



**REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
QUEZON CITY**

THIRD DIVISION

PEOPLE OF THE PHILIPPINES, Criminal Cases Nos.
Plaintiff, 27234-27239, 27241-
27254

- versus -

*For: Malversation of Public
Funds through
Falsification of Public
Documents under
Article 217 in relation
to Article 171 of the
Revised Penal Code*

**VADM MARIANO J.
DUMANCAS, JR., CAPT.
WALTER E. BRIONES, CDR.
GILMER B. BATESTIL, LT.
FRANCISCO MATA, COL.
ANTONIO S. MORGA, COL.
JOSE B. ZURBITO, NORA S.
GUINTO, LANIE O.
PRIMAVERA, IRENE S.
SOMIDO, EDNA R. GIANAN
and EDGAR I. ARABACA,
Accused,**

**PEOPLE OF THE PHILIPPINES,
Plaintiff,**

- versus -

**Criminal Cases Nos.
27255-27261, 27262-
27264, 27268, 27271-
27277, 27280-81, 27285-
27290, 27293-27295,
27297-27298, 27300-
27305, 27307, 27309-
27311, 27313-27328,
27330-27361, 27363,
27365, 27367-27368,
27370-27381 and 27383-**

**VADM. MARIANO J.
DUMANCAS, JR., CAPT.**

Resolution

Crim Cases Nos. 27234-27429

People v. Briones, et al.

X-----X

WALTER E. BRIONES, CAPT.
DANILO M. AVELLANOSA,
ERMINA L. CASTILLO, NORA
S. GUINTO, VADM NAPOLEON
M. BAYLON, LT. RUFINO G.
ARIAS, CAPT. JULIAN L.
ADVINCULA, CAPT. FLOR
ANTONIO P. PAGINAG, CDR.
GILMER B. BATESTIL, LT.
FRANCISCO MATA, COL.
ANTONIO S. MORGA, MAJOR
JOSE B. ZURBITO, ASUNCION
L. JACINTO, IRENE S.
SOMIDO, EDGAR I. ARABACA,
EDNA R. GIANAN, CAPT.
DANIEL S. SAN JUAN, CDR.
SEBASTIAN SIGA-AN, BGEN.
SALVADOR FLORES, LT.
CASTOR M. TECIO, LANIE O
PRIMAVERA, COMMO.
EDUARDO T. TOLENTINO,
VADM EDUARDO MA.
SANTOS, LCDR CIRILO
SALDON, BGEN. BRIGIDO T.
PAREDES, LCDR PRIMITIVO
CAMPOS, CAPT. JESUS T.
DURIAN, CAPT. SWEN P.
MAMHOT, LT. COL. ROGER S.
TOPACIO, LT. CDR. CELSO
TABLANTE, CAPT. FLORANTE
P. DIAZ, CAPT. VIRGILIO I.
ORTEGA, COMMO. RUBEN G.
DE LA CRUZ, BGEN. ARTEMIO
A. TADIAR, JR., LOURDES S.
COBARRUBIAS, CAPT.
EMMANUEL D. GOB,
WILFREDO M. TRIBIANA,
CAPT. BENJAMIN P. QUINES,
JUANITO SANADA,
VICTORIANO CHUA, CAPT.
ROGELIO B. TUBLE, CAPT.
EMMANUEL E. GLORIA,

27429

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



Resolution

Crim Cases Nos. 27234-27429

People v. Briones, et al.

X-----X

**PRISCILLA M. BOADO,
COMMO. BAYANI T. MATIC,
COMMO. DARIO T. FAJARDO,
ROMEO S. VILLANUEVA,
MILAGROS R. SORIANO,
CAPT. ROLANDO T. GARCIA,
COMMO. PLARIDEL GARCIA,
COMMO. RENE LEANDRO R.
EBRO, COMMO. JOAQUIN M.
DELA ROSA, CAPT. JULITO
CASILAN II, COMMO. CARLOS
L. AGUSTIN, ROLANDO J.
CARANGDANG, SR. AND CDR
MANUEL R. TUAZON,**

Accused,

X-----X

Present:

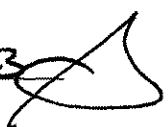
CABOTAJE-TANG, P.J.,

Chairperson

FERNANDEZ, B., J. and

MORENO, R, J.

PROMULGATED:


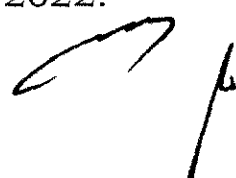
JANUARY 4, 2023 

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RESOLUTION

CABOTAJE-TANG, P.J.:

For resolution are (1) accused Gilmer B. Batestil's Motion for Reconsideration dated September 30, 2022; and, (2) Victoriano Chua's Motion for Reconsideration dated September 29, 2022 with Supplemental Motion for Reconsideration dated October 03, 2022.

In the aforesaid motions, the accused-movants seek a reconsideration of the Court's Decision promulgated on September 16, 2022.¹ In the same Decision, accused Batestil was convicted on twenty (20) counts² and sixteen (16) counts³ of the crime of malversation of public funds and Violation of Section 3 (e) of Republic Act (R.A.) No. 3019, as amended, while accused Chua was convicted of Violation of Section 3 (e) R.A. No. 3019, as amended, on four (4) counts.⁴

They argue that the prosecution failed to establish their guilt beyond reasonable doubt. Specifically, the accused-movants make the following submissions:

For accused-movant Batestil, he argues that: (1) there is no incontrovertible proof to convict him of malversation of public funds through falsification of documents allegedly because he would not have signed the subject POs and DVs with "snopake" entries therein. Allegedly, he would not have signed them if there were erasures since he could have just asked an administrative officer to change them. He adverts to the fact that it was the FOIC who had the authority to disapprove or approve the POs. Thus, there is doubt as to the identity of the subject documents he signed;⁵ and

(2) that there is no direct and clear evidence to show that he conspired and confederated with his co-accused in the alleged misappropriation of public funds through falsification of public documents.⁶

On the part of accused-movant Chua, he contends that:

(1) he was entitled to be paid by the PN having participated in the bidding, got the award, and, thereafter, delivered the medicines which were allegedly received by the Philippine Navy (PN). The testimony of prosecution witness

¹ pp. 205-749, Record, Volume 20

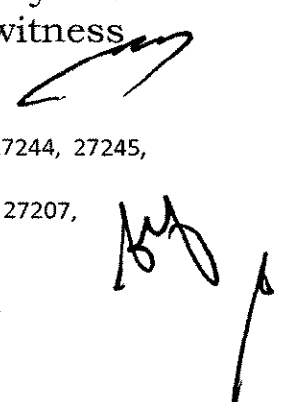
² Criminal Cases Nos. 27234, 27235, 27236, 27237, 27238, 27239, 27241, 27242, 27243, 27244, 27245, 27246, 27247, 27248, 27249, 27250, 27251, 27252, 27253 and 27254

³ Criminal Cases Nos. 27262, 27263, 27264, 27268, 27280, 27281, 27285, 27294, 27295, 27305, 27207, 27263, 27365, 27368 and 27280

⁴ Criminal Cases Nos. 27383, 27384, 27385, 27386

⁵ pp. 923-927, Batestil's Motion for Reconsideration dated September 30, 2022, Record, Vol. 20

⁶ p. 928, Batestil's Motion for Reconsideration dated September 30, 2022, Record, Vol. 20

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Resolution

Crim Cases Nos. 27234-27429

People v. Briones, et al.

X-----X

Lagunda that no DVs were issued covering the checks issued in his name was based only on her unsupported conclusions that there were no actual DVs issued.⁷ Thus, there was no evidence presented by the prosecution to prove the absence of the DVs with respect to the checks issued in his name entitling him to an acquittal;⁸ and

(2) there is no evidence to establish that he conspired with his co-accused Dumancas and Briones who were public officers and the signatories to the subjects DVs and checks. He points out that his co-accused Dumancas and Briones were high-ranking officials of the PN over whom he had no moral ascendancy to convince them to sign the subject checks without the corresponding DVs.⁹

The Court finds the subject motions for reconsideration devoid of merit.

As correctly pointed out by the prosecution, the Court had squarely passed upon all the elements of the crimes of malversation of public funds and Section 3 (e) of R.A. No. 3019, as amended, subject of these cases. After a meticulous review of the records thereof and the evidence presented by the prosecution, the Court found all the presence of said necessary elements of the crimes charged. These evidence, both testimonial and, documentary, indubitably established the accused-movants' culpability for the crimes charged.¹⁰

Indeed, the accused-movants have not raised any new or substantial matter to warrant the reversal of the assailed Decision. The Court had exhaustively and directly passed upon these issues in its assailed Decision. Nonetheless, the Court shall again dwell on the arguments raised by the accused-movants if only to show their absolute lack of merit.

Accused Batestil's argument that the entries with "*snopake*" necessarily discredit the prosecution's evidence

⁷ pp. 877-879, Accused Chua's Motion for Reconsideration dated September 29, 2022, Record, Vol. 20

⁸ pp. 934-936, Accused Chua's Supplemental Motion for Reconsideration dated October 03, 2022, Record Vol. 20

⁹ pp. 878-879, Accused Chua's Motion for Reconsideration dated September 29, 2022, Record, Vol. 20

¹⁰ pp. 268-288; 294-297; 494-526; pp. 526-534, Decision

deserves scant consideration. It must be pointed out that accused Batestil confirmed that he signed the subject documents and affirmed that it was his signature appearing on the subject DVs. He testified that when he signed the said DVs, the “*snopake*” entries were not there. While there were “*snopake*” entries in the same DVs, this will not change the fact that he signed those documents which were made as bases in paying the alleged suppliers but the items were never delivered.¹¹ To be sure, accused Batestil did not categorically deny the signatures appearing on the subject POs and DVs as his. He simply testified that when he signed the subject documents, the “*snopake*” entries were not yet there. More importantly, the documents with “*snopake*” entries, as testified to by accused Batestil, did not refer to all of the documents subject of the cases for malversation of public funds. Only nine (9) DVs and POs¹² out of twenty (20) in the malversation of public funds cases have the “*snopake*” entries. Most of the documents with “*snopake*” entries were the subject of the charges for Violation of Section 3, (e) where accused Batestil was already acquitted.

The other documents accompanying the aforesaid documents like the Requisition and Issue Vouchers, Sales Invoice, TIRCAS and Certificates of Acceptance have no “*snopake*” entries. Accused Batestil likewise admitted that the subject documents were all prepared during his incumbency and he signed the subject DVs and POs.¹³

The accused-movant Batestil’s argument that there is no clear and direct evidence to establish that he conspired and confederated with his other co-accused in the commission of malversation likewise deserves scant consideration.¹⁴

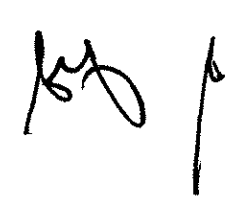
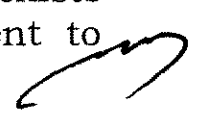
As discussed in the assailed Decision, conspiracy exists when two (2) or more persons come to an agreement to

¹¹ pp. 13-36, TSN, January 10, 2017

¹² Exhibits K-1, K-2 – DV and PO; Exhibits I, I-2 and I-6 – DV, PO Certificate of Emergency Purchase (CEP); Exhibits L, L-2, L-6 and L-6 – DV, PO, CEP and Procurement Directive (PD); Exhibit M-1 – DV; Exhibits N, N-1 and N-5 – DV, PO and CEP; Exhibits O-1 and O-5 – DV, PD; Exhibits R-1, R-4 and R-5 – DV, PO and PD; Exhibits S-1 and S-5 – DV and PD; and Exhibits V, V-2 and V-3 – DV, PO and CEP.

¹³ pp. 13-36, TSN, January 10, 2017; p. 245, Decision

¹⁴ p. 16, Accused Batestil’s Motion for Reconsideration; p. 928, Record, Volume 20



commit a felony and actually decide to commit it. There must be a common design to commit the same, being a joint offense. Direct proof of the agreement of the parties is not even necessary as the concurrence of will and common intent to commit the crime can be inferred from their actions.¹⁵

In ***Bahilidad v. People***,¹⁶ the Supreme Court held that a conspirator should have performed some overt act in contribution to the execution of the crime, thus:

It is necessary that a conspirator should have performed an overt act as direct or indirect contribution to the execution of the crime committed. The overt act may consist of active participation in the actual commission of the crime itself, or it may consist of moral assistance to his co-conspirator by being present at the commission of the crime or by exerting moral ascendancy over the co-conspirator.

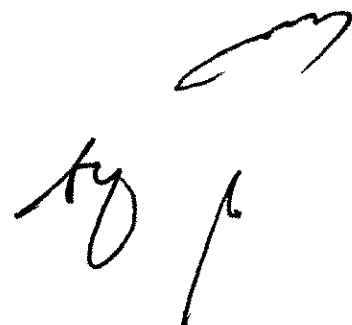
In its assailed Decision, the Court pointed out that the acts of accused Batestil in signing the subject documents showed the concurrence of the will and unity of purpose between accused Batestil and the other accused in defrauding the government. Accused Batestil's active participation in the signing of the important documents like the DVs and POs made possible for his co-accused Gianan to take huge amount from the coffers of the government without any valid basis.

We need not belabor on the elements of malversation of public funds in these cases as the same were exhaustively passed upon by the Court in its assailed Decision.¹⁷ To repeat, the prosecution was able to prove accused Batestil's guilt beyond reasonable for malversation of public funds.

¹⁵ Typoco, Jr. vs. People, 837 SCRA 306 (2017)

¹⁶ 615 SCRA 597 (2010)

¹⁷ pp. 268-297, Decision

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On the other hand, accused Chua alleges that there is no evidence to establish that there were no DVs covering the checks issued in his name. Allegedly, he participated in the bidding and was able to get an award, and, thereafter delivered the medicines and medical supplies. Thus, the checks represented payment for his alleged deliveries of medicines and medical supplies.

The allegations are baseless.

Accused Chua's allegations are mere sweeping statements that are devoid of evidentiary value. Had it been true that he participated in the alleged bidding and was able to get an award, he could have easily presented the Notice of Award and other bidding documents to support his allegations. Even the alleged deliveries he purportedly made could have been supported by delivery invoices or any delivery documents to establish the same which he utterly failed to do. In any case, the bare statement of accused Chua pales in comparison to the positive testimony of prosecution witness Lagunda that there were checks issued in his name without the corresponding DVs. The prosecution evidence clearly show that accused Chua was able to get the checks and thereafter encashed them without the corresponding DVs. Prosecution witness Lagunda was emphatic that the checks issued in accused Chua's name are considered "*encashed*" because they are "*return[ed] checks*" which are already in the possession of the resident auditor.¹⁸

Accused Chua's claim that he could not have conspired with his co-accused Dumancas, Jr. and Briones considering that they were high-ranking officials of the PN and had no moral ascendancy over them is without merit.

In our jurisdiction, conspiracy is not a crime in itself but is understood either as: (i) mode of committing a crime, or (ii) a constitutive act of the crime itself. As regards the present indictment, conspiracy is merely a mode of committing the

¹⁸ pp. 6-10, TSN, November 23, 2010

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crime being relevant only as to the liability of the accused notwithstanding the degree of participation.¹⁹

To repeat, conspiracy exists when two (2) or more persons come to an agreement to commit a felony and actually decide to commit it. There must be a common design to commit the same, being a joint offense. Direct proof of the agreement of the parties is not even necessary as the concurrence of will and common intent to commit the crime can be inferred from their actions.²⁰

Indeed, it need not be shown that the parties actually came together and agreed in express terms to enter into and pursue a common design. The existence of the assent of minds which is involved in a conspiracy may be, and from the secrecy of the crime, usually must be, inferred by the court from proof of facts and circumstances which, taken altogether, apparently indicate that they are merely parts of some complete whole. If it is proved that two (2) or more persons aimed by their acts towards the accomplishment of the same unlawful object, each doing a part so that their acts though apparently independent, were in fact connected and cooperative, indicating a closeness of personal association and a concurrence of sentiments, then conspiracy may be inferred although no actual meeting among them to concert is proved. Thus, the proof of conspiracy, which is essentially hatched under cover and out of view of other than those directly concerned, is perhaps most frequently made by evidence of a chain of circumstances only.²¹

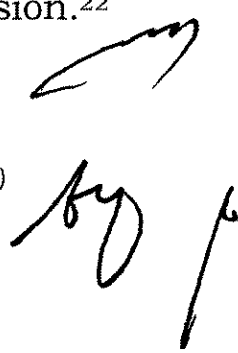
To reiterate, the prosecution evidence clearly established that accused Chua was able to “encash” twenty-two (22) checks issued in his name without the duly approved DVs and supporting documents. Prosecution witness Lagunda testified and detailed the said checks without the DVs, as mentioned in the subject Decision.²²

¹⁹ Lazarte, Jr. vs. Sandiganbayan, 581 SCRA 431 (2009)

²⁰ *supra*

²¹ Alvizo vs. Sandiganbayan, 220 SCRA 55 (1993)

²² pp. 528-534, Decision

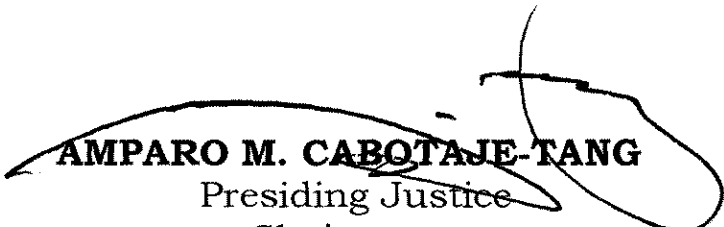
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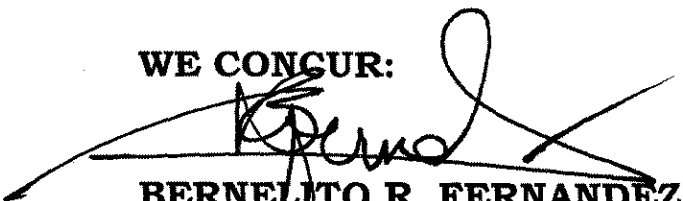
In sum, the testimonial and documentary evidence of the prosecution clearly proved that the accused-movants are guilty of the crimes charged against them. Thus, there is no tenable ground to warrant a reconsideration of the subject Decision.

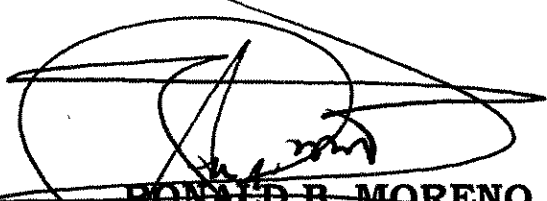
WHEREFORE, the Court **DENIES** accused Gilmer B. Batestil's Motion for Reconsideration dated September 30, 2022 and accused Victoriano Chua's Motion for Reconsideration dated September 29, 2022 and Supplemental Motion for Reconsideration dated October 03, 2022, of the Court's Decision promulgated on September 16, 2022, both for lack of merit.

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