



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
Quezon City

SEVENTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

Criminal Case No.
SB-20-CRM-0010

-versus-

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

TERESITA L. PANLILIO, ET AL.
Accused.

X -----X

PEOPLE OF THE PHILIPPINES,
Plaintiff,

Criminal Case No.
SB-20-CRM-0011

-versus-

For: Malversation of Public
Funds (Article 217 of the
Revised Penal Code)

TERESITA L. PANLILIO, ET AL.
Accused.

Promulgated:

October 19, 2022 *if*

X -----X

RESOLUTION

GOMEZ-ESTOESTA, J.:

This resolves the “*MANIFESTATION/EXPLANATION*” dated September 28, 2022¹ filed by the Prosecution pursuant to the Resolution dated September 22, 2022,² the dispositive portion of which reads:

WHEREFORE, the *Demurrer to Evidence* filed by accused Teresita L. Panlilio is **GRANTED**. Accordingly, she is **ACQUITTED** of the crimes of Violation of Section 3 (e) of R.A. 3019, as amended, under **SB-20-CRM-0010** and Malversation of Public Funds under **SB-20-CRM-0011**.

¹ Record, Vol. 3, pp. 310-315.

² Record, Vol. 3, pp. 265-293.

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The cash bond posted by accused Panlilio is ordered **RELEASED** to her or her duly authorized representative subject to the usual auditing and accounting procedures. The Hold Departure Order issued against her on February 17, 2020 is **RECALLED**.

Meantime, the drawback in the appreciation of prosecution evidence can be applied in the same way for accused **Arnel V. Almadrones**. This, despite his admission on the existence, due execution and authenticity of Exhibits "A", "C", "D", "E", "F", "G", "H", "I", and "X". It can be said that that the documentary evidence offered by the prosecution to prove the guilt of accused Panlilio challenged in this demurrer are the very same ones offered to prove the guilt of accused Almadrones.

Pursuant to Section 23, Rule 119 of the Revised Rules of Criminal Procedure, the Prosecution is directed to **EXPLAIN** within five (5) days from receipt of this Resolution why the charges against other accused **Arnel V. Almadrones** should not be similarly dismissed.

SO ORDERED.

Accused Almadrones is charged in conspiracy with accused Panlilio for Violation of Section 3(e) of RA. 3019, as amended, under **SB-20-CRM-0010** and Malversation of Public Funds under **SB-20-CRM-0011**.

For its explanation, the Prosecution adopted its "*Comment/Opposition (To Accused Panlilio's Demurrer to Evidence)*" dated August 18, 2022 in averring why the charges against accused Almadrones should not be dismissed, to wit:

10. Accused Panlilio and Almadrones signed the Memorandum of Agreement (MOA) on September 3, 2008. Both accused are likewise signatories to the Disbursement Voucher No. 08-09-7579 in the amount of PhP5,000,000.00 as payment "For the implementation of the Comprehensive Agricultural Farming for the Marginal Farmers of Misamis Oriental & Camarines Norte" which contains a date of receipt of payment on September 4, 2008. The LBP Check No. 0000662113 dated September 3, 2008 in the amount of PhP5,000,000.00 was signed by accused Panlilio while the Official Receipt No. 0022 acknowledging receipt of PhP5,000,000.00 from DAR was issued by SAMMS MPC.

11. Noteworthy is the fact that the MOA and LBP Check bear the same date. One day does not allow sufficient time to review the contents of the MOA and the supporting documents attached in the DV in order to determine compliance with COA Rules and Regulations.

12. The selection of SAMMS MPC as DAR partner NGO did not also comply with Section 3.3 of COA Circular No. 96-003 regarding accreditation of NGOs prior to being allowed to participate in the implementation of government projects. The payment of the full amount of PhP5,000,000.00 to SAMMS MPC which was facilitated by accused Panlilio violated Section 3.8.2 of the same COA Circular which mandates a 30% advance payment only and the remaining balance shall be released only upon submission of accomplishment reports and/or report of

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inspection by DAR and certifications of receipts by beneficiaries/pay rolls/invoices, among others.

13. None of these documents appear in the COA records. In fact, as testified to by prosecution witness Hasel Ann I. Flamenno, there were no liquidation documents found in their file, viz:

"BY ATTY YANTO:

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Q. But when you started searching for those documents, you were able to retrieve the entire records of that account of SAMMS MPC, is that correct?

A. Yes, Sir.

Q. And there are other documents in that file aside from these eight documents required of you by the Ombudsman, is that correct?

A. Yes, Sir.

Q. And it includes the liquidation documents of the project, is that correct?

A. No, Sir, there was no liquidation attached in the documents that we found. (Emphasis supplied)"

The Prosecution further surmised, as follows:

1. Since Exhibits "C" to "C-2", "E", "G", "H", and "I" were previously stipulated on by accused Almadrones as to their existence, authenticity, and due execution, it can be deduced that in stipulating on the MOA, the Disbursement Voucher, the Landbank Check, and the SAMMSMPC Official Receipt, accused Almadrones admitted having received the amount of P5,000,000.00 from DAR *"For the implementation of the Comprehensive Agricultural Farming for the Marginal Farmers of Misamis Oriental & Camarines Norte"*, and that public funds were admittedly released for the implementation of the supposed livelihood project.

2. In releasing the P5,000,000.00 to SAMMSMPC, Section 3.8.2 of COA Circular No. 96-003 was violated. Under this COA Circular, only 30% advance payment was allowed. In the case of SAMMSMPC, the full amount was immediately released, depriving the government of its opportunity to ensure initial compliance by the NGO of its obligation under the MOA.

3. After the release of public funds to SAMMSMPC, it should have necessarily followed that there be a liquidation of its disbursement. Testimony from COA witness Hasel Ann I. Flamenno showed that there was none as there were no liquidation documents existing in their files. In the records of COA, no bidding documents existed which would have been required prior to the selection of SAMMSMPC as DAR's partner NGO. No accreditation documents for SAMMSMPC were found. Not even a list of beneficiaries or photos, etc., were submitted to prove that the livelihood project was actually implemented.

4. The presence of an audit finding by the COA on the disbursement of public funds is not a prerequisite before the Ombudsman may conduct its

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own investigation on any financial transaction and ultimately file its own case in court.

With these grounds, the Prosecution prayed that the charges against accused Almadrones be maintained.

THE COURT’S RULING

The explanation given by the Prosecution giving it an opportunity to sustain the charges on the basis of the evidence it has presented is noted. The court, however, is still not persuaded.

The evidence presented by the Prosecution is not sufficient to prove the commission of the crimes charged against accused Almadrones, in the same way it deflected on accused Panlilio.

First. The Prosecution deduces that accused Almadrones admitted having received the amount of ₱5,000,000.00 from DAR when he stipulated on the existence, authenticity, and due execution of Exhibits “C” to “C-2”, “E”, “G”, “H”, and “I”.

The admission on the existence, authenticity, and due execution of Exhibits “C” to “C-2”, “E”, “G”, “H”, and “I”, however, is not an admission to the commission of the charges themselves.

As the Court stated in its Resolution dated September 22, 2022,³ while these documentary exhibits were admitted by the court in its Resolution dated July 14, 2022, the admission was, at best, subject to the court’s appreciation of their probative value and to the purpose for which they were offered during the final disposition of the case.⁴

As thus found, the purposes indicated in Prosecution’s *Formal Offer of Documentary Evidence*⁵ offered more than what was actually shown on the face of the documentary exhibits. To quote:

Exhibit	Description of Document	Purpose of Offer
“C”	Certificate of Registration	1. To prove that SAMMSMPC was registered with the Cooperative Development Authority with an authorized capital of only P129,600.00; 2. To prove that SAMMSMPC was unqualified to act as partner NGO of the DAR as it lacks the technical and financial capacity because it was only organized on January 15, 2007, or only a year from the supposed implementation of the livelihood project. 3. xxx xxx xxx.
“E” to “E-2”	Memorandum of Agreement	1. To prove that accused Panlilio, representing DAR, and accused Almadrones, representing SAMMSMPC, entered into a Memorandum

³ Records, Vol. 3, pp. 265-293.
⁴ Records, Vol. 3, pp. 96-99.
⁵ Records, Vol. 3, pp. 19-33.

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	between DAR and SAMMS Multi-Purpose Cooperative	<p>of Agreement dated September 3, 2008 purportedly for the implementation of a livelihood project for Misamis Oriental funded by DAR allocation in the total amount of Php5,000,000.00 with SAMMSMPC as partner NGO;</p> <p>2. To prove that the selection of SAMMSMPC as DAR's partner NGO in the implementation of the livelihood project subject of the MOA dated September 3, 2008 was made without public bidding in violation of RA No. 9184 and its IRRs, COA circulars, and GPPB regulations⁶;</p> <p>3. To prove that accused Panlilio partnered with SAMMSMPC despite the cooperative being unaccredited and unqualified to undertake the project in violation of Sec. 3.2 and 3.3 of COA Circular No. 96-003⁷;</p> <p>4. To prove that the terms and conditions of the MOA violated the general guidelines set forth in Section 3.8.2⁸ of COA Circular No. 96-003;</p> <p>5. To prove that accused Panlilio was an accountable public officer for the public funds subject of the MOA and that she had custody of the funds by reason of her office;</p> <p>6. To prove that accused Panlilio acted in conspiracy with accused Almadrones in misappropriating public funds allocated to the DAR in the amount of Php3,500,000.00 on the pretext of implementing a livelihood project in Misamis Oriental;</p> <p>xxx xxx xxx.</p>
"G"	Disbursement Voucher No. 08-09-7579	1. To prove that accused Panlilio facilitated, processed, and approved the disbursement of the amount of Php5,000,000.00 to SAMMSMPC as shown in the signature of the accused in the Disbursement Voucher;
"H"	Check No. 662113 dated September 3, 2008	2. To prove that accused Panlilio released the amount of Php5,000,000.00 to SAMMSMPC in one tranche in violation of Section 3.8.2 of COA Circular No. 96-003 x x x;
"I"	Undated Official Receipt No. 0022 of SAMMSMPC	<p>3. To prove that accused approved the disbursement of the amount of Php5,000,000.00 to SAMMSMPC without carefully examining and verifying the accreditations and qualifications of SAMMSMPC in violation of Section 3.2 and 3.3 of COA Circular No. 96-003;</p> <p>4. To prove that accused Almadrones signed DV No. 08-09-7579 acknowledging the receipt of the total amount of Php5,000,000.00;</p> <p>5. To prove that accused Panlilio allowed accused Almadrones and herself, through SAMMSMPC, to take possession and misappropriate public funds instead of implementing the DAR-funded project in Misamis Oriental;</p> <p>6. To prove that accused Panlilio, in approving the DV and signing the LBP Check, was an accountable officer for the DAR funds, and that she had custody and/or control of the public funds by reason of the duties of her office;</p> <p>7. To prove that accused Panlilio acted in conspiracy with accused Almadrones in misappropriating public funds allocated to the DAR in the amount of Php3.5M on the pretext of implementing a project;</p>

⁶ 5.3.1 and 5.3.2 of GPPB Resolution No. 12-2007

⁷ 3.2 The NGO/PO shall be accredited by the GO. In the case of non-regularly-funded GOs which generate their funds out of donations and shares from other GOs like the Presidential Management Staff with respect to the President's Social Fund, the implementing GOs shall set the minimum requirements/criteria for the selection of the NGO/PO project partners as stipulated in each program guideline.

3.3 The following shall be the requirements for the NGO/PO accreditation:

3.3.1 Certificate of registration with the Securities and Exchange Commission (SEC), and/or with either the Cooperatives Development Authority (CDA) or the Department of Labor and Employment (DOLE), as the case may be, depending on the nature of the service required or to be rendered. This is to ensure that the NGO/PO has a legal personality, has officers who are responsible and accountable for its operations, and is based in the community where the project shall be implemented.

⁸ 3.8.2. If the project is to be implemented for more than 3 months, the first release shall cover two (2) months operation but not to exceed 30% of the total assistance, subject to the release of the remaining balance upon submission of accomplishment reports evidenced by pictures of the accomplishments and/or report of inspection by the GO and certifications of receipt by beneficiaries/payrolls/invoices, etc.

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		8. To prove that accused Panlilio acted with evident bad faith in indiscriminately processing and releasing the DAR funds to SAMMSMPC x x x; 9. To prove that accused Panlilio caused undue injury to the government and gave unwarranted benefits to Almadrones and/or SAMMSMPC in the amount of PhP5,000,000.00.
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There was just too much to read into in these documentary exhibits when all they could give was what was only written on the surface.

To put it simply:

Can the **Certificate of Registration** (Exhibit “C”) prove “*that SAMMSMPC was unqualified to act as partner NGO of the DAR as it lacks the technical and financial capacity because it was only organized on January 15, 2007, or only a year from the supposed implementation of the livelihood project*”?

Can the **Memorandum of Agreement** between DAR and SAMMSMPC (Exhibits “E” to “E-2”) prove that: (i) “*that the selection of SAMMSMPC as DAR’s partner NGO in the implementation of the livelihood project subject of the MOA dated September 3, 2008 was made without public bidding in violation of RA No. 9184 and its IRRs, COA circulars, and GPPB regulations;*” or (ii) “*that accused Panlilio partnered with SAMMSMPC despite the cooperative being unaccredited and unqualified to undertake the project in violation of Sec. 3.2 and 3.3 of COA Circular No. 96-003;*” or (iii) “*that accused Panlilio caused undue injury to the government and gave unwarranted benefits to Almadrones and/or SAMMSMPC in the amount of PhP5,000,000.00.*”

Can the **disbursement voucher, check and undated official receipt issued by SAMMSMPC** (Exhibits “G”, “H” and “I”) prove: (i) “*that accused approved the disbursement of the amount of PhP5,000,000.00 to SAMMSMPC without carefully examining and verifying the accreditations and qualifications of SAMMSMPC in violation of Section 3.2 and 3.3 of COA Circular No. 96-003;*” or (ii) “*that accused Panlilio allowed accused Almadrones and herself, through SAMMSMPC, to take possession and misappropriate public funds instead of implementing the DAR-funded project in Misamis Oriental;*” or (iii) “*that accused Panlilio acted in conspiracy with accused Almadrones in misappropriating public funds allocated to the DAR in the amount of PhP3.5M on the pretext of implementing a project;*” or (iv) “*that accused Panlilio acted with evident bad faith in indiscriminately processing and releasing the DAR funds to SAMMSMPC x x x*”; or (v) “*that accused Panlilio caused undue injury to the government and gave unwarranted benefits to Almadrones and/or SAMMSMPC in the amount of PhP5,000,000.00.*”

At this instance, the court can only surmise that such conclusions of law were barely proven from the proffered documents. They were neither supported by, nor deducible from, the evidentiary facts on record. It is axiomatic that the one who alleges must prove it. In these cases, the Prosecution has the burden to substantiate the *factum probandum* or the ultimate facts alleged in the Informations. It was, however, unsuccessful in adducing the *factum probans* or the evidentiary facts by which the *factum probandum* or ultimate fact could be established.⁹

⁹ Lifted from *Vda. De Viray v. Spouses Usi*, G.R. No. 192486, November 21, 2012.

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The prosecution for these charges thus failed.

The deduction follows in the same way as that of accused Almadrones.

Second. The disbursement in the full amount of ₱5,000,000.00 as against paying the prescribed 30% advance payment allowed by COA Circular No. 96-003¹⁰ should be taken more from the perspective of the public official's liability, not the private accused. While this admittedly puts the government at a greater risk should the project fail, the same neither automatically cause undue injury to the government nor give any private party unwarranted benefits, advantage, or preference, *without positive proof by evidence* that the funds were allocated anywhere else than the purpose for which it was assigned. Hence, without any proof that the funds were appropriated / misappropriated not for their designated purpose, the charges at this point cannot be sustained.

Third. After the release of public funds to SAMMSMPC, it should have necessarily followed that there be a liquidation of its disbursement. Testimony from COA witness Hasel Ann I. Flamenno showed that there was none, as there were no liquidation documents existing in their files. It then concluded that no bidding documents existed which would have been required the selection of SAMMSMPC as DAR's partner NGO. Neither accreditation documents for SAMMSMPC nor a list of beneficiaries, photos, etc. were found in the COA records to prove that the livelihood project was actually implemented.

It is true that having no liquidation documents in a project of a scale such as this leaves hints of suspicion, to say the least. Mere suspicion, however, is not enough to warrant proof beyond reasonable doubt resulting in conviction. It is more speculative at this point why the liquidation documents were not attached to the disbursement voucher. The fact that the required documentation on liquidation is wanting, however, does not conclusively prove that the accused had malversed the funds, as charged. Neither does it directly prove that undue injury was caused to the Government, nor that any private party was given unwarranted benefit, advantage or preference. The reason for the absence of such liquidation documents in the COA office should have been more expounded by the Prosecution rather than rely on a general answer to a simple question propounded on cross examination. The evil intent of a crime cannot be proved by a mere question and answer format of such nature.

Fourth. Under Article 8 of the Revised Penal Code, conspiracy exists when two or more persons come to an agreement concerning the commission

¹⁰ 3.7. For infrastructure projects, the NGO/PO shall post a performance security in the form of a surety bond callable on demand, issued by the Government Service Insurance System (GSIS) or any insurance company duly accredited by the Office of the Insurance Commission equivalent to 30% of the total fund assistance. If the project is not completed within 90 days after the prescribed completion date, the bond shall be forfeited.

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of a felony and decide to commit it. The elements of conspiracy are the following:

1. Two or more persons come to an agreement;
2. The agreement concerned the commission of a crime;
3. The execution of the crime was decided upon.

Accused Arnel Almadrones is charged in conspiracy with accused Teresita Panlilio. As alluded to, a closer examination of the evidence offered by the Prosecution, particularly on the Memorandum of Agreement¹¹ and undated Official Receipt No. 022,¹² does not conclusively show that accused Almadrones conspired with accused Panlilio in the commission of the crime. Not only did proof on conspiracy fail; as a matter of fact, the crimes themselves allegedly committed by accused Panlilio upon which the alleged conspiracy by accused Almadrones is founded upon, was not proven. Needless to say, there cannot be any conspiracy if no crime was proven in the first place.

In sum, the Prosecution failed to prove the charges filed against accused Arnel V. Almadrones.

WHEREFORE, the “*MANIFESTATION / EXPLANATION*” dated September 28, 2022 of the Prosecution falls short of the requirement to show that it has presented sufficient evidence to sustain the charges filed against accused Arnel V. Almadrones.

Accordingly, following the grant of the Demurrer to Evidence of accused Teresita L. Panlilio in the court’s Resolution dated September 22, 2022, accused Arnel V. Almadrones is likewise **ACQUITTED** of the crimes of Violation of Section 3 (e) of R.A. 3019, as amended, under **SB-20-CRM-0010** and Malversation of Public Funds under **SB-20-CRM-0011**.

The property bond posted by accused Arnel V. Almadrones under Title No. CLOA-T-8015 and Title No. P-5819 located in Brgy. Singi, Vinzons, Camarines Norte, are ordered **RELEASED** from bond liability, subject to the usual auditing and accounting procedures. Likewise, the Hold Departure Order issued against accused Arnel V. Almadrones is **RECALLED**.

The additional cash bond posted by accused Arnel V. Almadrones amounting to P59,830.00 under Official Receipt No. 8047728 pursuant to the Minute Resolution¹³ of this court dated May 28, 2021 is likewise **RELEASED**, subject to the usual auditing and accounting procedures.

¹¹ Exhibits “E” to “E-2”.

¹² Exhibit “I”.

¹³ Records, Vol. 2, pp. 310-313.

The dispositive portion of which reads:

WHEREFORE, premises considered, accused Arnel Almadrones’ Motion for Reduction of Bond and Extension is **GRANTED**.

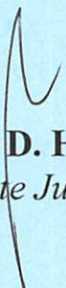
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SO ORDERED.


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

WE CONCUR:


ZALDY V. TRESPESES
Associate Justice


GEORGINA D. HIDALGO
Associate Justice

Accordingly, the recommended bail for the provisional liberty of accused Almadrones is reduced for Criminal cases Nos. SB-20-CRM-0010 to 0011 by fifty percent (50%) or a total of **₱105,000.00**.

Considering that accused has already posted property bond in the amount of P45,170.00, he is required to put up additional bail for the deficiency of **₱59,830.00** to be paid **in cash**. However, should accused opt to post **additional property bond**, its assessed value must be equivalent to the deficiency of the entire value of the bail recommended of P210,000.00. Accused Almadrones is given **30 days from receipt** of this Order to complete his bail bond.

SO ORDERED.