



Republic of the Philippines  
**Sandiganbayan**  
Quezon City

**SIXTH DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
*Plaintiff,*

**Crim. Case No. SB-16-CRM-0580**

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

- versus -

**ESTEBAN R. SIA,  
ESPERATO A. DEL  
SOCORRO, and GENARA  
M. KASAYAN,**

*Accused.*

x-----x

**PEOPLE OF THE PHILIPPINES,**  
*Plaintiff,*

**Crim. Case No. SB-16-CRM-0581**

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

- versus -

**ESTEBAN R. SIA,  
ESPERATO A. DEL  
SOCORRO and GENARA  
M. KASAYAN,**

*Accused.*

*Present:*

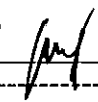
**FERNANDEZ, SJ, J.**

*Chairperson*

**MIRANDA, J. and**

**VIVERO, J.**

*Promulgated:*

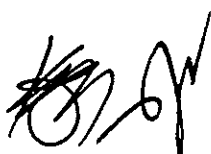
*April 20, 2018* 

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**RESOLUTION**

**VIVERO, J.:**

Before this Court for resolution are the following incidents:



**RESOLUTION**

Crim. Cases No. SB-16-CRM-0580 & SB-16-CRM-0581

*People v. Esteban R. Sia, Esperato A. Del Socorro, and Genara M. Kasayan*

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1. *Motion to Inhibit with Motion for Reconsideration*<sup>1</sup> (for Accused Esperato A. Del Socorro) filed via electronic mail by accused Del Socorro on February 22, 2023;
2. *Comment/Opposition*<sup>2</sup> (Re: Motion for Reconsideration) filed by the Prosecution on March 7, 2023 through electronic mail; and
3. *Comment on the Prosecution's Opposition*<sup>3</sup> (for Accused Esperato A. Del Socorro) filed by accused Del Socorro on March 22, 2023 through electronic mail.

The *fallo* of the assailed Decision<sup>4</sup> is quoted below, to wit:

**WHEREFORE**, in light of all the foregoing, judgment is hereby rendered as follows:

**A. CRIMINAL LIABILITY:**

**1. Criminal Case No. SB-16-CRM-0580:**

Accused Esperato A. Del Socorro is found **GUILTY** beyond reasonable doubt of **violation of Section 3(e) of Republic Act No. 3019, as amended**. Accordingly, he is sentenced to suffer the penalty of imprisonment from six (6) years and one (1) month to ten (10) years, with perpetual disqualification from holding public office.

**2. Criminal Case No. SB-16-CRM-0581:**

Accused Esperato A. Del Socorro is found **GUILTY** beyond reasonable doubt of **Malversation of Public Funds** under Article 217 of the Revised Penal Code, as amended by Republic Act No. 10951. Accordingly, accused Del Socorro is hereby sentenced to suffer the penalty of imprisonment from six (6) years and one (1) day of *prision mayor* to ten (10) years and one (1) day of *prision mayor*.

In addition, accused Del Socorro is sentenced to suffer perpetual special disqualification from holding public office and forfeiture of all retirement and gratuity benefits under existing laws.

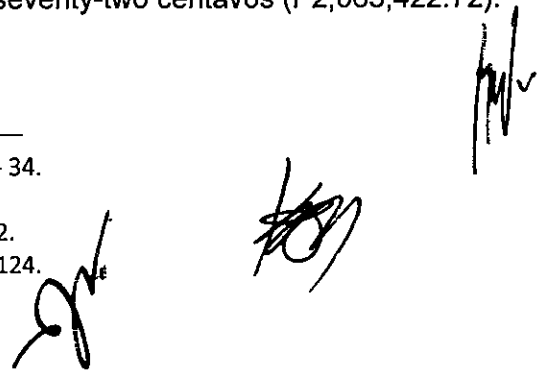
Further, accused Del Socorro shall pay a fine in the amount of two million sixty-three thousand four hundred twenty-two pesos and seventy-two centavos (P2,063,422.72).

<sup>1</sup> Dated February 22, 2023, pp. 1 - 34.

<sup>2</sup> Dated March 6, 2023, pp. 1 - 7.

<sup>3</sup> Dated March 20, 2023, pp. 1 - 12.

<sup>4</sup> Dated February 7, 2023, pp. 1 - 124.



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**B. CIVIL LIABILITY:**

The Court finds accused Esperato A. Del Socorro civilly liable in Criminal Cases No. SB-16-CRM-0580 and SB-16-CRM-0581. Hence, he must refund to the Bureau of the Treasury the amount of two million sixty-three thousand four hundred twenty-two pesos and seventy-two centavos (P2,063,422.72), plus interest thereon at the rate of 6% *per annum*, reckoned from the finality of the decision until the amount is fully paid.

**SO ORDERED.<sup>5</sup>**

Accused Del Socorro's position appears ambivalent, at best. Initially, he moves that "the Honorable Presiding Justices of the instant case, voluntarily inhibit themselves from acting upon the motion for reconsideration"<sup>6</sup> because of "manifest bias and partiality."<sup>7</sup> Yet, paradoxically, he cites reversible error, and prays for the acquittal of said accused, from the very Court he considers kaput.<sup>8</sup>

Accused's Motion for Reconsideration ascribes error of law and fact upon the Court's verdict. By and large, accused impugns the Court's conviction of the accused for two crimes on the ground that it is "inconsistent and in contrast with established facts and existing jurisprudence."<sup>9</sup>

Accused clings obstinately to his flawed stratagem that "accused DEL SOCORRO's authority was limited only to certifying the availability of funds for the disbursement voucher."<sup>10</sup> Contrarily, the Prosecution gave a rundown of the patent irregularities attendant to the release of cash advances in favor of accused Sia, *scilicet*:

- a) **The various cash advances were released in favor of accused Sia despite its purposes not being for travelling expenses;**

x x x [M]ost of the DVs<sup>11</sup> were issued for different purposes other than travel expenses. Under Section 4.1.4 of Commission on Audit (COA) Circular No. 97-002, elected officials, such as the accused Sia, are allowed cash advances only for official travel expenses.

<sup>5</sup> Id. at pp. 121 - 123.

<sup>6</sup> Supra, Note 1 at p. 2.

<sup>7</sup> Supra, Note 3, pp. 9 - 10.

<sup>8</sup> Id. at pp. 4 - 34; Supra, Note 3 at p. 11.

<sup>9</sup> Supra, Note 1 at p. 6.

<sup>10</sup> Id. at pp. 9, 12, 23; Supra, Note 3 at pp. 4 - 5.

<sup>11</sup> EXHIBIT "D" and series.

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**b) Cash advances were issued despite the pending liquidation of various cash advances of accused Sia;**

As indicated in the DVs, cash advances were issued in favor of accused Sia despite his previous unliquidated cash advances in violation of Section 4.1.2 of COA Circular No. 97-002.

**c) Cash advances were issued despite the lack of signature of the accounting office;**

As reflected in the DVs, and testified by state witness Genara Kasayan (Kasayan), many of the cash advances were released despite the lack of signature on her part. These cash advances were released because accused Sia and Del Socorro conspired with each other considering that they are authorized signatories of the check for Ronda, Cebu.

x x x The badge of conspiracy can be gleaned from the memorandum dated December 24, 2008,<sup>12</sup> issued by accused Sia, to wit:

“There have been instances that because of absence of either the Municipal Accountant or the Budget Officer **certain urgent disbursement had to be made without their signatures.** These are very legitimate disbursements and should there be questions about them, **they should be taken up with me in conference with the treasurer** and all parties concerned, and no vouchers or payrolls should be taken without the necessary signatures. . .”  
(Emphasis Supplied.)

**d) Accused Sia failed to liquidate his cash advances despite multiple demands to liquidate coming from the COA and the Municipal Accountant.**

x x x<sup>13</sup>

Anent this prickly issue, the Court’s disquisition is instructive, viz:

x x x To downplay the treasurer’s **certifying** function,<sup>14</sup> while overstating the accountant’s role as the sole **“gatekeeper”**<sup>15</sup> for cash advances is misleading. Corollarily, signing the check, as accused Kasayan attests, is **“not ministerial.”**<sup>16</sup> Section 16<sup>17</sup> of COA Circular No. 006-09<sup>18</sup> buttresses this.

<sup>12</sup> EXHIBIT “2”.

<sup>13</sup> Supra, Note 2 at pp. 3 - 4.

<sup>14</sup> See R.A. No. 7160, Section 344; Local Treasury Operations Manual, Chapter 4, Section 23, paragraph (e), no. 1.

<sup>15</sup> 2<sup>nd</sup> Judicial Affidavit of E. A. Del Socorro, p. 14.

<sup>16</sup> TSN, November 8, 2019, pp. 78 – 80.

<sup>17</sup> Section 16 of COA Circular No. 006-09, in part, reads:

**SECTION 16. Determination of Persons Responsible/Liable.—**

16.1 The Liability of public officers and other persons for audit disallowances/charges shall be determined on the basis of (a) the nature of the disallowance/charge; (b) the duties and

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Further, Section 40 of the NGAS-LGU Manual, Volume 1, mandates that “[c]hecks shall be drawn only on duly approved disbursement vouchers.”<sup>19</sup> Needless to say, the exercise of sound discretion is crucial. As a matter of course, disbursements from the general fund shall require the following *certifications* or the DV:<sup>20</sup>

1. Certification and approval of voucher as to validity, propriety and legality of the claim (Box A of DV) by the head of office (i.e. Mayor);
2. Necessary documents supporting the DV as certified to and reviewed by the Accountant (Box B of DV); and
3. Certification that funds are available for the purpose by the Local Treasurer (Box C of DV).<sup>21</sup>

The above certifications show that, consistent with Section 4(4) of P.D. No. 1445, fiscal responsibility is shared by the triumvirate of accused Sia, Kasayan and Del Socorro.

A second hard look at the evidence *vis a vis* the assailed Decision reaffirms the Court’s verdict. *Ergo*, **both** motions must be denied.

responsibilities or obligations of officers/employees concerned; (c) the extent of their participation in the disallowed/charged transaction; and (d) the amount of damage or loss to the government, thus:

- 16.1.1 Public officers who are custodians of government funds shall be liable for their failure to ensure that such funds are safely guarded against loss or damage; that they are expended, utilized, disposed of or transferred in accordance with law and regulations, and on the basis of prescribed documents and necessary records.
- 16.1.2 **PUBLIC OFFICERS WHO CERTIFY AS TO THE NECESSITY, LEGALITY AND AVAILABILITY OF FUNDS OR ADEQUACY OF DOCUMENTS SHALL BE LIABLE ACCORDING TO THEIR RESPECTIVE CERTIFICATIONS.**
- 16.1.3 Public officers who approve or authorize expenditures shall be liable for losses arising out of their negligence or failure to exercise the diligence of a good father of a family.
- 16.1.4 **Public officers and other persons who CONFEDERATED OR CONSPIRED in a transaction which is disadvantageous or prejudicial to the government shall be held liable JOINTLY AND SEVERALLY with those who benefited therefrom.**
- 16.1.5 The payee of an expenditure shall be personally liable for a disallowance where the ground thereof is his failure to submit the required documents, and the Auditor is convinced that the disallowed transaction did not occur or has no basis in fact.
- 16.2 The liability for audit charges shall be measured by the individual participation and involvement of public officers whose duties require appraisal/assessment/collection of government revenues and receipts in the charged transaction.
- 16.3 The liability of persons determined to be liable under an ND/NC shall be solidary and the Commission may go against any person liable without prejudice to the latter's claim against the rest of the persons liable. (Emphasis and Capitalization Supplied.)

<sup>18</sup> Prescribing the use of the Rules and Regulations on Settlement of Accounts.

<sup>19</sup> See also **COA Circular No. 92-382**, wherein Section 42 provides: “Checks in settlement of obligations shall be drawn only on duly approved disbursement vouchers.”

<sup>20</sup> The DV is a form used to pay an obligation to employees/individuals/agencies/creditors for goods purchased or services rendered.

<sup>21</sup> Section 38 of the NGAS-LGU Manual, Vol. 1.

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On hindsight, the Court had tackled the accused's *Motion to Inhibit* front-and-center. The Court, while citing Rule XIII of the 2018 Revised Internal Rules of the Sandiganbayan, trashed it and resolved<sup>22</sup> that "**there is no compelling reason or cause for this Court's Justices to voluntarily inhibit.**"<sup>23</sup> Further, when accused sought reconsideration<sup>24</sup> because of "**unconscious bias,**"<sup>25</sup> the Court stood firm and denied said motion for lack of merit.<sup>26</sup> In fine, the prized ideal of "**the cold neutrality of an impartial judge**"<sup>27</sup> implicit in the due process guarantee had been met.

Accused Del Socorro asserts bullheadedly that he never got hold of or stash away the cash advances received by Mayor Sia.<sup>28</sup> Granting *arguendo* that his self-serving quip deserves credence, the former cannot precipitately disengage from the collusive web. The totality of the facts and circumstances proved otherwise, viz:

Conspiracy, coined the prosecutor's "**darling,**"<sup>29</sup> has been shown unequivocally. True, accused Del Socorro and Kasayan were persons in a chain of processing officers who happen to sign or initial many a voucher as it is going the rounds.<sup>30</sup> But nothing could be further from the truth as the fact that accused Del Socorro has "**guilty knowledge**"<sup>31</sup> of accused Sia's bigoted ways. Elsewise stated, he has been "**privy to the conspirational scheme,**"<sup>32</sup> and, time and again, he has lent moral assistance to his co-conspirator,<sup>33</sup> accused Sia.

X X X

Accused Del Socorro and Kasayan knowingly went along with accused Sia by lending a semblance of legitimacy to an otherwise irregular amassing of public funds. To the point of being repetitive, certifying, approving and signing each disbursement voucher,<sup>34</sup> obligation

<sup>22</sup> Resolution dated November 10, 2020, pp. 1 – 10 (Records, Vol. 6, pp. 436 – 445).

<sup>23</sup> *Id.* at pp. 9 – 10, (Records, Vol. 6, pp. 444 – 445).

<sup>24</sup> *Motion for Reconsideration* dated November 15, 2020, of E. A. Del Socorro, pp. 1 – 4 (Records, Vol. 6, pp. 456 – 459).

<sup>25</sup> TSN, November 17, 2020, pp. 8 - 10.

<sup>26</sup> Resolution dated November 25, 2020, pp. 1 – 5 (Records, Vol. 6, pp. 467 – 471).

<sup>27</sup> *Gutierrez v. Santos*, L-15824, May 30, 1961, 2 SCRA 249, 254; *Mateo, Jr. v. Hon. Onofre Villaluz*, G.R. No. L-34756-59, March 31, 1973 [J. Fernando, En Banc].

<sup>28</sup> *Supra*, Note 3, pp. 6 – 7.

<sup>29</sup> In *People v. Bautista* (G.R. No. 188601, June 29, 2010), the Supreme Court stated:

Judge Learned Hand once called conspiracy "**the darling of the modern prosecutor's nursery.**" (636 Phil. 535, 553-554).

<sup>30</sup> *Macadangdang v. Sandiganbayan*, G.R. No. 75440-43, February 14, 1989.

<sup>31</sup> *United States v. Acebedo*, G.R. No. L-5799, February 23, 1911, 18 Phil. 428 [Per J. Moreland].

<sup>32</sup> *Ang v. Sandiganbayan*, G.R. No. 91886, May 20, 1991, 197 SCRA 262 [Per J. Gutierrez, Jr.].

<sup>33</sup> *Pecho v. People and Sandiganbayan*, G.R. No. 111399, September 27, 1996 (262 SCRA 518, 530-531), citing *People vs. De Roxas*, G.R. No. 106783, February 15, 1995 (241 SCRA 369).

<sup>34</sup> EXHIBITS "D", "D-5", "D-7", "D-8", "D-9", "D-10", "D-11", "D-12", "D-16", "D-19", "D-20", "D-21", "D-22", "D-24", "D-25", "D-26", "D-27", "D-28", "D-29", "D-30", "D-35", "D-31", "D-32", "D-33", "D-34", "D-35", "D-36", "D-37", "D-38", "D-39", "D-40", "D-41", "D-42", "D-43", "D-44", "D-45", "D-46", "D-47", "D-48", "D-49", "D-50", "D-51", "D-52", "D-53", "D-54", "D-55", "D-56", "D-57", "D-58".

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request,<sup>35</sup> check<sup>36</sup> and journal entry voucher<sup>37</sup> were not perfunctory, ministerial tasks. Determining the propriety, validity, and legality of each transaction demanded the exercise of sound judgment. They acted *ex cathedra*; hence, it behooved them to observe utmost circumspection. Discretion had been narrowly tailored by the textual basis of the law. For committing acts contrary thereto, the "overt act" in pursuance of the conspiracy, as required in *Bahilidad v. People*,<sup>38</sup> was proven. The acts of accused Del Socorro and Kasayan dovetailed those of accused Sia. As tersely stated in *Jaca v. People*,<sup>39</sup> "[w]ithout anyone of these acts or omissions, the end result would not have been achieved."<sup>40</sup>

The Prosecution concatenated the *chain of circumstances* showing that accused Sia, Del Socorro and Kasayan "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 sentiment."<sup>41</sup> x x x<sup>42</sup>

Neither feigned ignorance<sup>43</sup> of Mayor Sia's unliquidated cash advances nor alleged "coercion" and "threats"<sup>44</sup> allegedly imposed by Mayor Sia can exculpate accused Del Socorro from violation of Section 3(e) of R.A. No. 3019. Contrary to the protestations of accused Del Socorro,<sup>45</sup> his conviction is anchored on the strength of the Prosecution's evidence, not on the weakness of the Defense. Also, the Prosecution has established criminal conspiracy beyond reasonable doubt. Hence, the presumption of innocence and the presumption of regularity in the performance of official function are feckless herein.



<sup>35</sup> EXHIBITS "D-1-G", "D-4-G", "D-5-G", "D-7-G", "D-8-G", "D-9-G", "D-10-G", "D-11-G", "D-12-G", "D-16-G", "D-19-G", "D-22-G", "D-23-G", "D-25-G", "D-27-G", "D-28-G", "D-29-G", "D-30-G", "D-31-G", "D-32-G", "D-33-G", "D-34-G", "D-37-G", "D-38-G", "D-39-G", "D-40-G", "D-41-G", "D-42-G", "D-43-G", "D-44-G", "D-45-G", "D-46-G", "D-47-G", "D-48-G", "D-49-G", "D-50-G", "D-51-G", "D-52-G", "D-53-G", "D-54-G", "D-55-G", "D-56-G", "D-57-G", "D-58-G".

<sup>36</sup> EXHIBITS "D-1-I", "D-4-I", "D-5-I", "D-8-I", "D-9-I", "D-10-I", "D-11-I", "D-24-I", "D-25-I", "D-31-I", "D-32-I", "D-33-I", "D-34-I", "D-35-I", "D-36-I", "D-38-I", "D-39-I", "D-40-I", "D-41-I", "D-43-I", "D-44-I", "D-45-I", "D-46-I", "D-47-I", "D-48-I", "D-49-I", "D-50-I", "D-51-I", "D-52-I", "D-53-I", "D-54-I", "D-55-I", "D-56-I", "D-57-I".

<sup>37</sup> EXHIBITS "D-1-J", "D-4-J", "D-5-J", "D-7-J", "D-8-J", "D-9-J", "D-10-J", "D-16-J", "D-24-J", "D-25-J", "D-26-J", "D-28-J", "D-29-J", "D-30-J", "D-31-J", "D-32-J", "D-33-J", "D-34-J", "D-35-J", "D-36-J", "D-37-J", "D-39-J", "D-40-J", "D-41-J", "D-42-J", "D-43-J", "D-44-J", "D-45-J", "D-46-J", "D-47-J", "D-48-J", "D-49-J", "D-50-J", "D-51-J", "D-52-J", "D-53-J", "D-54-J", "D-55-J", "D-56-J", "D-57-J".

<sup>38</sup> G.R. No. 185195, March 17, 2010 (615 SCRA 597, 604); Ramon C. Aquino, THE REVISED PENAL CODE, Vol. 1 [1987], 497.

<sup>39</sup> 689 SCRA 270.

<sup>40</sup> Id. at p. 320.

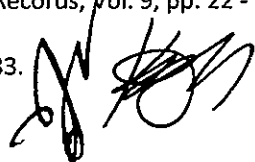
<sup>41</sup> *Macapagal-Arroyo v. People & Sandiganbayan, First Division*, G.R. Nos. 220598 & 220953, July 19, 2016, citing *People v. De Leon*, G.R. No. 179943, June 26, 2009 [591 SCRA 178, 194-195]; *Alvizo v. Sandiganbayan*, G.R. Nos. 98494-98692, July 17, 2003, 454 Phil. 34, 106.

<sup>42</sup> Decision dated February 7, 2023, pp. 111 - 113.

<sup>43</sup> *Comment Ad Cautelcm to the Prosecution's Memorandum (For Accused Esperato A. Del Socorro)* dated July 4, 2022, pp. 4 - 5 (Records, Vol. 9, pp. 22 - 23).

<sup>44</sup> *Supra*, Note 3 at p. 5

<sup>45</sup> *Supra*, Note 1, pp. 32 - 33.



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Ineluctably, accused Del Socorro has incurred criminal and civil liability for violation of Article 271 of the Revised Penal Code. To carp at the Court’s judgment in this regard for being “*baseless and misplaced*”<sup>46</sup> is inane. If only to drive home the point, the Court explained thusly:

x x x [A]ccused Del Socorro received cash advances (P325,356.00) too,<sup>47</sup> and these remained unliquidated. The no-holds-barred ways of accused Sia has persisted hitherto. Yet, accused Del Socorro has condoned his arbitrariness and nonfeasance. Amidst the concrete adverseness of accused Sia’s default, accused Del Socorro has morphed into a willing accomplice and enabler. For tolerating the practice of facilitating dubious cash advances, and abetting the illegality of such practice, accused Del Socorro committed, what Supreme Court Associate Justice Bernardo P. Pardo, termed as, “*passive malversation*.”<sup>48</sup>

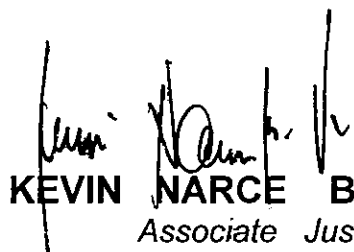
That accused Del Socorro did “*not receive a single centavo from these disbursements*”<sup>49</sup> cannot *ipso facto* negate his criminal responsibility. *Hernan v. Sandiganbayan*<sup>50</sup> stressed that a public officer may be held liable for malversation even if he does not use public property or funds under his custody for his personal benefit, but consents to the taking thereof by another person, or through abandonment or negligence, permitted such taking. x x x<sup>51</sup>

In line with *Mendoza-Ong v. Sandiganbayan*,<sup>52</sup> a motion for reconsideration may be summarily denied when it merely contains warmed-over 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, both the *Motion to Inhibit* and the *Motion for Reconsideration* filed by accused Esperato A. Del Socorro are hereby **DENIED** for lack of merit.

**SO ORDERED.**



  
**KEVIN NARCE B. VIVERO**  
Associate Justice

<sup>46</sup> Supra, Note 3 at pp. 7 - 8.

<sup>47</sup> EXHIBIT “E”, p. 17.

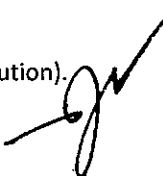
<sup>48</sup> *Rueda, Jr. v. Sandiganbayan*, G.R. No. 129064, November 29, 2000 [Per J. Pardo, En Banc].

<sup>49</sup> Memorandum (For Accused ESPERATO A. DEL SOCORRO) dated June 27, 2022, p. 14.

<sup>50</sup> G.R. No. 217874, December 5, 2017.

<sup>51</sup> Decision dated February 7, 2023, pp. 108 - 109.

<sup>52</sup> G.R. Nos. 146368 - 69, October 18, 2004 (Resolution).






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**We concur:**

  
**SARAH JANE T. FERNANDEZ**  
*Chairperson*  
*Associate Justice*

  
**KARL B. MIRANDA**  
*Associate Justice*

