



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
QUEZON CITY

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

Criminal Case No. SB-
16-CRM-0780

For: *Violation of Section 3(e) of*
R.A. No. 3019

- versus -

JUDY JALBUENA SYJUCO, ET
AL.

Accused.

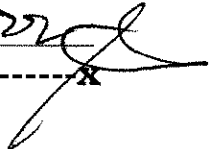
Criminal Case No. SB-
16-CRM-0781

For: *Malversation of Public*
Funds through
Falsification

Present:

CABOTAJE-TANG, P.J.,
Chairperson,
FERNANDEZ, B., J. and
MORENO, J.

Promulgated:

SEPTEMBER 1, 2022


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RESOLUTION

CABOTAJE-TANG, P.J.:

For resolution are the (1) "*Motion for Plea Bargaining (With Offer to Pay Civil Liabilities)*" dated January 7, 2022, filed by accused Judy Jalbuena Syjuco, and (2) "*Joint Motion to Approve*



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Attached Plea-Bargaining Agreement” dated July 21, 2022, subsequently filed by the prosecution and accused Syjuco.¹

THE MOTIONS

In her initial *Motion for Plea Bargaining*, accused Syjuco expressed her intention of availing of plea bargaining, as provided for under the Revised Rules of Court, in order to “conclude [the cases at bar] rather than to proceed with long drawn protracted and adversarial processes before the Sandiganbayan, and/or elsewhere in order that she may devote her remaining years in peace with those who matter to her most, her family.”² She averred that due to her age [at the filing of her motion, accused alleged that she is seventy-eight (78) years old] and several geriatric ailments such as recurrent falls, depression, anxiety, and mood irritability, there is a progressive deterioration of her mind and body which renders her mentally and physically unfit to attend and participate in court hearings.³ In addition to her deteriorating physical and mental health, accused Syjuco asserted that the evidence adduced against her is not sufficient to properly establish conspiracy between her and the other accused, as alleged in the *Informations* for the cases at bar. She also claimed that there is no proof that she received portions of the funds used in the transactions or in any way benefited therefrom. Accordingly, given the extant circumstances, she submitted that it would be

¹ pp. 424-482, Vol. XII, *Record* (SB-16-CRM-0780-81)

² p. 223, Vol. XII, *Record*

³ pp. 220-223, Vol. XII, *Record*

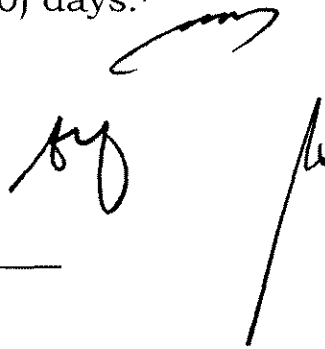
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in best interests of the State, the Court, and the accused to end the litigation at this stage.⁴

As part of her plea bargain, she offered to (1) withdraw her plea of not guilty in SB-16-CRM-0780 for a Violation of Section 3 (e) of R.A. No. 3019, and instead enter a plea of guilty to the lesser offense under Article 213, paragraph 1 of the Revised Penal Code, and (2) withdraw her plea of not guilty in SB-16-CRM-0781 to a count of Malversation of Public Funds through Falsification, and instead enter a plea of guilty to the lesser offense of Failure of Accountable Officer to Render Accounts under Article 218 the Revised Penal Code. She likewise offered to pay the civil liability imposable under Article 100 of the Revised Penal Code. In both offenses, she prayed for the imposition of a fine only.⁵

In its “*Comment with Ex Parte Motion to Suspend Proceedings*” dated March 7, 2022,⁶ the prosecution interposed no objection to the aforesaid motion and signified its intent to enter into a plea bargaining with accused Syjuco. To afford the parties time to negotiate the terms of the agreement as well as to secure the appropriate approvals for any such agreement, the prosecution prayed for the suspension of the proceedings for a period of thirty (30) days.⁷

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⁴ pp. 224-225, Vol. XII, *Record*

⁵ pp. 225-226, Vol. XII, *Record*

⁶ pp. 273-278, Vol. XII, *Record*

⁷ pp. 273-274, Vol. XII, *Record*

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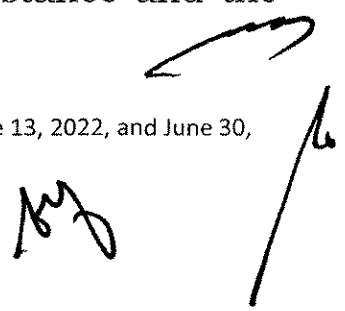
The Court granted the suspension of the proceedings for a period of thirty (30) days to give the parties time within which to conduct the plea bargaining negotiations. It ordered the parties to inform the Court of the results of their negotiations by April 6, 2022.⁸

After several extensions of the initial period granted by the Court for their plea bargaining negotiations,⁹ the parties filed on July 26, 2022 the *Joint Motion to Approve Attached Plea Bargaining Agreement*.¹⁰ In their agreement, the prosecution gave its consent to the accused entering a plea of guilty to:

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

- b. The lesser offense of ***Failure of Accountable Officer to Render Accounts*** under Article 218 of the Revised Penal Code in **SB-16-CRM-0781** with the penalty of fine, subject to the sound discretion of the Court to impose the penalty it may deem proper and to consider the absence of any aggravating circumstance and the

⁸ Resolution dated March 7, 2022, p. 280, Vol. XII, Record
⁹ See Resolutions promulgated on April 8, 2022, May 6, 2022, May 17, 2022, June 13, 2022, and June 30, 2022, pp. 352, 361, 371, 397, 404, Vol. XII, Record
¹⁰ pp. 424-482, Vol. XII, Record



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presence of the mitigating circumstances of voluntary surrender and full restitution;

Provided that accused Syjuco shall fully retribute first the amount of Five Million Nine Hundred Sixty Four Thousand Eight Hundred Fifty Nine Pesos and Nine Centavos (Php5,964,859.09) alleged in the *Informations* in SB-16-CRM-0780 to 0781 by paying the said amount to the cashier of the Sandiganbayan either in cash or Manager's Check payable to the Sandiganbayan and submit proof of payment to the Court before she shall be allowed to withdraw her earlier pleas of not guilty and enter anew a plea of guilty to the above-mentioned lesser offenses.¹¹

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

In support of their bid for approval, the parties contend that the requirements for plea bargaining have been complied with in these cases. *First*, the prosecution gave its consent to the offer to plea-bargain, after ascertaining, among others,

¹¹ p. 3, *Plea-Bargaining Agreement* dated June 1, 2022; p. 444, Vol. XII, *Record*



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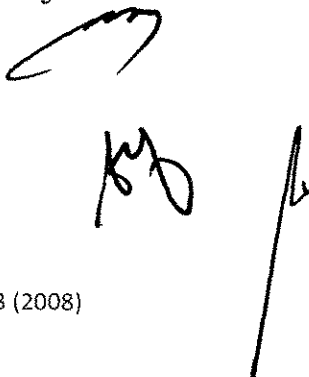
accused Syjuco's mental capacity to consent to the agreement.¹² The nominal complainant, the Field Investigation Office I (FIO I) of the Office of the Ombudsman, likewise interposed no objection to the plea agreement, albeit its consent was not necessary to the plea bargaining agreement since it is not the real offended party in the cases at bar.¹³ *Second*, the pleas of guilty by accused Syjuco are to lesser offenses which are necessarily included in the offenses charged.

THE RULING OF THE COURT

After due consideration, we find the *motions* meritorious.

Plea bargaining in criminal cases is defined as a process whereby the accused and the prosecution work out a mutually satisfactory disposition of the case, subject to the approval of the court.¹⁴ In our jurisdiction, plea bargaining is authorized by Section 2, Rule 116 of the Rules of Court which reads:

Section 2. Plea of guilty to a lesser offense. – At arraignment, the accused, with the consent of the offended party and the prosecutor, may be allowed by the trial court to plead guilty to a lesser offense which is necessarily included in the offense charged. After arraignment but before trial, the accused may still be allowed to plead guilty to said lesser offense after withdrawing his plea of not guilty. No amendment of the complaint or information is necessary.

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¹² pp. 426-430, Vol. XII, *Record*

¹³ pp. 428-430, Vol. XII, *Record*

¹⁴ *Daan v. Sandiganbayan*, 573 Phil. 368-383 (2008)

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For an accused to be allowed to plead guilty to a lesser offense, the concurrence of the following requirements is indispensable: (1) the plea of guilty to a lesser offense should be with the consent of the offended party and the prosecutor; and (2) the plea of guilty should be to a lesser offense which is necessarily included in the offense charged.¹⁵

Ordinarily, plea bargaining is made during the pre-trial stage. However, jurisprudence holds that plea bargaining is still allowed during trial even after the prosecution has rested its case when the court finds that the prosecution does not have sufficient evidence to establish the guilt of the accused for the crime charged.¹⁶ Ultimately, the offer to plea bargain is subject to the court's approval in the exercise of its discretion.

Applying the above rules to the present cases, We find that the *Plea-Bargaining Agreement* executed by the prosecution and accused Syjuco sufficiently complies with the requirements for plea bargaining.

**I. The pleas of guilty are
with the consent of the
prosecutor.**

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In their *Joint Motion*, the parties attached the *Plea Bargaining Agreement* dated June 1, 2022, which was consented to by the Office of the Ombudsman through the following signatories: (1) Ombudsman Samuel R. Martires, (2)

¹⁵ *Id*

¹⁶ *People v. Villarama*, 285 Phil. 723-734 (1992)



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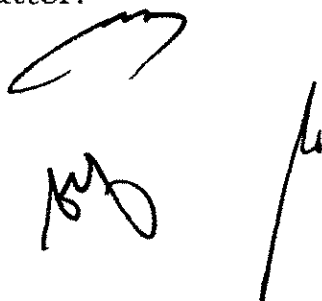
Special Prosecutor Edilberto G. Sandoval, (3) Deputy Special Prosecutor Omar L. Sagadal, (4) Acting Director, Prosecution Bureau VIII Julieta Zinnia A. Niduaza, (5) Assistant Special Prosecutor II Joan Paulette D. Nunez, (6) Graft Investigation and Prosecution Officer III Blesilda T. Ouano, and (7) Graft Investigation and Prosecution Officer II Christian Jesse G. Batalla. Thus, anent the first element, there is no question that the prosecution has given its consent to the offer of accused Syjuco to plea bargain in all the charges against her.

II. The intended pleas of guilty are to offenses which are necessarily included in the offenses charged.

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Section 2, Rule 116 allows an accused to enter a plea to a lesser offense *only* if such offense is necessarily included in the offense charged. Section 5, Rule 120 of the Rules of Court explains when an offense includes or is included in another offense, viz:

Section. 5. When an offense includes or is included in another. — An offense charged necessarily includes the offense proved when some of the essential elements or ingredients of the former, as alleged in the complaint or information, constitute the latter. And an offense charged is necessarily included in the offense proved, when the essential ingredients of the former constitute or form part of those constituting the latter.

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Accused Syjuco is charged with a Violation of Section 3(e) of R.A. No. 3019, and Malversation of Public Funds through Falsification. During her arraignment on December 6, 2016, she entered a plea of “not guilty” to both charges against her.¹⁷ She now wishes to plead guilty to the following lesser offenses: ***Frauds Against Public Treasury*** under Article 213, paragraph 1, and ***Failure to Render Account by an Accountable Officer***, under Article 218 of the Revised Penal Code.

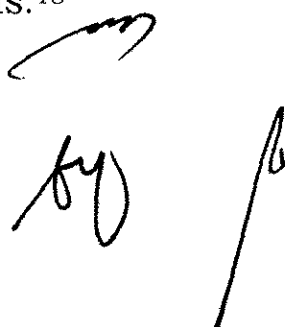
a. Violation of Section 3(e) of R.A. No. 3019

To sustain a conviction for a ***Violation of Section 3(e) of R.A. No. 3019***, the following elements must concur:

- (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/she acted with manifest partiality, evident bad faith, or gross inexcusable negligence; and,
- (3) that his/her 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/her functions.¹⁸

¹⁷ pp. 631, Vol. I, *Record*

¹⁸ **Fuentes v. People**, 822 SCRA 509 (2017)

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On the other hand, ***Frauds Against Public Treasury and Similar Offenses*** under Article 213, paragraph 1 of the Revised Penal Code,¹⁹ the lesser offense to which accused Syjuco seeks to plead guilty, has the following elements:

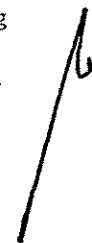
- (1) the offender is a public officer;
- (2) the public officer took advantage of his office, that is, he intervened in the transaction in his official capacity;
- (3) the public officer entered into an agreement with any interested party or speculator or made use of any other scheme with regard to (i) furnishing supplies, (ii) making of contracts, or (iii) the adjustment or settlement of accounts relating to public property or funds; and
- (4) that the accused had intent to defraud the government.

The matrix below shows the respective elements of both offenses:



¹⁹ Article 213. *Frauds against the public treasury and similar offenses.* – The penalty of *prision correccional* in its medium period to *prision mayor* in its minimum period, or a fine ranging from Forty thousand pesos (P40,000) to Two million pesos (P2,000,000), or both, or both, shall be imposed upon any public officer who:

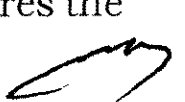

1. In his official capacity, in dealing with any person with regard to furnishing supplies, the making of contracts, or the adjustment or settlement of accounts relating to public property or funds, shall enter into an agreement with any interested party or speculator or make use of any other scheme, to defraud the Government;



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Violation of Section 3(e) of R.A. No 3019	Frauds Against Public Treasury and Similar Offenses
The accused is a public officer discharging administrative, judicial, or official functions, or a private person charged in conspiracy with the former	The offender is a public officer who took advantage of his office, that is, he intervened in the transaction in his official capacity
The public officer has acted with manifest partiality, evident bad faith or gross inexcusable negligence	
	The public officer entered into an agreement with any interested party or speculator or made use of any other scheme with regard to furnishing supplies, making of contracts or the adjustment or settlement of accounts relating to public property or funds
He or she causes undue injury to any party, whether the government or a private party, or gave any party any unwarranted benefits, advantage or preference to such parties in the discharge of his or her functions	The public officer had intent to defraud the government.

In Section 3(e) of R.A. No. 3019, there must be a showing that the accused acted with manifest partiality, evident bad faith or gross inexcusable negligence in the discharge of his/her functions, and in doing so, caused undue injury to any party, including the government, or gave any party any unwarranted benefits, advantage or preference. On the other hand, Article 213, paragraph 1 of the Revised Penal Code merely requires the

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prosecution to prove that the accused intervened in a transaction in his/her official capacity, and that the accused had the *intent of defrauding* the government. Analyzing these elements, the Court finds that Article 213, paragraph 1 is necessarily included in a Violation of Section 3 (e) of R.A. No. 3019 as the elements of the former are necessarily included in the elements of the latter, particularly that of causing of undue injury to the government or giving unwarranted benefits, advantage or preference to any party, through the modalities of either manifest partiality or evident bad faith. Accordingly, the allegations in the *Information* in SB-16-CRM-0780 filed against accused Syjuco are sufficient to hold her liable for the lesser offense to which she intends to plead.

b. Malversation of Public Funds through Falsification

As regards the complex crime of ***Malversation of Public Funds through Falsification*** as defined and penalized under Article 217 of the Revised Penal Code, in relation to Articles 172 and 48 of the same Code, the elements are as follows:

- (1) the offender is a public officer;
- (2) he/she has custody or control of funds or property by reason of the duties of his/her office;
- (3) the funds or property involved are public funds or property for which he/she is accountable; and



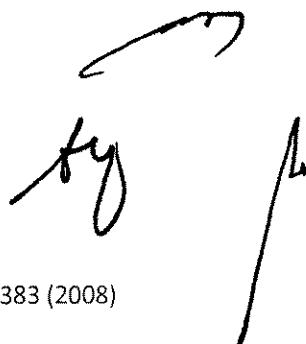
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- (4) he/she has appropriated, taken or misappropriated, or has consented to, or through abandonment or negligence permitted, the taking by another person of such funds or property.²⁰

As alleged in the *Information*, falsification was the means through which Malversation was committed or facilitated. Under Article 172 (2) of the Revised Penal Code, falsification is committed by any person who, to the damage of a third party, or with the intent to cause such damage, shall in any private document commit any of the acts of falsification enumerated in Article 171. In this case, the alleged act of falsification of the accused was when they made it appear that certain persons participated in any act or proceeding when they did not in fact so participate.

Meanwhile, the offense of **Failure to Render Account by an Accountable Officer** under Article 218 of the Revised Penal Code, the lesser offense to which accused Syjuco seeks to plead guilty, has the following elements:

- (1) the offender is a public officer;
- (2) the offender must be an accountable officer for public funds or property;

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²⁰ *Daan v. Sandiganbayan*, 573 Phil 368-383 (2008)

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- (3) the offender is required by law or regulation to render accounts to the COA or to a provincial auditor; and
- (4) the offender fails to render an account for a period of two months after such accounts should be rendered.²¹

The table below shows the respective elements of the main offense of Malversation vis-à-vis the lesser offense of Failure to Render Account by An Accountable Officer:

Malversation of Public Funds	Failure to Render Account by an Accountable Officer
The offender is a public officer	The offender is a public officer
He/she has custody or control of funds or property by reason of the duties of his/her office	The offender must be an accountable officer for public funds or property
The funds or property involved are public funds or property for which he/she is accountable	
He/she has appropriated, taken or misappropriated, or has consented to, or through abandonment or negligence permitted, the taking by another person of such funds or property	
	The offender is required by law or regulation to render accounts to the COA or to a provincial auditor

²¹ *Id*



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	The offender fails to render an account for a period of two months after such accounts should be rendered
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A reading of the elements of the lesser offense vis-à-vis the crimes charged shows that some or all of the elements of the former are necessarily included in the latter. We thus find that the allegations in the *Informations* filed against accused Syjuco are sufficient to hold her liable for the lesser offense. Thus, she may plead guilty to such lesser offense of ***Failure to Render Account by an Accountable Officer.***

The Court notes, however, that the prosecution has imposed a pre-condition to its conformity to the subject Plea Bargaining Agreement, namely: that accused Syjuco retribute the amount of Five Million Nine Hundred Sixty Four Thousand Eight Hundred Fifty Nine Pesos and Nine Centavos (Php5,964,859.09) as full restitution of the amounts alleged in the *Informations* in SB-16-CRM-0780 to 0781. Thus, the approval of the said *Plea Bargaining Agreement* is premature at this time.

WHEREFORE, the Court hereby **HOLDS IN ABEYANCE** its [1] grant of the (a) "*Motion for Plea Bargaining (With Offer to Pay Civil Liabilities)*" dated January 7, 2022, filed by accused Judy Jalbuena Syjuco and the (b) "*Joint Motion to Approve Attached Plea-Bargaining Agreement*" dated July 21, 2022, filed by the prosecution and accused Syjuco, and [2] approval of the



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“Plea-Bargaining Agreement” dated June 1, 2022, between the prosecution and accused Syjuco. Accused Syjuco is hereby **ORDERED** to pay to the Court the amount of Five Million Nine Hundred Sixty Four Thousand Eight Hundred Fifty Nine Pesos and Nine Centavos (Php5,964,859.09) as full restitution of the amounts alleged in the *Informations* in SB-16-CRM-0780 to 0781 either in cash or in Manager’s Check payable to the Sandiganbayan, within **FIVE (5) days** from notice hereof and to submit to the Court proof of such payment within the same period.

SO ORDERED.

Quezon City, Metro Manila

AMPARO M. CABOTAJE-TANG

Presiding Justice
Chairperson

WE CONCUR:

BERNELITO R. FERNANDEZ

Associate Justice

RONALD B. MORENO

Associate Justice