



Republic of the Philippines

Sandiganbayan

Quezon City

FIFTH DIVISION

PEOPLE OF THE PHILIPPINES,

Plaintiff,

-versus-

**DATU SAJID ISLAM UY
AMPATUAN, JOHN ESTELITO G.
DOLLOSA, JR., OSMENA M.
BANDILLA, LANDAP P. GUINAID,
and DATU ANDAL UY AMPATUAN,
JR.,**

Accused.

X-----X

SB-17-CRM-0762 to 0769

For: Violation of Section 3(e)
of Republic Act No. 3019 or
the Anti-Graft and Corrupt
Practices Act, as amended

PEOPLE OF THE PHILIPPINES,

Plaintiff,

-versus-

**DATU SAJID ISLAM UY
AMPATUAN, LANDAP P. GUINAID,
and YAHIYA AKMAD KANDONG,**

Accused.

X-----X

SB-17-CRM-0770 to 0771

For: Falsification of Public
Documents under Article 171,
paragraph 4 of the Revised
Penal Code

PEOPLE OF THE PHILIPPINES,

Plaintiff,

-versus-

**DATU SAJID ISLAM UY
AMPATUAN, LANDAP P. GUINAID,
and PENDI A. ABPET,**

Accused.

X-----X

SB-17-CRM-0772 to 0773

For: Falsification of Public
Documents under Article 171,
paragraph 4 of the Revised
Penal Code

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

**DATU SAJID ISLAM UY
AMPATUAN, LANDAP P. GUINAID,
and OMAR BALUTINTIK CAMSA,**
Accused.

x-----x

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

**DATU SAJID ISLAM UY
AMPATUAN, LANDAP P. GUINAID,
and ANTHONY SENDA KASAN,**
Accused.

x-----x

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

**DATU SAJID ISLAM UY
AMPATUAN, LANDAP P. GUINAID,
and AKMAD SINALNGANAN
SALIM,**
Accused.

x-----x

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

**DATU SAJID ISLAM UY
AMPATUAN, LANDAP P. GUINAID,
and JAYPEE PASAWILAN PIANG,**
Accused.

x-----x

SB-17-CRM-0774

For: Falsification of Public Documents under Article 171, paragraph 4 of the Revised Penal Code

SB-17-CRM-0775

For: Falsification of Public Documents under Article 171, paragraph 4 of the Revised Penal Code

SB-17-CRM-0776

For: Falsification of Public Documents under Article 171, paragraph 4 of the Revised Penal Code

SB-17-CRM-0777

For: Falsification of Public Documents under Article 171, paragraph 4 of the Revised Penal Code

Present:

LAGOS, J., Chairperson,
MENDOZA-ARCEGA, and
CORPUS-MAÑALAC, JJ.

Promulgated:

March 10, 2023

x-----x

General [Signature]

[Signature]

RESOLUTION

CORPUS-MAÑALAC, J.:

Before the Court are: (1) the joint *Motion for Reconsideration*¹ dated January 25, 2023 of accused **Yahiya A. Kandong** (Kandong), **Omar B. Camsa** (Camsa), **Anthony S. Kasan** (Kasan), **Akmad S. Salim** (Salim), and **Jaypee P. Piang** (Piang; collectively, “the accused-movants”); and (2) the *Opposition*² dated February 7, 2023 of the prosecution.

In their motion, the accused-movants urge the Court to reconsider its January 13, 2023 *Decision*,³ which found accused Kandong (in SB-17-CRM-0770 to 0771), Camsa (in SB-17-CRM-0774), Kasan (in SB-17-CRM-0775), Salim (in SB-17-CRM-0776), and Piang (in SB-17-CRM-0777) guilty of falsification of public documents under Article 171(4) of the Revised Penal Code (RPC). The accused-movants argue that “[t]he vital prosecution witnesses, the [members of the] Commission on Audit inspectorate team, did not measure or inspect the entire length of the projects supervised by the engineers that renders their inspection doubtful, and hence reasonable doubt exists that should have been resolved in [their] favor.”⁴

In the alternative, the accused-movants plead for the appreciation of additional mitigating circumstances.⁵ They urge the Court to appreciate accused Salim’s advanced age (65 years old this year) as a mitigating circumstance similar to old age under Article 13(2) of the RPC.⁶ They also ask the Court to consider the partial completion of the projects as a mitigating circumstance analogous to ‘no intention to commit so grave a wrong as that committed’ under Article 13(3) of the RPC.⁷

In opposition, the prosecution cites the findings of the Commission on Audit (COA) and argues that “the COA inspectorate team did not merely measure a certain portion of the road projects and concluded that no rehabilitation was undertaken on the entire length of the road.”⁸ On the contrary, the prosecution adds, “[it] measured the entire length of the projects, at least, what was tangible and verifiable at the time of inspection.”⁹

Moreover, the prosecution objects to the plea for the appreciation of accused Salim’s advanced age and the partial completion of the projects as analogous mitigating circumstances. With regard to accused Salim’s advanced age, the prosecution points out that “[w]hat is considered under

¹ Records, Vol. 8, pp. 41-51.

² Id. at 90-95.

³ Records, Vol. 7, pp. 393-471.

⁴ Records, Vol. 8, p. 43 (*Motion for Reconsideration* dated January 25, 2023, p. 3).

⁵ Id. at 46-49 (*Motion for Reconsideration* dated January 25, 2023, pp. 6-9).

⁶ Id. at 47 (*Motion for Reconsideration* dated January 25, 2023, p. 7).

⁷ Id. at 47-49 (*Motion for Reconsideration* dated January 25, 2023, pp. 7-9).

⁸ Id. at 91-93.

⁹ Id.

Article 13(2) of the RPC is the age of the accused at the time of the commission of the crime.”¹⁰ Therefore, it concludes, accused Salim’s current age could not be considered a mitigating circumstance analogous to old age. As to the partial completion of the projects, the prosecution counters that “[t]he essence of the charges against [the accused-movants] was that they fraudulently misrepresented the amount of work accomplished on the projects.”¹¹ According to the prosecution, “[t]he fact that the projects were not completed is the crux of the matter in the cases.”¹² Thus, the prosecution submits, “granting, without admitting, that there was partial completion of some of the projects, this circumstance cannot be considered an analogous mitigating circumstance.”¹³

Ruling

The Court denies the motion for reconsideration.

I.

On the claim that the COA auditors did not measure the entire length of the projects

This argument is merely a rehash of one matter raised by the accused-movants in their joint *Memorandum*,¹⁴ which was already considered and passed upon by the Court in deciding these cases. Suffice it to say that the COA auditors (namely: Evelyn S. Monter, Hernani D. Maravilla, and Elsielin C. Masangcay) positively testified that the projects were measured against their respective programs of work and, as a result thereof, substantial deficiencies/irregularities were determined (i.e. that the projects were shorter than the reported accomplishments). Those findings were made part of the *COA Special Audits Office Report No. 2010-02*.¹⁵ Prosecution witness Abdulrakman K. Asim, the acting Provincial Engineer of the Province of Maguindanao from August 2010 to March 2018, who accompanied and assisted the COA auditors, corroborated the COA auditors’ testimonies.

II.

On the plea for the appreciation of analogous mitigating circumstances

Accused Salim’s advanced age is not similar to the mitigating circumstance of old age

The contention that accused Salim’s advanced age is a mitigating circumstance similar to old age fails to persuade. Under Article 13(2) of the

¹⁰ Id. at 93.

¹¹ Id. at 94.

¹² Id.

¹³ Id.

¹⁴ Records, Vol. 7, p. 304.

¹⁵ Exhibits “C” to “C-162”.

RPC, old age—or that the offender is over 70 years old—lowers criminal liability. However, that age, as the prosecution correctly pointed out, refers to the offender’s age at the time of the commission of the crime.¹⁶ Here, on the assumption that accused Salim will turn 65 years old this year, he was only in his early fifties when he committed the crime in 2009, which age could hardly be considered similar to old age that mitigates criminal liability.

It is true that a mitigating circumstance similar to old age may be appreciated in favor of an offender who is under 70 years old. For example, over 60 years old with failing sight was considered similar to old age.¹⁷ However, the case here is different. The motion only invoked accused Salim’s advanced age—which notably is below 70 years—nothing more. No other circumstance was mentioned.

Partial completion of the projects is not analogous to the mitigating circumstance of ‘no intention to commit so grave a wrong as that committed’

Accused-movants’ asseveration that partial completion of the projects is analogous to the mitigating circumstance of ‘no intention to commit so grave a wrong as that committed’ under Article 13(3) of the RPC is untenable. The records disclose that the deficiencies/irregularities in the projects were substantial. Moreover, in *People v. Dy Pol*,¹⁸ a falsification case, the circumstance that “the crime committed by the accused has caused no irreparable material damage to the offended party”, which is akin to the circumstance being invoked here, was not considered similar in nature and analogous to the mitigating circumstance expressly recognized under Article 13 of the RPC, to wit:

xxx. The other mitigating circumstance invoked by the appellant, which is that the crime committed by the accused has caused no irreparable material damage to the offended party, is not recognized by the Revised Penal Code. Neither is it among those which may be considered as similar in nature and analogous to those expressly recognized, in accordance with article 13, subsection 10, and therefore it cannot correctly be taken into consideration.

WHEREFORE, premises considered, the joint *Motion for Reconsideration* dated January 25, 2023 of accused Yahiya A. Kandong, Omar B. Camsa, Anthony S. Kasan, Akmad S. Salim, and Jaypee P. Piang is **DENIED**.

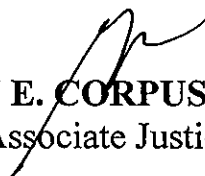
¹⁶ See *Reyes v. Reyes*, G.R. Nos. 177105-06, August 4, 2010.

¹⁷ Luis B. Reyes, *The Revised Penal Code: Criminal Law Book I*, 19th ed., p. 332 (2017), citing *People v. Reantillo and Ruiz*, C.A., G.R. No. 301, July 27, 1938.


¹⁸ G.R. No. 45537, July 30, 1937.

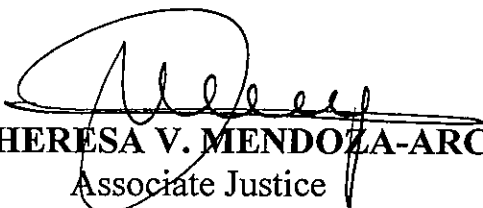


SO ORDERED.


MARYANN E. CORPUS-MAÑALAC
Associate Justice

WE CONCUR:


RAFAEL R. LAGOS
Associate Justice
Chairperson


MARIA THERESA V. MENDOZA-ARCEGA
Associate Justice