



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
Quezon City

Third Division

PEOPLE OF THE PHILIPPINES,
Plaintiff,

Criminal Case No.
SB-16-CRM-0183 to
0184

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

-versus-

SB-16-CRM-0185 to
0186

*For: Malversation of
Public Funds*

MARC DOUGLAS CHAN CAGAS IV,
ET AL.,

Accused.

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PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-17-CRM-0642 to
0643

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

SB-16-CRM-0644

*For: Malversation
Through Falsification*

SB-16-CRM-0645

*For: Malversation
Through Falsification*

-versus-

MARC DOUGLAS CHAN CAGAS IV, Present:
ET AL.

Accused. Cabotaje-Tang, A.M., PJ,
Chairperson
Fernandez, B.R., J. and
Moreno, R.B. J.

PROMULGATED:
October 28, 2022 *JB*

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RESOLUTION

Moreno, J.:

For resolution are the following: (1) the *Motion for Reconsideration*¹ filed by accused Marc Douglas Chan Cagas IV on July 18, 2022 (2) the prosecution's *Opposition x x x*² filed on August 2, 2022; (3) Cagas' *Supplemental Motion for Reconsideration*³ filed by Cagas on September 20, 2022; and (4) the attached Application for Probation⁴ of Cagas, also filed on September 20, 2000.

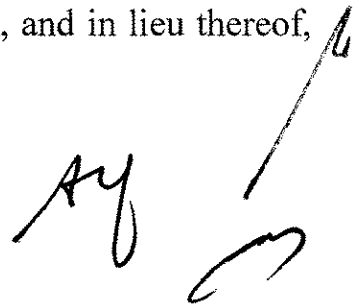
In his Motion for Reconsideration, accused Cagas IV prayed that this Court's July 12, 2022 Resolution be reconsidered, and additionally asked for the following: (a) his previous Omnibus Motion and Manifestation be treated as his application for probation; (b) the application for probation be referred to the Parole and Probation Officer of Digos, Davao del Sur for the conduct of Post Sentence Investigation; (c) the application for Probation be favorably granted; and (d) in the event that probation will be granted, he (Cagas) "be allowed to withdraw his payment in the amount of ₱63,000.00 as satisfaction for the penalties of fine imposed on him, and in lieu thereof,

¹ Record, vol IV, pp. 542-548.

² *Id.* at 571-584.

³ Record, vol.XII, pp. 558-561.

⁴ *Id.* at 562-564.

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he be allowed to serve the penalties of fine and imprisonment by way of probation to be served in his hometown in Digos, Davao Del Sur.”⁵

Cagas’ counsel claimed that while he was preparing for accused’s application for probation, he realized that a penalty of fine may already be served by way of probation under Presidential Decree 968, as amended by Republic Act No. 10707. He added that it will be for the best interest of accused Cagas to be able to avail of the full benefits of the law “if he can be allowed to just serve all the penalties imposed on him by way of probation especially so that the privilege of probation will only be available once in his lifetime”,⁶ more so since it was Cagas’ intention to avail of probation.

Cagas’ counsel further claimed that what prompted the filing of the Omnibus Motion and Manifestation (which incorporated the several reliefs prayed for by the accused) was to “enable the accused to avail of the full benefits of the probation law.”⁷ According to him, he deemed it prudent to submit an Omnibus Motion instead of filing several pleadings, since the application for probation must be filed within the prescribed 15-day period, and that the accused has first to seek the approval of this Court as regards his intention to include in his application for probation the penalties of fine.

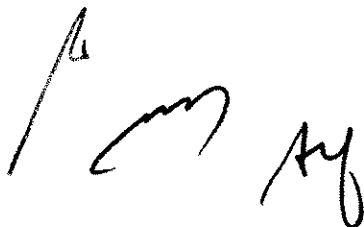
Cagas also intimated that there was no intention to assume that probation will be granted and/or that the accused will already be allowed to serve the penalties of fine by way of probation. He thus submitted his application for probation under PD No. 968, as amended by R.A. No. 10707, by way of the present motion for reconsideration. According to Cagas, he has the qualifications and none of the disqualifications under the Probation Law; and that he undertakes to comply with the terms and conditions which may be imposed on him by this Court.

In its *Opposition*, the People of the Philippines (through the Office of the Special Prosecutor) prayed for the denial of Cagas’ motion for lack of merit. The prosecution refuted Cagas’ claims that there was merely a confusion with regard to the reliefs prayed for in the latter’s Omnibus Motion and Manifestation. It countered that Omnibus Motion and Manifestation was not an application for probation: and that its main prayer was for the withdrawal of his payment of fines totaling ₱63,000.00. The prosecution argued that it was not enough for Cagas to just parrot the letter of the Probation Law, but he must file an application for probation with supporting documents to show that he is not disqualified to avail of probation. It added that Cagas failed to file his application for probation within 15 days from the Decision.

⁵ Record, vol IV, p. 547.

⁶ Id. at 544.

⁷ Id.



The records showed that Cagas filed a *Motion for Leave of Court (To Admit Supplemental Motion for Reconsideration and Attached Application for Probation)* on September 20, 2022. The Court granted the Motion for Leave of Court x x x, and admitted the Motion for Reconsideration and Application for Probation “in the higher interest of justice”⁸ in our Resolution of September 22, 2022.

In his *Supplemental Motion for Reconsideration*, Cagas, through counsel, stated that “he now fully appreciates and accepts the resolution of the Honorable Court that the penalty of fines should be satisfied by way of payment and should not be included in his prayer to be admitted on probation and to serve the said penalty together with the penalty of imprisonment.”⁹ He thus abandoned his prayer for the “withdrawal of fine which were already paid and settled, but reiterates his desire to serve the penalty of imprisonment in SB-17-CRM-0644 by way of probation. Accordingly, Cagas attached a separate application for probation for purposes of “clearing the confusion which may have been brought about by the filing of the Omnibus Motion where the application for probation was incorporated.”¹⁰

In his Application for Probation, Cagas asked that he be allowed to serve the sentence imposed in SB-17-CRM-0644, that is, the indeterminate penalty of four (4) months and one (1) day of *arresto mayor* in its maximum period to *prision correccional* in its minimum period, as minimum, to two (2) years and four (4) months of *prision correccional* in its medium and maximum period, as maximum, by way of probation “to give him opportunity to restore all civil rights lost or suspended as a result of his conviction and to totally extinguish his criminal liability as to the offense for which probation was granted.”¹¹ He claimed that he “has the qualification and none of the disqualification enumerated under Presidential Decree No. 968, as amended.”¹² Accordingly, Cagas prayed that his application be referred to the Parole and Probation Officer of Digos City, Davao del Sur, and his application for probation be favorably granted by this Court.

THE COURT’S RULING:

We find the present motion for reconsideration vis-à-vis the supplemental motion for reconsideration **meritorious**. Accordingly, Cagas’ application for probation is **given due course**.

Probation is a special privilege granted by the state to penitent qualified offenders who immediately admit their liability and thus renounce

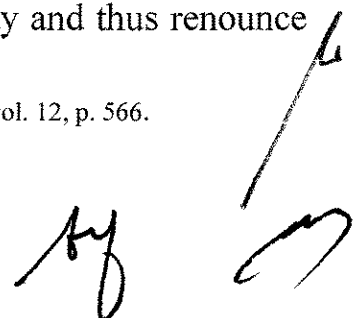
⁸ Resolution of the Third Division dated September 22, 2022, Record, vol. 12, p. 566.

⁹ Supra, note 3 at 559.

¹⁰ *Id.*

¹¹ Record, vol. XII, p. 563.

¹² *Id.*



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their right to appeal. In view of the acceptance of their fate and willingness to be reformed, the state affords them a chance to avoid the stigma of an incarceration record by making them undergo rehabilitation outside of prison. Some of the major purposes of the law are to help offenders develop themselves into law-abiding and self-respecting individuals, as well as assist them in their reintegration with the community.¹³

Probation is not a right of an accused but a mere privilege, an act of grace and clemency or immunity conferred by the State, which is granted to a deserving defendant who thereby escapes the extreme rigors of the penalty imposed by law for the offense of which he was convicted.¹⁴

Section 9 of the Probation Law, Presidential Decree No. 968, as amended,¹⁵ the following offenders cannot avail of the benefits of probation:

Section 9. *Disqualified Offenders.* – The benefits of this Decree shall not be extended to those:

(a) sentenced to serve a maximum term of imprisonment of more than six years;

(b) convicted of any crime against the national security;

(c) who have previously been convicted by final judgment of an offense punished by imprisonment of more than six (6) months and one (1) day and/or a fine of not more than one thousand pesos (P1,000.00);

(d) who have been once on probation under the provisions of this Decree; and

(e) who are already serving sentence at the time the substantive provisions of this Decree became applicable pursuant to Section 33 hereof.

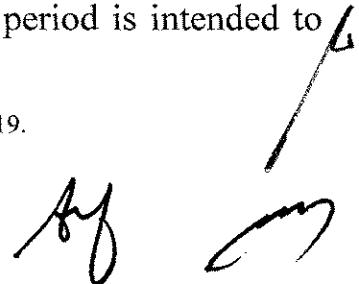
In the present case, Cagas was meted the indeterminate penalty of four (4) months and one (1) day of *arresto mayor* in its maximum period to *prision correccional* in its minimum period, as minimum, to two (2) years and four (4) months of *prision correccional* in its medium and maximum period, as maximum – a probationable penalty – in SB-17-CRM-0644. Corollary, the records do not show that he possesses the other disqualifications enumerated under Section 9.

To be sure, Section 4 of the Probation Law provides that the application for probation must be filed within the 15-day period for perfecting an appeal. The need to file it within such period is intended to

¹³ *Jaime Chua Ching v. Fernando Ching*, G.R. No. 240843, June 3, 2019.

¹⁴ *Moreno v. Commission on Elections*, 530 Phil. 279, 290 (2006).

¹⁵ Republic Act No. 10707.



encourage offenders, who are willing to be reformed and rehabilitated, to avail themselves of probation at the first opportunity.¹⁶

We recall that this Court convicted Cagas of the lesser crimes of frauds against public treasury; failure to render accounts; and falsification on May 13, 2022. Under Section 4 of the Probation Law, the defendant should file his application for probation within the period for perfecting an appeal, that is, within 15 days from May 13, 2022.

In the present case, the attached Application for Probation is dated September 20, 2022. It bears pointing out, however, that as early as May 19, 2022, Cagas already filed an Omnibus Motion and Manifestation praying, among others, that “he be allowed to serve the penalties of fine and imprisonment by way of probation to be served in his hometown in Digos City, Davao del Sur.”¹⁷ He also stated therein that he has the qualification and none of the disqualifications enumerated Presidential Decree No. 968, as amended. Notably, the matters relating to probation contained in the Omnibus Motion and Manifestation are the very same matters that Cagas stated in the present attached Application for Probation. Cagas’ intention to avail of probation was relayed to this Court in the said omnibus motion.

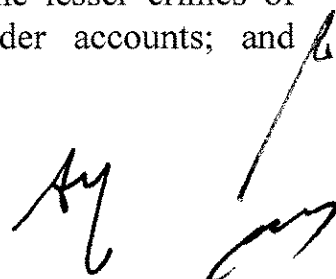
The Court nonetheless denied this Omnibus Motion, since Cagas main prayer was that he “be allowed to withdraw his payment in the amount of P63,000.00 as satisfaction for the penalties of fine imposed on him, and in lieu thereof, he be allowed to serve the penalties of fine and imprisonment by way of probation x x x.”¹⁸ In his Supplemental Motion for Reconsideration, however, Cagas did a turnabout and decided to forego his claim to withdraw the amount of fines he paid to this Court.

Prescinding from the foregoing considerations, and taking into account that the underlying philosophy of probation is one of liberality towards the accused, the Court treat Cagas’ Omnibus Motion and Manifestation, which had been filed within the period for perfecting an appeal, as his application for probation. In arriving at this ruling, the Court also took note of the following circumstances:

(a) On April 1, 2022, Cagas complied with this Court’s March 31, 2022 directive to pay the amount of ₱12,950,000.00 as full restitution of the amounts alleged in the Informations, as evidenced by a certified copy of Official Receipt No. 9700057;

(b) After this Court convicted Cagas of the lesser crimes of frauds against public treasury; failure to render accounts; and

¹⁶ See *Dimakuta v. People*, G.R. No. 206513, October 20, 2015.
¹⁷ Record, vol. XI, p. 430.
¹⁸ *Id.*



falsification on May 13, 2022, he paid the amount of ₱63,000.00 representing the total amount of fines imposed on him, on the same day;

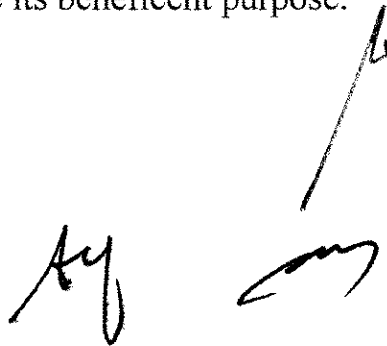
(c) Cagas' statement in his supplemental motion that he no longer seeks the withdrawal of the fines paid by him, and that he now fully appreciates and accepts the Court's ruling that the penalty of fines should be satisfied by way of payment and should not be included in his prayer to be admitted on probation; and

(d) the contents of the attached application for probation had already been incorporated in the Omnibus Motion and Manifestation previously filed by Cagas.

Indeed, the primary objective in granting probation is the reformation of the probationer. Courts must be meticulous enough to ensure that the ends of justice and the best interest of the public as well as the accused be served by the grant of probation.¹⁹ By giving due course to Cagas' application for probation, we are giving him a chance for reformation outside of prison, conditioned upon this Court's appreciation of the post-sentence investigation and report of the Parole and Probation Officer.

As the Honorable Supreme Court held in *Ching v. Ching*:²⁰

X x x [T]he Court stresses that the primary objective in granting probation is the reformation of the probationer. For this purpose, courts must be meticulous enough to ensure that the ends of justice and the best interest of the public, as well as the accused, be served by the grant of probation. Finally, it must be emphasized that the underlying philosophy of probation is one of liberality towards the accused. Such philosophy is not served by a harsh and stringent interpretation of the statutory provisions. Verily, the Probation Law should be applied in favor of the accused not because it is a criminal law, but to achieve its beneficent purpose.

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¹⁹ See *Santos v. Court of Appeals*, G.R. No. 127899, December 2, 1999.
²⁰ G.R. No. 240843, June 3, 2019.

WHEREFORE, in light of all the foregoing, the Court resolves to:

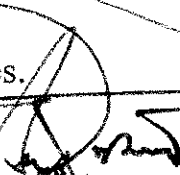
- (1) **GRANT** the motion for reconsideration and supplemental motion for reconsideration filed by accused Marc Douglas Chan Cagas IV; and
- (2) **GIVE DUE COURSE** to accused Cagas' Application for Probation.

The Third Division Clerk of Court is hereby **DIRECTED** to furnish the Parole and Probation Officer of Digos City, Davao del Sur with a copy of this Resolution, together with all the necessary pertinent data of this case. The Probation Officer, in turn, is **ORDERED** to conduct a post-sentence investigation and to **SUBMIT** a report within sixty (60) days from receipt of this Resolution.

Accused Cagas, for his part, is **DIRECTED** to **REPORT** to the said Probation Officer within seventy-two (72) hours from receipt of this Resolution

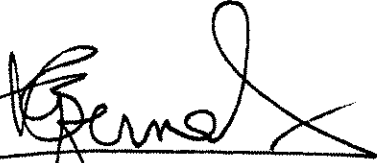
SO ORDERED.

Quezon City, Philippines.


RONALD B. MORENO
Associate Justice

WE CONCUR:


AMPARO M. CABOTAJE-TANG
Presiding Justice
Chairperson


BERNELITO R. FERNANDEZ
Associate Justice