



Republic of the Philippines

Sandiganbayan

Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,

Plaintiff,

**Crim. Cases No. SB-15-CRM-0068
& SB-15-CRM-0070**

versus

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

**NICANOR C. DE LEON,
LUZMINDA L. MACASIO, and
MARIA B. REMUDARO*,**

Accused.

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PEOPLE OF THE PHILIPPINES,

Plaintiff,

**Crim. Cases No. SB-15-CRM-0069
& SB-15-CRM-0071**

versus

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

**PACITA N. DE LEON,
LUZMINDA L. MACASIO, and
MARIA B. REMUDARO,**

Accused.

Present

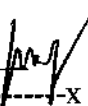
FERNANDEZ, SJ, J.

Chairperson

MIRANDA, J. and

VIVERO, J.

Promulgated:

January 25, 2023 

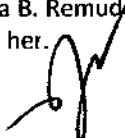
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RESOLUTION

VIVERO, J.:

Before this Court are the separate motions for reconsideration

* Accused Maria B. Remudaro died on December 6, 2020. Accordingly, the Court resolved to dismiss the cases against her.



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RESOLUTION

People v. Nicanor C. De Leon, et. al., Criminal Cases No. SB-15-CRM-0068 & 0070;
People v. Pacita N. De Leon, et. al., Criminal Cases No. SB-15-CRIM-0069 & 0071

Page 2 of 9

X-----X

filed by the accused in these cases, through their respective counsels, seeking the reversal of the Decision dated November 3, 2022, in the above-entitled cases, *viz*:

1. *Joint Motion for Reconsideration*¹ filed via electronic mail by accused Spouses Nicanor C. De Leon ("**Nicanor**," for brevity) and Pacita N. De Leon ("**Pacita**," for brevity) on November 17, 2022;
2. *Motion for Reconsideration*² (*For Accused Macasio*) filed via electronic mail by accused Luzminda L. Macasio ("**Macasio**," for brevity) on November 18, 2022; and,
3. *Consolidated Comment/Opposition*³ (*Re: Accused Spouses Nicanor and Pacita De Leon's Joint Motion for Reconsideration and accused Luzminda Macasio's Motion for Reconsideration*) filed by the prosecution on December 5, 2022 through electronic mail.

Nicanor and Pacita went at it hammer and tongs as they cited reversible error and averred that:

At bottom, the prosecution miserably failed to substantiate its accusation that spouses De Leon conspired with their co-accused Macasio and Remudaro in the crimes imputed against them.⁴

Accused Spouses De Leon sought refuge from the *Arias doctrine*,⁵ while they inveighed against the Court's conviction of the accused solely on the pretext that they countersigned the checks without duly approved disbursement vouchers.⁶ Also, renitency to the "*ambivalent*" testimony of accused Macasio was put forward.⁷

For her part, accused Macasio assails the ostensible sufficiency of evidence that befell the accused. Her contention runs thus:



¹ Dated November 17, 2022, pp. 1 – 23.

² Dated November 11, 2022, pp. 1 – 23.

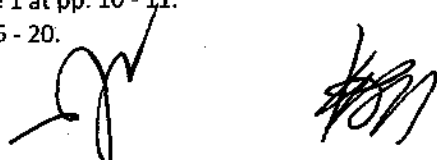
³ Dated December 2, 2022, pp. 1 - 5.

⁴ *Supra*, note 1 at p. 9.

⁵ G.R. No. 82512. December 19, 1989 [J. Gutierrez, Jr., En Banc] 259 Phil. 794, 801; 180 SCRA 309, 315-316..

⁶ *Supra*, note 1 at pp. 10 - 11.

⁷ *Id.* at pp. 15 - 20.



RESOLUTION

People v. Nicanor C. De Leon, et. al., Criminal Cases No. SB-15-CRM-0068 & 0070;
People v. Pacita N. De Leon, et. al., Criminal Cases No. SB-15-CRIM-0069 & 0071

Page 3 of 9

X-----X

13. . . . [T]he New Government Accounting System Manual for Local Government Units and the COA Circular [No.] 96-011 show that certain reportorial requirements were usually prepared by [the] respective accountable officers of the local government unit, which were usually in turn submitted to the **Resident COA Auditor for audit**. As can be glean (sic) from the ... provisions of the [the] NGAS, there are **three kinds of Cashbooks** prepared by the Municipal Treasurer. The NGAS likewise provides for the daily **Report of Collections and Deposits (RCD), Balance Sheet, Statement of Income and Expenses, and Statement of Cash Flows**. In addition, COA Circular [No.] 96-001 requires the preparation of [a] **Bank Reconciliation Statement** which must be submitted to the Resident COA Auditor for verification. x x x

14. A careful perusal of the pieces of evidence presented by the prosecution shows that the COA Special Audit Team, as represented by Juanita Capili, **was not able to sufficiently establish that it exhausted all efforts to audit the necessary documents and accounting reports in accordance with the NGAS and pertinent COA Circulars**. x x x⁸

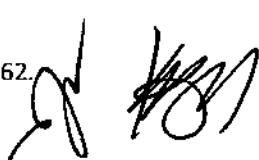
A sensu contrario, the Prosecution disheveled the argument of Spouses De Leon by drawing a parallelism between this case and *Lihaylihay v. People*,⁹ and highlighting the grievous fault of the accused Spouses, viz:

4. . . . [E]mphasis should be given on the certified true copies of the checks offered by the prosecution, which are marked and offered as Exhibits "G" to "G-17". The said checks are made "pay to the order of Municipal Treasurer," "pay to the order of Luzminda Macasio, Municipal Treasurer," "pay to the order of Luzminda Macasio, Municipal Treasurer of Amulung," "pay to the order of Municipal Treasurer of Amulung," or "pay to the order of Municipal Treasurer of Amulung, Cagayan".

5. The very first time that the accused spouses De Leon encountered checks were issued in the name of accused Macasio as Municipal Treasurer of Amulung, Cagayan **SHOULD HAVE PROMPTED ACCUSED SPOUSES DE LEON, AS MAYORS OF AMULUNG, CAGAYAN, to be CURIOUS [AS TO] WHY SAID CHECKS ARE NAMED AFTER ACCUSED MACASIO and not to the bank accounts of the Local Government of the Municipality of Amulung, Cagayan**. But, they failed. In fact, **NUMEROUS CHECKS WERE ISSUED**

⁸ Supra, Note 2 at pp. 13 - 14.

⁹ G.R. No. 191219, July 31, 2013, 702 SCRA 755, 762.



RESOLUTION

People v. Nicanor C. De Leon, et. al., Criminal Cases No. SB-15-CRM-0068 & 0070;
People v. Pacita N. De Leon, et. al., Criminal Cases No. SB-15-CRIM-0069 & 0071

Page 4 of 9

X-----X

AND ENCASHED IN THE NAME OF ACCUSED MACASIO.¹⁰
(Emphasis and Capitalization Supplied.)

The Court agrees with the Prosecution's stand.

Repeatedly debiting municipal funds¹¹ by drawing checks and diverting "encashed" but "not reflected" money to accused Macasio¹² cannot be countenanced as licit "regular practice". Even if this had never been questioned by either the resident auditors or the bank¹³ does not estop the government from taking issue over it. The Supreme Court's Resolution in *Nicanor C. De Leon and Pacita N. De Leon v. Commission on Audit*,¹⁴ rejected point-blank the "previous practice" defense of accused Spouses De Leon, viz:

From the foregoing, it is clear that petitioners cannot feign ignorance of the illegal disbursement by simply offering a measly excuse that they just followed the practice previously observed. Such excuse cannot be given credence because the said practice is clearly in violation of the categorical import of Section 42, Chapter 3, Volume 1 of the Manual on the NGAS for LGUs that checks shall be released only to the payee or his representative.

Moreover, petitioner Nicanor is a lawyer and accountant. Thus, with more reason that he should have refrained from continuing the illegal practice as it is expected that he is well-versed with the law, and in accounting and auditing procedures. Petitioners likewise err in relying on the fact that the said practice was never questioned in any prior audit reports. It must be remembered that estoppel does not lie against the government more so if its officials acted erroneously.

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The approving/certifying officers in this case are presumed to be acquainted with and, in fact, even duty-bound to know and understand the relevant laws/rules and regulations concerning disbursement of Amulung's funds. Their obstinate refusal or failure to strictly comply therewith constitutes gross inexcusable negligence. As stewards of public funds, they are reasonably expected to know these legal niceties. The pertinent legal guideposts are as follows:

¹⁰ Supra, Note 3 at pp. 2 - 3.

¹¹ Land Bank of the Philippines Current Account (C/A) Account No. 0122-1050-08.

¹² TSN, October 6, 2016, pp. 59 - 60.

¹³ Exhibits 28-De Leon, "35-De Leon/ D-5", "36-De Leon/D-6"; Judicial Affidavit of N. De Leon dated September 18, 2019, p. 25 (Records, Vol. 5, p. 76).

¹⁴ G.R. No. 218267, June 21, 2016.

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RESOLUTION

People v. Nicanor C. De Leon, et. al., Criminal Cases No. SB-15-CRM-0068 & 0070;
People v. Pacita N. De Leon, et. al., Criminal Cases No. SB-15-CRIM-0069 & 0071

Page 5 of 9

X-----X

1. Section 40 of The New Government Accounting System Manual for Local Government Units¹⁵ (LGU-NGAS Manual), Volume 1, mandates that “[c]hecks shall be drawn only on duly approved disbursement vouchers.”
2. Section 344 of R.A. No. 7160 requires that the disbursement voucher (DV) be approved by the local chief executive (LCE), in this case, the Municipal Mayor. Corollarily, the same provision requires the local accountant to obligate the appropriation.
3. Book VI, Chapter 5, Section 40 of Executive Order No. 292 mandates:

SECTION 40. Certification of Availability of Funds.—NO FUNDS SHALL BE DISBURSED, and no expenditures or obligations chargeable against any authorized allotment shall be incurred or authorized in any department, office or agency **WITHOUT FIRST SECURING THE CERTIFICATION OF ITS CHIEF ACCOUNTANT** or head of accounting unit as to the availability of funds and the allotment to which the expenditure or obligation may be properly charged.

No obligation shall be CERTIFIED TO ACCOUNTS PAYABLE unless THE OBLIGATION IS FOUNDED ON A VALID CLAIM THAT IS PROPERLY SUPPORTED BY SUFFICIENT EVIDENCE and unless there is PROPER AUTHORITY FOR ITS INCURRENCE. Any certification for a non-existent or fictitious obligation and/or creditor shall be considered void. The certifying official shall be dismissed from the service, without prejudice to criminal prosecution under the provisions of the Revised Penal Code. Any payment made under such certification shall be illegal and every official authorizing or making such payment, or taking part therein or receiving such payment, shall be jointly and severally liable to the government for the full amount so paid or received. (Emphasis and Capitalization Supplied.)

4. The Municipal Accountant is required by Sec. 474 (b) (5) of R.A. No. 7160 to review the supporting documents attached to the vouchers to determine the completeness of requirements. Without the respective

¹⁵ Prescribed by COA Circular No. 2002-003 dated June 20, 2002.



RESOLUTION

People v. Nicanor C. De Leon, et. al., Criminal Cases No. SB-15-CRM-0068 & 0070;
People v. Pacita N. De Leon, et. al., Criminal Cases No. SB-15-CRIM-0069 & 0071

Page 6 of 9

X-----X

approval and certification of said local officials in the DV, no public funds could be released.

Lest we forget, Lorenzo M. Saquing, Branch Manager of Land Bank, Tuguegarao, stressed the importance of the Accountant's Advice, to wit:

"33. Q: In relation to this case sir, what is the significance of the Accountant's Advice in the negotiation of checks issued by the LGU, Mr. Witness?

A: The **ACCOUNTANT'S ADVICE**¹⁶ is very important in the negotiation of checks issued by the LGU. **Encashment or deposit of checks issued by the LGU will not be allowed if the Accountant's Advice is not presented and submitted to the Bank.**" ¹⁷
(Emphasis and Capitalization Supplied.)

Further, lambasting the COA Fraud Audit Team for allegedly failing to exhaust efforts to ascertain the truth is misleading. Truth to tell, accused got hold of Audit Observation Memorandum No. 09-001. Yet, no refutation of the audit findings was submitted to the Commission. At bottom, the Supreme Court's Resolution in *Nicanor C. De Leon and Pacita De Leon v. Commission on Audit*¹⁸ incontrovertibly buttresses the Court's verdict herein, to wit:

"X x x The COA highlighted that the findings of **THE SPECIAL AUDIT REVEALED THAT THE UNLAWFUL TRANSACTIONS WERE NOT ONLY DONE THROUGH THE NON-SUBMISSION OF THE DVS, BUT ALSO BY THE MANIPULATION OF ACCOUNTING RECORDS, CASHBOOKS AND REPORTS.** It was made to appear that **VARIOUS CHECKS WERE EITHER CANCELLED OR RECORDED WITHOUT FURTHER DETAILS BUT, IN FACT, WERE ENCASHED OR NEGOTIATED.**

As the constitutionally appointed guardian of government coffers, the COA is endowed great latitude and authority. In *Veloso v. COA*,¹⁹ the Court elaborated on the wide discretion granted to the COA, to wit:

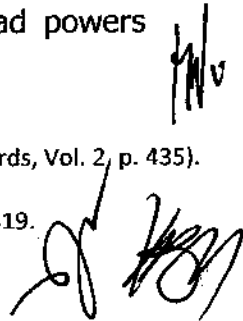
Pursuant to its mandate as the guardian of public funds, the COA is vested with broad powers

¹⁶ EXHIBITS "R", "S", "T", "U", "V".

¹⁷ Judicial Affidavit dated September 27, 2018, of L. M. Saquing, p. 9 (Records, Vol. 2, p. 435).

¹⁸ G.R. No. 218267, June 21, 2016 (Resolution); EXHIBIT "E-40".

¹⁹ G.R. No. 193677, September 6, 2011 [Per J. Peralta, En Banc], 672 Phil. 419.



RESOLUTION

People v. Nicanor C. De León, et. al., Criminal Cases No. SB-15-CRM-0068 & 0070;
People v. Pacita N. De Leon, et. al., Criminal Cases No. SB-15-CRIM-0069 & 0071

Page 7 of 9

X-----X

over all accounts pertaining to government revenue and expenditures and the uses of public funds and property. This includes the exclusive authority to define the scope of its audit and examination, establish the techniques and methods for such review, and promulgate accounting and auditing rules and regulations. **The COA is endowed with enough latitude to determine, prevent and disallow irregular, unnecessary, excessive, extravagant or unconscionable expenditures of government funds. It is tasked to be vigilant and conscientious in safeguarding the proper use of the government's, and ultimately the people's, property.** The exercise of its general audit power is among the constitutional mechanisms that gives life to the check and balance system inherent in our form of government.

"X x x." ²⁰ (Citations Omitted; Emphasis and Capitalization Supplied.)

The principal evidence presented during trial was the COA's findings *vis a vis* the irregularities. The auditorial power under the Constitution²¹ of the Commission on Audit ensures **accountability** enforcement in the disbursement of public funds.²² Thus, COA's findings are accorded not only respect but also finality, when they are not tainted with grave abuse of discretion.²³ Given its special technical knowledge and experience,²⁴ the findings and conclusion of the COA, as reflected in the Notices of Disallowance²⁵ and Fraud Audit Report,²⁶ can withstand legal scrutiny.

Further, accused cannot hide behind the High Tribunal's declaration in ***Arias v. Sandiganbayan***²⁷ that heads of offices cannot be convicted of a conspiracy charge just because they did not personally examine every single detail before they, as the final approving authorities, affixed their signatures to certain documents. The Court explained in that case that conspiracy was not adequately proven, unlike the instant case in which accused's unity of purpose and unity in the execution of an unlawful objective were sufficiently

²⁰ *Id.* at p. 431.

²¹ 1987 CONSTITUTION, ARTICLE IX-D, Section 2(1).

²² *Veloso v. Commission on Audit*, G.R. No. 193677, September 6, 2011, 656 SCRA 767, 776.

²³ *Cuerdo v. Commission on Audit*, G.R. No. 84592, October 27, 1988, 166 SCRA 657.

²⁴ *Villanueva v. Commission on Audit*, G.R. No. 151987, March 18, 2005, 453 SCRA 782; *Olague v. Domingo*, G.R. No. 109666, June 20, 2001, 359 SCRA 78.

²⁵ EXHIBITS "E-1" to "E-39".

²⁶ EXHIBIT "C", "C-3-A", "C-3-B".

²⁷ G.R. No. 81563, December 19, 1989 [J. Gutierrez, Jr., En Banc] 259 Phil. 794,801, 180 SCRA 309, 315-316.



RESOLUTION

People v. Nicanor C. De Leon, et. al., Criminal Cases No. SB-15-CRM-0068 & 0070;
People v. Pacita N. De Leon, et. al., Criminal Cases No. SB-15-CRIM-0069 & 0071

Page 8 of 9

X-----X

established. Also, unlike in *Arias*, where there were no reasons for the heads of offices to further examine each voucher in detail, accused herein, by virtue of the duty given to them by law as well as by rules and regulations, had the responsibility to examine the disbursement voucher and appurtenant papers to ascertain whether it was proper to sign them before disbursing public monies. Lastly, the Court re-echoes what it stated in the assailed Decision, to wit:

[T]he *Arias* doctrine²⁸ crumbles in the face of the contemporaneous Resolution of the Supreme Court in *De Leon v. COA*.²⁹ The Supreme Court’s determination of accused’s liability for the questionable disbursements cannot be sidetracked, much less, ignored. *Res judicata pro veritate accipitur* (A matter adjudicated is taken for truth.).

Furthermore, neither Remudaro’s declaration before the *Sangguniang Bayan*³⁰ that accused De Leon had nothing to do with the alleged fraud, nor her “admission of culpability” before Atty. Mila Catabay-Lauigan, a notary public,³¹ can *propio vigore* clear accused Spouses De Leon. Likewise, accused Macasio’s confession,³² while implicating Erlinda Langkay,³³ the resident auditor, cannot constitute exculpatory evidence in their favor. The Court cannot gloss over the fact that accused Macasio spilled the beans, thereby unraveling the repeated irregularities perpetrated by accused Spouses De Leon.³⁴

In line with *Mendoza-Ong v. Sandiganbayan*,³⁵ a motion for reconsideration may be summarily denied when it merely contains a rehash of the arguments previously put forward and found to be unmeritorious. Having perspicaciously passed upon such issues after a full-blown trial, it would be an exercise in futility for the Court to reiterate itself.

WHEREFORE, premises considered, the *Joint Motion for Reconsideration* dated November 17, 2022, filed by accused

²⁸ In *Rivera v. People* (G.R. Nos. 156577, 156587, 156749, December 3, 2014), the Supreme Court enunciated that the *Arias doctrine* states that “[a]ll heads of offices have to rely to a reasonable extent on their subordinates and on the good faith of those who prepare bids, purchase supplies, or enter into negotiations.”

²⁹ Exhibit “E-40”.

³⁰ Exhibit “24 – De Leon”.

³¹ Exhibit “46-A – De Leon; TSN, January 25, 2021, pp. 11 – 13. and her confession Exhibits “D-7”/”1-De Leon”, “3-De Leon”, “4-De Leon”, “18-De Leon”. “20-De Leon”, “32-De Leon”.

³² Exhibits “2-De Leon”, “17-De Leon”, “30-De Leon” to “30-I-De Leon”; TSN, July 17, 2021, pp. 11 – 13.

³³ TSN, February 13, 2020, pp. 30, 32 (Testimony of P. De Leon);

³⁴ TSN, July 27, 2021, pp. 15 – 17, 25 – 27.

³⁵ G.R. Nos. 146368 - 69, October 18, 2004 (Resolution)

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RESOLUTION


People v. Nicanor C. De Leon, et. al., Criminal Cases No. SB-15-CRM-0068 & 0070;
People v. Pacita N. De Leon, et. al., Criminal Cases No. SB-15-CRIM-0069 & 0071

Page 9 of 9

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Spouses Nicanor and Pacita De Leon and the *Motion for Reconsideration (For Accused Macasio)* dated November 11, 2022, are hereby **DENIED** for lack of merit.

SO ORDERED.


KEVIN NARGE B. VIVERO
Associate Justice

We concur:


SARAH JANE T. FERNANDEZ
Chairperson
Associate Justice


KARL B. MIRANDA
Associate Justice