Sandiganbayan, G. R. No. 178626, June 13, 2012, 687 Phil. 253-266).

On the other hand, Article 171 provides - -

ART. 171. *Falsification by public officer, employee or notary or ecclesiastic minister.* - The penalty of *prision mayor* and a fine not to exceed P5,000 pesos shall be imposed upon any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts:

1. Counterfeiting or imitating any handwriting, signature or rubric;

2. Causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate;

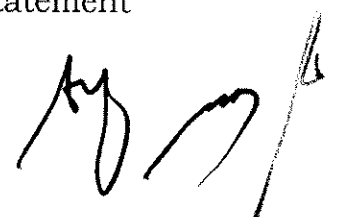
3. Attributing to persons who have participated in an act or proceeding statements other than those in fact made by them;

4. Making untruthful statements in a narration of facts;

5. Altering true dates;

6. Making any alteration or intercalation in a genuine document which changes its meaning;

7. Issuing in an authenticated form a document purporting to be a copy of an original document when no such original exists, or including in such a copy a statement



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contrary to, or different from, that of the genuine original;
or

8. Intercalating any instrument or note relative to the issuance thereof in a protocol, registry, or official book. (*bold ours*)

On the other hand, Article 171, par. 2, provides for the following elements, namely: (1) the offender is a public officer or employee or notary public; (2) the offender takes advantage of his official position; and, (3) he or she falsifies a document by causing it to appear in a document that person or persons have participated in an act or a proceeding; and (4) that such person or persons did not in fact so participate in the act or proceeding.

For malversation, the first element is undisputed.

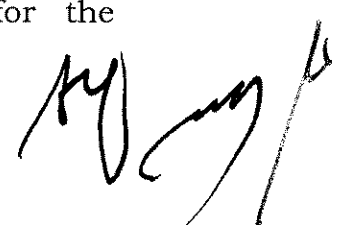
Accused Ampatuan, Guiabel and Abpi were all public officers at the time material to these cases. This was admitted by them during the pre-trial proceedings (Pre-Trial Order, November 8, 2019).

On the second element of malversation, particularly related to Crim. Case No. SB-19-CRM-0007, it becomes inevitable that while the charges against former Provincial Governor Datu Andal S. Ampatuan, Sr. (+) were dismissed owing to his demise, a determination of his accountability for the charge of malversation of public funds through falsification of public documents still becomes necessary only to establish, in a limited extent, the criminal liabilities of accused Guiabel and Al Haj, who are also charged in conspiracy with him.

In Crim. Cases Nos. SB-19-CRM-0007 and 0008, there is no doubt that Provincial Governors Ampatuan, Sr. (+), and accused Ampatuan, are considered accountable officers in control of public funds pursuant to Sec. 340 of the Local Government Code and as enunciated in the case of Manuel vs. Sandiganbayan (665 SCRA 266, 284, February 8, 2012).

Section 340 states:

Persons Accountable for Local Government Funds. - Any officer of the local government unit whose duty permits or requires the possession or custody of local government funds shall be accountable and responsible for the



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safekeeping thereof in conformity with the provisions of this Title. Other local officers who, though not accountable by the nature of their duties, may likewise be similarly held accountable and responsible for local government funds through their participation in the use or application thereof.

Local government officials become accountable public officers either (1) because of the nature of their functions; or (2) on account of their participation in the use or application of public funds.

Additionally, Provincial Governors Ampatuan, Sr. (+) and accused Ampatuan were considered local chief executives during the time material to their respective cases. As such, Sec. 102 of the Government Auditing Code of the Philippines becomes relevant, to wit - -

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

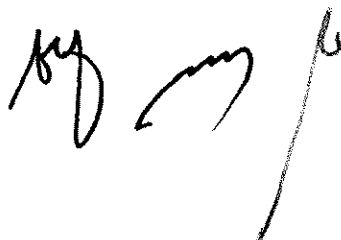
We also remember *Escobar vs. People* (G.R. No. 205576, November 20, 2017) where the Supreme Court ruled that public officials whose signatures are necessary for the disbursement of funds are accountable officers.

Thus, accused Guiabel, being the requisitioning officer for the purchase of fertilizers, *palay* and corn seeds, in his capacity as Provincial Agriculturist, and as signatory of the subject Purchase Orders, Purchase Requests and Disbursement Vouchers, had control of the funds used for the payment of said purchases, hence, accountable therefor.

Although accused Guiabel claims that he was forced to sign the pertinent documents, through his witness, Monib T. Usman, this cannot be given sufficient weight. Even accused Guiabel himself did not testify to support his claim despite an opportunity to do so.

Duress being an affirmative allegation must be proved by clear and convincing evidence (*Philippine National Bank vs. Pasimio*, 769 SCRA 70 (2015)).

The third element is also present.

A handwritten signature in black ink, appearing to be a stylized 'M' followed by a flourish and a vertical line.

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Undoubtedly, funds subject of these cases were sourced from the Department of Agrarian Reform (DAR), by virtue of two Memoranda of Agreements (MOA), directing its use for the GMA Rice and Corn Program, and Cropping Enhancement and Production/Farm Inputs and Substances.

On the last element - *That he appropriated, took, misappropriated or consented, or through abandonment or negligence, permitted another person to take them* - this also exists.

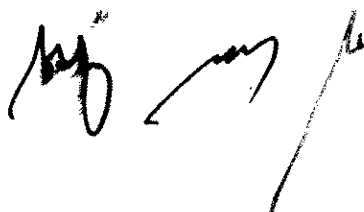
Sufficient evidence exists that the public funds totalling to P49,999,993.15 and P98,249,850.00, respectively, allegedly for the purchase of fertilizers, *palay* and corn seeds from Tamoni Enterprises, did not occur. Tamoni Enterprises did not receive any amount from Maguindanao.

Furthermore, by signing and approving the disbursement of public funds covered by Disbursement Vouchers Nos. 400-2009-06-48 to 400-2009-06-65 (Exhs. "AA" to "QQ") for the purchase of fertilizers, *palay* and corn seeds without any supporting documents to prove not only compliance with the procurement process but also receipt of the items by Maguindanao and the intended beneficiaries, shows the deliberate intent of both accused Ampatuan and accused Guiabel to misappropriate the said public funds.

In *Legrama vs. Sandiganbayan* (G.R. No. 178626, June 13, 2012), the Supreme Court explained the burden of proof in malversation cases, thus:

In malversation of public funds, the prosecution is burdened to prove beyond reasonable doubt, either by direct or circumstantial evidence, that the public officer appropriated, misappropriated or consented, or through abandonment or negligence, permitted another person to take public property or public funds under his custody. Absent such evidence, the public officer cannot be held criminally liable for malversation. Mere absence of funds is not sufficient proof of conversion; neither is the mere failure of the public officer to turn over the funds at any given time sufficient to make even the *prima facie* case.

In fine, conversion must be proved. However, an accountable officer may be convicted of malversation even in the absence of direct proof of misappropriation so long as there is evidence of shortage in his account which he is unable to explain.



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We note that the prosecution further used as basis to buttressed its cause, the supposed denial by the owners of Tamoni Enterprises, the supplier, of their involvement in the subject purchases. As a matter of fact, both owners of Tamoni Enterprises executed a sworn Affidavit of Denial describing their non-involvement in the said purchase transactions involving millions of public funds.

The accused, for their part, failed to provide evidence that will support the alleged deliveries of the supplies allegedly procured as well as the actual receipt by the intended beneficiaries, at least, through an inspection and acceptance report or a certificate of project completion, among others. These documents are readily available if they indeed existed.

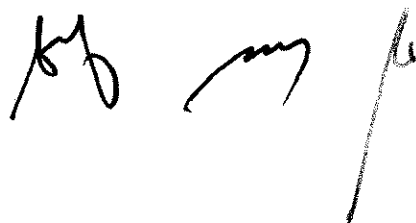
This Court further noted a similar defense of forgery raised by accused Ampatuan in Crim. Case No. SB-19-CRM-0006.

Under the Rules of Court, the genuineness of a handwriting may be proven by the following:

- (1) A witness who actually saw the person writing the instrument;
- (2) A witness familiar with such handwriting and who can give his opinion thereon, such opinion being an exception to the opinion rule;
- (3) A comparison by the court of the questioned handwriting and admitted genuine specimen thereof; and
- (4) Expert evidence.

The law makes no preference, much less distinction among and between the different means stated above in proving the handwriting of a person (*Lopez vs. Court of Appeals*, No. L-31494, 23 January 1978, 81 SCRA 153, 162). It is likewise clear from the foregoing that courts are not bound to give probative value or evidentiary value to the opinions of handwriting experts, as resort to handwriting experts is not mandatory (*Domingo vs. Domingo*, G.R. No. 150897, April 11, 2005, 495 PHIL 213-222).

Thus, this Court finds that the testimony of the handwriting expert is hardly conclusive and binding as earlier discussed.



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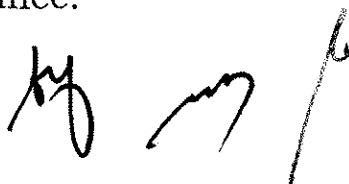
Finally, the Court finds that the accused Datu Ali Abpi Al Haj could not be held criminally liable for the crime charged in the dual Informations for the complex crime of malversation through falsification of public documents (Crim. Cases Nos. SB-19-CRM-0007 and SB-19-CRM-0008) considering that there was no proof of his participation in the disbursement process *per se*. Further, accused Abpi did not sign or intervene in any of the documents cited in the said criminal cases.

WHEREFORE, premises considered, judgment is rendered in the following manner - -

In **Criminal Case No. SB-19-CRM-0005**, this Court finds accused Mosibicak Guiabel and Datu Ali Abpi Al Haj **GUILTY** beyond reasonable doubt of violation of Section 3 (e) of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, as amended. They are each sentenced to suffer an indeterminate penalty of imprisonment ranging from **eight (8) years and one (1) month, as minimum, to twelve (12) years, as maximum**. They shall likewise be perpetually disqualified to hold any public office.

In **Criminal Case No. SB-19-CRM-0006**, this Court finds accused Datu Sajid Ampatuan, Mosibicak Guiabel and Datu Ali Abpi Al Haj **GUILTY** beyond reasonable doubt of violation of Section 3 (e) of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, as amended. They are each sentenced to suffer an indeterminate penalty of imprisonment ranging from **eight (8) years and one (1) month, as minimum, to twelve (12) years, as maximum**. They shall likewise be perpetually disqualified to hold any public office.

In **Criminal Case No. SB-19-CRM-0007**, this Court finds accused Mosibicak Guiabel **GUILTY** beyond reasonable doubt of the complex crime of malversation through falsification of public documents and sentences him to suffer the penalty of ***reclusion perpetua*** and to pay a fine equivalent to the amount malversed, as alleged in the Information. He is further ordered to pay, as restitution, the same amount, as alleged in the subject Information, to the Government, through the Bureau of Treasury, with interest of six percent (6%) per annum from the finality of this Decision, until fully paid. He shall likewise be perpetually disqualified to hold any public office.



X-----X

In **Criminal Case No. SB-19-CRM-0008**, this Court finds accused Datu Sajid Ampatuan and Mosibicak Guiabel **GUILTY** beyond reasonable doubt of the complex crime of malversation through falsification of public documents. They are each sentenced to suffer the penalty of **reclusion perpetua** and to pay, jointly and severally, a fine equivalent to the amount malversed, as alleged in the Information. They are further ordered to, jointly and solidarily, pay, as restitution, the same amount, as alleged in the subject Information, to the Government, through the Bureau of Treasury, with interest of six percent (6%) per annum from the finality of this Decision, until fully paid. They shall likewise be perpetually disqualified to hold any public office.

In **Criminal Case No. SB-19-CRM-0007** and **Criminal Case No. SB-19-CRM-0008**, accused Datu Ali Abpi Al Haj is hereby **ACQUITTED** for failure of the prosecution to prove his guilt beyond reasonable doubt.

The Hold Departure Orders issued against accused Datu Ali Abpi Al Haj in Criminal Case No. SB-19-CRM-0007 and SB-19-CRM-0008 are hereby ordered **RECALLED** and **SET ASIDE**. His bail bonds secured for his provisional liberty are hereby ordered **RELEASED** subject to the usual accounting and auditing procedures.

Send a copy of this Decision to the Bureau of Immigration for their appropriate action.

Considering that accused Dollosa and accused Bandila remain at large, despite outstanding warrants for their arrest, send the instant cases to **ARCHIVES** subject to revival upon their arrest.

In the meantime, let the appropriate *alias* warrants for the arrest of accused Dollosa and accused Bandila be **ISSUED** forthwith.

SO ORDERED.



BERNELITO R. FERNANDEZ
Associate Justice



X-----X

We concur:

AMPARO M. CABOTAJE-TANG

Presiding Justice/Chairperson

RONALD B. MORENO

Associate Justice

ATTESTATION:

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

AMPARO M. CABOTAJE-TANG

Chairperson, Third Division

Presiding Justice

CERTIFICATION

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

AMPARO M. CABOTAJE-TANG

Presiding Justice