



Republic of the Philippines

Sandiganbayan

Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-10-CRM-0220

For: Violation of Section 3(e) of
Republic Act No. 3019, as amended

- versus -

Present

FERNANDEZ, SJ, J.

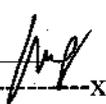
Chairperson

MIRANDA, J. and

VIVERO, J.

**GERRY JOVILLA MORALES,
ROSELLER NAZARENO
MACAYRA, EMERITOS
MORALES JOVILLA,
FRANCISCO SERRA JIMENEZ, JR.,
REYMUNDO MANDAWA ESCAMILLAN,
and DONALD BANIEL VILLADEMOSA.**
Accused.

Promulgated:

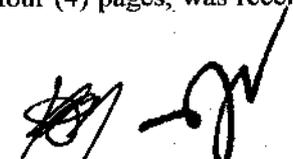
June 9, 2021 

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RESOLUTION

VIVERO, J.:

This resolves the *Manifestation with Motion (To amend clerical error in the Decision dated 26 August 2020) dated May 21, 2021,*¹ which was filed *via e-mail* on May 24, 2021 by accused Reymundo 

¹ Accused's Manifestation with Motion, consisting of four (4) pages, was received *via e-mail* by the Sandiganbayan on May 24, 2021. 

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Mandawe Escamillan.² Accused-movant seeks the amendment of the *fallo* of said Decision³ in order to reflect his middle name, as stated in the caption thereof. He describes the *erratum* in this wise:

"2. x x x. [T]he middle name of the accused in the dispositive portion included the middle name 'Macayra' which is the surname of a co-party.

"3. Accused Escamillan . . . manifests that his middle name is '**MANDAWE**' and not '**MACAYRA**'. Accused Escamillan was only able to notice the said clerical error upon his application for the release of the posted bail bond. He likewise had difficulty with the processing of his records with the New Bilibid Prison.

x x x"⁴ (Emphasis Supplied.)

The Court now resolves.

A definitive final judgment, however erroneous, is no longer subject to change or revision.⁵ Elsewise stated, a judgment that lapses into finality becomes immutable and unalterable.⁶ The primary consequence of this principle is that the judgment may no longer be modified or amended by any court in any manner even if the purpose of the modification or amendment is to correct perceived errors of law or fact. This principle known as the doctrine of immutability of judgment is a matter of sound public policy, which rests upon the practical consideration that every litigation must come to an end.⁷



² *Ibid.*

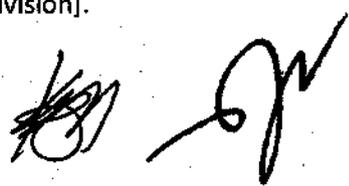
³ The Decision was promulgated on August 26, 2020 *via* video conference hearing in the presence of accused Donald B. Villademoso and his counsel *de parte*.

⁴ *Supra*, Note 1 at p. 2.

⁵ *Mocorro, Jr. v. Ramirez*, G.R. No. 178366, July 28, 2008, 560 SCRA 362, 372-373 [J. Velasco, Jr., Second Division].

⁶ *National Housing Authority v. Court of Appeals*, G.R. No. 173802, April 7, 2014, 731 Phil. 400, 405-406 [Per J. Perlas-Bernabe, Second Division].

⁷ *Id.* at 405.



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The rationale behind the rule was further explained in ***Social Security System v. Isip***,⁸ to wit:

"The doctrine of immutability and inalterability of a final judgment has a two-fold purpose: (1) to avoid delay in the administration of justice and thus, procedurally, to make orderly the discharge of judicial business and (2) to put an end to judicial controversies, at the risk of occasional errors, which is precisely why courts exist. Controversies cannot drag on indefinitely. The rights and obligations of every litigant must not hang in suspense for an indefinite period of time."⁹

The doctrine of immutability of judgment, however, is not an ironclad rule.¹⁰ It is subject to several exceptions, namely:

- 1) Correction of clerical errors;
- 2) *Nunc pro tunc*¹¹ entries which cause no prejudice to any party;
- 3) Void judgments; and
- 4) Whenever circumstances transpire after the finality of the decision rendering its execution unjust and inequitable.¹²

⁸ G.R. No. 165417, April 4, 2007, 549 Phil. 112 (2007) [Per J. Corona, En Banc], citing *Ginete, et al. v. Court of Appeals*, 357 Phil. 36 (1998).

⁹ *Id.* at 116.

¹⁰ *FGU Insurance Corporation (Now, BPI/MS Insurance Corporation v. Regional Trial Court of Makati City, Branch 66*, G.R. No. 161282, February 23, 2011, 659 Phil. 117, 123 [Per J. Mendoza, Second Division].

¹¹ "*Nunc pro tunc*" is a Latin phrase that means "now for then." (*Go v. Echavez*, 765 Phil. 410, 423 (2015) [Per J. Brion, Second Division]. A *nunc pro tunc* entry in practice is an entry made now of something which was actually previously done, to have effect as of the former date. Its office is not to supply omitted action by the court, but to supply an omission in the record of action really had, but omitted through inadvertence or mistake. (*Perkins v. Haywood*, 31 N. E., 670, 672).

¹² *Ibid*; *Filipino Legion Corporation v. Court of Appeals, Lentija, et. al.*, G.R. Nos. L-22364, L-28330, April 30, 1974, 155 Phil. 616, 631 [Per J. Muñoz Palma, First Division]; *One Shipping Corp., and/or One Shipping Kabushiki Kaisha/Japan v. Penafiel*, G.R. No. 192406, January 21, 2015 [J. Peralta, Third Division].

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In the present case, accused-movant claims the second exception, *i.e.*, that his motion is for the purpose of obtaining a *nunc pro tunc* amendment of the final and executory Decision of this Court.

Nunc pro tunc judgments have been defined and characterized by the Supreme Court in the following manner:

"The office of a judgment *nunc pro tunc* is to record some act of the court done at a former time which was not then carried into the record, and the power of a court to make such entries is restricted to placing upon the record evidence of judicial action which has been actually taken. **It may be used to make the record speak the truth, but not to make it speak what it did not speak but ought to have spoken. If the court has not rendered a judgment that it might or should have rendered, or if it has rendered an imperfect or improper judgment, it has no power to remedy these errors or omissions by ordering the entry *nunc pro tunc* of a proper judgment. Hence a court in entering a judgment *nunc pro tunc* has no power to construe what the judgment means, but only to enter of record such judgment as had been formerly rendered, but which had not been entered of record as rendered. In all cases, the exercise of the power to enter judgments *nunc pro tunc* presupposes the actual rendition of a judgment, and a mere right to a judgment will not furnish the basis for such an entry. (15 R. C. L., pp. 622-623.)**

"The object of a judgment *nunc pro tunc* is not the rendering of a new judgment and the ascertainment and determination of new rights, but is one placing in proper form on the record, the judgment that had been previously rendered, to make it speak the truth, so as to make it show what the judicial action really was, not to correct judicial errors, such as to render a judgment which the court ought to have rendered, in place of the one it did erroneously render, nor to supply non-action by the court, however erroneous the judgment may have been. (Wilmerding v. Corbin Banking Co., 28 South., 640, 641; 176 Ala., 268.)

[Handwritten signatures and initials]

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"X X X." ¹³ (Emphasis Supplied.)

The *Motion* is **meritorious**. Thence, a *nunc pro tunc* entry in the *fallo* of the Court's Decision is warranted. Good reasons undergird this, to wit:

- 1) This can be done without injustice or prejudice to either party;¹⁴
- 2) The error sought to be corrected was committed through inadvertence;¹⁵ and
- 3) The matter sought to be entered is supported by facts or visible data.¹⁶

From the above characterization of a *nunc pro tunc* judgment, it is clear that the relief sought by accused-movant through the *Manifestation with Motion* is within its purview.

The decretal portion of the Court's Decision¹⁷ in the companion case reads:

"WHEREFORE, premises considered, the Court finds accused GERRY JOVILLA MORALES, ROSELLER NAZARENO MACAYRA, EMERITOS MORALES JOVILLA and FRANCISCO SERRA JIMENEZ, JR. **GUILTY** beyond reasonable doubt of violation of Section 3(e) of R.A. 3019, as amended, and sentences each of them to suffer an indeterminate penalty of imprisonment for six (6) years, one (1) month, as minimum, to ten (10) years, as maximum, with perpetual disqualification from holding public office.

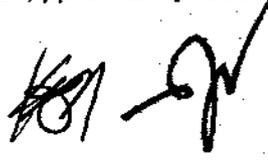
¹³ *Filipinas Palmoil Processing, Inc. and Dennis T. Villareal v. Dejapa*, G.R. No. 167332, February 7, 2011 [J. Peralta, Second Division].

¹⁴ 15 C.J., pp. 972 – 973.

¹⁵ *Briones-Vasquez v. Court of Appeals*, G.R. No. 144882, February 4, 2005 491 Phil. 81, 93 [Per J. Azcuna, First Division].

¹⁶ *Lichauco v. Tan Pho*, G.R. Nos. L-19511, L-19512, L-19595, November 21, 1923, 51 Phil. 862, 884 [Per J. Romualdez, En Banc].

¹⁷ Decision dated November 12, 2014, pp. 1 – 24 [J. Gesmundo] (Records, Vol. 2, pp. 354 – 377).



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They are likewise ordered to jointly and severally indemnify the government the amount of P101,086.37 as actual damage[s].

"Insofar as REYMUNDO MANDAWÉ ESCAMILLAN and RONALD B. VILLADEMOSA are concerned, since they are still at large up to the present, let the case be ARCHIVED and let an alias warrant of arrest issue against them.

"SO ORDERED." ¹⁸ (Emphasis and Underscoring Supplied.)

Further, the caption of this case,¹⁹ as well as the Amended Information²⁰ dated March 7, 2011,²¹ show beyond cavil that the

¹⁸ Id. at p. 22 – 23 (Records, Vol. 2, pp. 375 – 376).

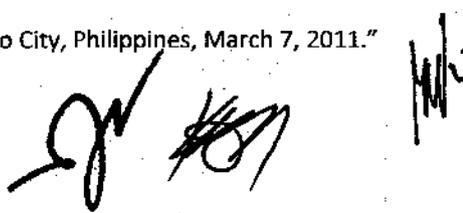
¹⁹ Decision dated August 26, 2020.

²⁰ The Amended Information is quoted verbatim thusly:

"That in the month of October 2002, or sometime prior or subsequent thereto, in the Municipality of Baganga, Davao Oriental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused **GERRY MORALES y JOVILLA**, a high-ranking official, being the Municipal Mayor; **ROSELLER MACAYRA y NAZARENO**, as Municipal Engineer; **EMERITOS JOVILLA y MORALES**, as Municipal Accountant; **FRANCISCO JIMENEZ y SERRA JR.**, as Municipal Treasurer; and **REYMUNDO ESCAMILLAN y MANDAWÉ**, as Canvasser and OIC-General Services Officer, all public officers of the Municipality of Baganga, Davao Oriental, conspiring and confederating with one another and with accused private citizen **DONALD B. VILLADEMOSA**, owner and proprietor of VILLTRADE MARKETING, Davao City, committing the crime herein charged in relation to and taking advantage of, their official functions, acting with **manifest partiality**, evident bad faith and gross inexcusable negligence, did then and there willfully, unlawfully and criminally cause undue injury to **the government and confer unwarranted benefits on DONALD B. VILLADEMOSA** by causing the release of the amount of **P 101,086.37**, in public funds, as contained in Check No. 52903 dated January 15, 2003, to accused DONALD B. VILLADEMOSA of VILLTRADE MARKETING as consideration for the purchase of ten (10) pieces of exterior tire with flap for the use of the Isuzu, V-10 Dt-04 despite the following facts known to the accused: first, that the disbursement was without the duly approved Purchase Order and the respective certifications as to the existence and validity of appropriation and availability of funds; second, that public bidding was not the mode of procurement; third, the Purchase Order was not signed by **both** accused Municipal Mayor GERRY MORALES y JOVILLA, in representation of the Municipality of Baganga, Davao Oriental and private accused DONALD B. VILLADEMOSA, **representative** of VILLTRADE MARKETING; and fourth, the supplied requisitioned and paid for by the Municipality of Baganga from private accused DONALD B. VILLADEMOSA were not delivered to the Municipality of Baganga, **thereby giving unwarranted benefits to said DONALD B. VILLADEMOSA and causing undue injury** to the government in the aforestated amount of **P 101,086.37**.

"CONTRARY TO LAW.

"Quezon City for Davao City, Philippines, March 7, 2011."



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middle name of accused Escamillan is "**MANDAWE,**" not "**MACAYRA**" as erroneously stated in the dispositive portion of the Court's Decision. To be sure, "**MACAYRA**" is the surname of his co-accused, Roseller Nazareno Macayra. Indeed, what is proved by record ought not to be denied (*Quod per recordum probatum, non debet esse negatum*).

The dispositive part of a decision contains the judgment of the court which is to be the subject of execution.²² Thus, it must be letter-perfect. Where there is ambiguity caused by an omission or mistake in the dispositive portion of a decision, the court may clarify such ambiguity by an amendment even after the judgment had become final, and for this purpose it may resort to the pleadings filed by the parties, the court's findings of facts and conclusions of law as expressed in the body of the decision.²³

Verily, the correction sought herein would set the record straight, thereby curing an ambiguity or rectifying a mistake the Court had inadvertently made when it referred to the accused as "**REYMUNDO MACAYRA ESCAMILLAN**". Resultantly, the dispositive portion of the Decision would conform with the dispositions made in the main body of the judgment insofar as the full name of the accused was concerned. In fine, the verdict is *mutatis mutandis* the same.

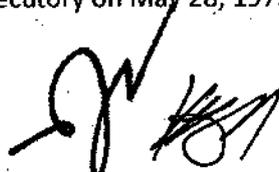
WHEREFORE, the motion of accused **REYMUNDO MANDAWA ESCAMILLAN** is **GRANTED**. Accordingly, the Decision dated August 26, 2020, of this Court in Criminal Case No. SB-10-CRM-0220 is **MODIFIED** in the sense that paragraph 1 of the dispositive portion, as amended, shall read:



²¹ Amended Information dated March 7, 2011, pp. 1 - 3 (Records, Vol. 1, pp. 286 - 288); TSN, February 7, 2017, p. 79.

²² *Roman Catholic Archbishop of Manila v. Director of Lands, et al.*, G.R. No. 11033, November 20, 1916 (35 Phil. 339, 351); *Philippine Sugar Institute v. Court of Industrial Relations, et al.*, L-18930, February 28, 1967 (19 SCRA 471, 480), citing *Neri Edwards, et al., v. Arce, et al.*, 52 O.G. 2537; *Government of the Phil. v. Jose Ramon y Vasquez, et al.*, 73 Phil. 669; *Contreras, et al. v. Felix, et al.*, 78 Phil. 570; *Jabon, et al. v. Alo, et al.*, 91 Phil. 750; *Robles, et al. v. Timario, et al.*, L-13911, April 28, 1960; *Segarra v. Maranilla*, L-14429, July 26, 1960.

²³ *Locsin v. Paredes, et al.*, 63 Phil. 87, 91, citing 34 C.J. 235, 236. See also *Republic of the Philippines, Tolentino Sr., et al. v. Hon. de los Angeles, et al.*, L-26112, October 4, 1971, 41 SCRA 422, which became final and executory on May 28, 1973.



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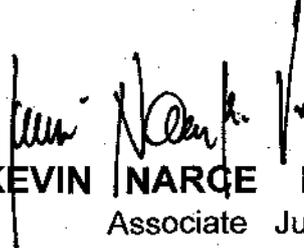
"1. Accused **REYMUNDO MANDAWE ESCAMILLAN** is **ACQUITTED**.

"Accordingly, the Court orders his immediate **RELEASE** from prison. Also, the Hold Departure Order against him is ordered **LIFTED AND SET ASIDE**. Further, the **RELEASE** of the bond for the present case is hereby ordered, subject to the usual accounting and auditing procedure.

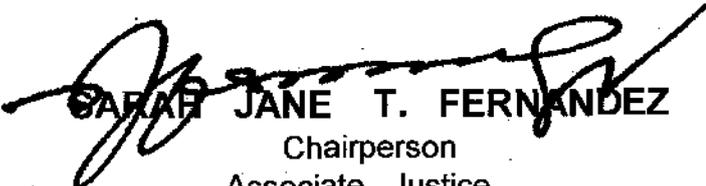
"X X X."

Let a copy of this Resolution be furnished immediately to the competent authority of the New Bilibid Prison (NBP), Muntinlupa City.

SO ORDERED.


KEVIN NARCE B. VIVERO
Associate Justice

We concur:


SARAH JANE T. FERNANDEZ
Chairperson
Associate Justice


KARL B. MIRANDA
Associate Justice