



**Republic of the Philippines
SANDIGANBAYAN
Quezon City**

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus -

**Crim. Case No.
SB-19-CRM-0005**
For: Violation of Section 3(e),
Republic Act No. 3019,
(Anti-Graft and Corrupt
Practices Act), as amended

**MOSIBICAK L. GUIABEL,
JOHN ESTELITO G. DOLLOSA, JR.,
OSMENA M. BANDILA,
KASAN I. MACAPENDEG (+),
ENGR. NORIE K. UNAS (+),
DATUALI K. ABPI AL HAJ, and
ENGR. LANDAP P. GUINAID (+),**
Accused.

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PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

**Crim. Case No.
SB-19-CRM-0006**
For: Violation of Section 3(e),
Republic Act No. 3019,
(Anti-Graft and Corrupt
Practices Act), as amended

**DATU SAJID ISLAM U. AMPATUAN,
MOSIBICAK L. GUIABEL,
JOHN ESTELITO G. DOLLOSA, JR.,
OSMENA M. BANDILA,
KASAN I. MACAPENDEG (+),
ENGR. NORIE K. UNAS (+),
DATUALI K. ABPI AL HAJ, and
ENGR. LANDAP P. GUINAID (+),**
Accused.

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PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

Crim. Case No.
SB-19-CRM-0007

For: Complex Crime of Malversation through Falsification of Public Documents (Article 217 and 171, paragraph 2, in relation to Article 48 of the Revised Penal Code)

MOSIBICAK L. GUIABEL,
JOHN ESTELITO G. DOLLOSA, JR.,
OSMENA M. BANDILA,
KASAN I. MACAPENDEG (+),
ENGR. NORIE K. UNAS (+),
DATUALI K. ABPI AL HAJ, and
ENGR. LANDAP P. GUINAID (+),

Accused.

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PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

Crim. Case No.
SB-19-CRM-0008

For: Complex Crime of Malversation through Falsification of Public Documents (Article 217 and 171, paragraph 2, in relation to Article 48 of the Revised Penal Code)

DATU SAJID ISLAM U. AMPATUAN,
MOSIBICAK L. GUIABEL,
JOHN ESTELITO G. DOLLOSA, JR.,
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KASAN I. MACAPENDEG (+),
ENGR. NORIE K. UNAS (+),
DATUALI K. ABPI AL HAJ, and
ENGR. LANDAP P. GUINAID (+),

Accused.

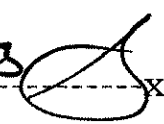
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Present:

CABOTAJE-TANG, A.M.*P.J., Chairperson***FERNANDEZ, B.R., J.****MORENO, R.B., J.**

Promulgated on:

JUNE 7, 2023 

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R E S O L U T I O N**FERNANDEZ B. R., J.**

Pertinent to these cases, this Court promulgated its Decision on March 10, 2023, the dispositive portions of which reads as follows - -

WHEREFORE, premises considered, judgment is rendered in the following manner - -

In **Criminal Case No. SB-19-CRM-0005**, this Court finds accused Mosibicak Guiabel and Datu Ali Abpi Al Haj **GUILTY** beyond reasonable doubt of violation of Section 3 (e) of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, as amended. They are each sentenced to suffer an indeterminate penalty of imprisonment ranging from **eight (8) years and one (1) month, as minimum, to twelve (12) years, as maximum**. They shall likewise be perpetually disqualified to hold any public office.

In **Criminal Case No. SB-19-CRM-0006**, this Court finds accused Datu Sajid Ampatuan, Mosibicak Guiabel and Datu Ali Abpi Al Haj **GUILTY** beyond reasonable doubt of violation of Section 3 (e) of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, as amended. They are each sentenced to suffer an indeterminate penalty of imprisonment ranging from **eight (8) years and one (1) month, as minimum, to twelve (12) years, as maximum**. They shall likewise be perpetually disqualified to hold any public office.

In **Criminal Case No. SB-19-CRM-0007**, this Court finds accused Mosibicak Guiabel **GUILTY** beyond reasonable doubt of the complex crime of malversation through falsification of public documents and sentences him to suffer the penalty of **reclusion perpetua** and to pay a fine equivalent to the amount malversed, as alleged in the



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Information. He is further ordered to pay, as restitution, the same amount, as alleged in the subject Information, to the Government, through the Bureau of Treasury, with interest of six percent (6%) per annum from the finality of this Decision, until fully paid. He shall likewise be perpetually disqualified to hold any public office.

In **Criminal Case No. SB-19-CRM-0008**, this Court finds accused Datu Sajid Ampatuan and Mosibicak Guiabel **GUILTY** beyond reasonable doubt of the complex crime of malversation through falsification of public documents. They are each sentenced to suffer the penalty of **reclusion perpetua** and to pay, jointly and severally, a fine equivalent to the amount malversed, as alleged in the Information. They are further ordered to, jointly and solidarily, pay, as restitution, the same amount, as alleged in the subject Information, to the Government, through the Bureau of Treasury, with interest of six percent (6%) per annum from the finality of this Decision, until fully paid. They shall likewise be perpetually disqualified to hold any public office.

x x x

SO ORDERED.

Aggrieved, accused-movant Datu Sajid Islam Ampatuan filed his Motion for Reconsideration dated March 23, 2023 while accused-movant Mosibicak L. Guiabel filed his own Motion for Reconsideration dated March 27, 2023.

In his Motion, accused-movant Ampatuan insists that the prosecution failed to prove his guilt beyond reasonable doubt by not sufficiently establishing the presence of all the elements for a violation of Section 3 (e) of R. A. No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, as amended, and for the complex crime of malversation through falsification of public documents.

Accused-movant Ampatuan claims that, aside from the alleged non-observance of the rules, regulations and guidelines to resort to the alternative mode of procurement, nothing in the evidence for the prosecution points to his direct participation in the alleged grand scheme of choosing Tamoni Enterprises as the supplier to prove manifest partiality and evident bad faith on his part.

He also insists that, if indeed Tamoni Enterprises was not technically, legally and financially capable, and that negotiated procurement was resorted to despite the lack of certifications on the existence of unspecified emergencies, it



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was not sufficiently proven that he had a hand in these acts that resulted to the violation of Section 3 (e) of R. A. No. 3019.

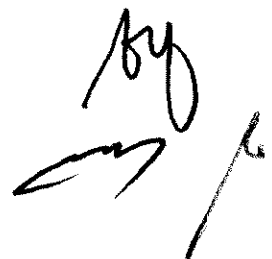
On the allegation of manifest partiality, accused-movant Ampatuan maintains that he did not take part in the Bids and Awards Committee (BAC) proceedings, therefore, he had no involvement in choosing the winning supplier. Neither was there evident bad faith because, assuming without admitting, that there was no public bidding, it only meant a violation of the Procurement Law or R. A. No. 9184, not necessarily a violation of R. A. No. 3019, as these are two distinct laws.

Lastly, on the allegation of gross inexcusable negligence, accused-movant Ampatuan further claims that the only evidence adduced by the prosecution to prove that irregularities attended the subject transactions is the absence of vital documents such as liquidation reports, acceptance and inspection reports, and certification of receipt of deliveries. He emphasized that he was already detained at that time and all the records of the transactions were handled by his political rivals.

Additionally, accused-movant Ampatuan argues that, even assuming that there was partiality, bad faith or negligence attendant in his acts, the prosecution failed to establish that the same was manifest, evident and grossly inexcusable. He also insists that the theory that there is a possibility that his signatures were forged was readily dismissed by this Court, however, it did not offer further justification as to why this theory deserves scant consideration.

On the charge of a complex crime of malversation through falsification of public documents, accused-movant Ampatuan argues that the second and fourth elements were absent.

He supports this position by reiterating that he did not sign disbursement vouchers, purchase requests and purchase orders submitted by the prosecution. Neither was there any showing that the funds were used for his personal benefit. Accused-movant Ampatuan further maintains that no evidence was adduced by the prosecution to show which documents were allegedly falsified by him which would lead to the conclusion that malversation was actually committed.

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When given time (Minutes, March 23, 2023), the prosecution filed its Comment/Opposition dated April 5, 2023.

The prosecution maintains that the participation of accused-movant Ampatuan consists of approving purchase orders, purchase requests, and disbursement vouchers. These are considered essential and indispensable documents requiring the approval of accused-movant Ampatuan himself, as the local chief executive, otherwise, projects will not be implemented.

However, the responsibility of accused-movant Ampatuan is not merely confined to affixing his signature on required documents as an exercise of discretion and being his immediate and primary responsibility for the public funds, as provided under the law. His liability extends to his participation in the Memorandum of Agreement (MOA) he entered into. He was given expansive duties of oversight and control by the same MOA but he failed to perform such duties as administrator, including the effective monitoring of the implementation of the subject Project.

Likewise, the prosecution points out that accused-movant Ampatuan, being part of the conspiratorial scheme, specifically contributed the act of blindly approving the recommendation of the BAC and disbursing public funds in favor of the supplier, despite lack of an inspection and acceptance report, and proof of deliveries.

It then reiterated the anomalies and irregularities that attended the questioned transactions which clearly showed not only evident bad faith but also manifest partiality, as testified to by prosecution witness State Auditor Arnel G. Pascual.

The unsubstantiated assertion of accused-movant Ampatuan that the evidence presented by the prosecution were all obtained from his political rivals cannot be given weight as these political rivals remained unnamed. It emphasizes that the sources of the documents were government offices, like auditors offices, licensing offices private business enterprises.

The prosecution also noted the apparent inconsistency in the allegations of accused-movant Ampatuan when he pursued a defense of forgery while invoking the Arias doctrine

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and his insistence that he was able to present alleged recipients of palay, corn seeds and other agricultural inputs.

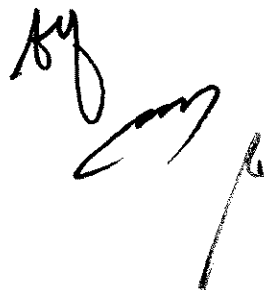
On the issue of forgery, the prosecution maintains that the expert witness presented by accused-movant Ampatuan did not acquit herself well in open Court. Expert witness Chavez repeatedly, unilaterally, and without any justification, defy the standard practices of handwriting analysis and for her remarkable lack of fastidiousness in the conduct of her analysis of the signatures. She even admitted in open Court, that she did not examine the specimen signatures individually.

Relative to the charge for malversation, the prosecution disagrees with the position of accused-movant Ampatuan that no evidence was presented to support the charge. It substantially reiterates the findings of the Court in the assailed Decision and elaborates that direct evidence of misappropriation is not indispensable to a conviction for malversation. Conversion of public funds may be proved not only by direct evidence but also by the production of facts from which conversion necessarily follows.

The prosecution then concludes that it was able to sufficient prove the following facts, namely: (1) that the purported supplier was incapable of undertaking the transactions; (2) that the purported supplier affirmatively and consistently denied issuing the alleged receipts voluntarily; (3) that there is no proof that the program was implemented; (4) that there was no list or report identifying the beneficiaries thereof was submitted to the DAR, as required by the two MOAs; and, (5) that the questioned transactions never took place and was merely and completely simulated.

For his part, accused-movant Guiabel, in his own Motion, substantially argues that the findings or conclusions in the assailed Decision are not supported by evidence and/or contrary to law.

He insists that the exempting circumstances of irresistible force and/or uncontrollable fear should be applied because he was forced to sign pertinent documents by the late Provincial Governor Andal Ampatuan, Sr., as described by his witness Monib T. Usman.

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After time was granted (Minutes, April 11, 2023), the prosecution responded through its Comment/Opposition dated April 19, 2023.

The prosecution alleges that all the elements of the crime charged against accused-movant Guiabel have been duly established, including his role in the grand scheme of simulating purchases. He neither contested nor denied his signatures in the documents concerned. Accused-movant Guiabel could only attempt to deflect his liability by claiming that he was merely forced by the late former Governor Andal Ampatuan, Sr. to sign them.

Aside from manifesting its total agreement to the findings in the assailed Decision, the prosecution further avers that accused-movant Guiabel should have testified himself to establish first hand his allegation that he was indeed coerced by the late Gov. Andal Ampatuan. However, he did not. The force or fear is personal to accused-movant Guiabel and cannot simply be a matter of impression or assumption made by another person. Thus, the cited exempting circumstances should not be given credence.

We now rule.

After a careful review of the arguments raised by the parties, this Court finds no compelling reason to amend, alter, revise or even reverse the assailed Decision promulgated on March 23, 2023 sought to be reconsidered. Much of the arguments raised by both accused-movants are a mere rehash of the issues and positions earlier raised by them which were already passed upon, duly considered and resolved by this Court.

Nevertheless, this Court finds it necessary to reiterate particular issues raised by both accused-movants.

At the outset, this Court should underscore that the criminal liability of accused-movant Ampatuan does not depend solely upon the alleged irregularities and violations in the procurement procedure. This Court is mindful of the fact that it is through the lens of the anti-graft and corruption law, and not the procurement laws, that the guilt of the accused for violation of Section 3 (e) of RA No. 3019 must and was determined.

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Moreover, it is not enough that the pertinent provision of the procurement law was violated, it must also be shown that the elements of R. A. No. 3019 are present (*Martel, et al. vs. People*, G. R. Nos. 224720-23, February 2, 2021). Specifically, (1) that the violation of procurement laws caused undue injury to any party or gave any private party unwarranted benefits, advantage or preference and (2) that the accused acted with evident bad faith, manifest partiality, or gross inexcusable negligence (*Sabalдан, Jr. vs. Ombudsman*, G.R. No. 238014, June 15, 2020).

Guided by the foregoing, We found, and so maintain, that the prosecution was able to prove beyond reasonable doubt the existence of all the elements of Section 3 (e) of R. A. No. 3019, as alleged in the Informations.

It must be noted that, aside from the glaring irregularities and violations of the procurement laws mainly to facilitate the fictitious/simulated transactions, there were also payments made in cash to the alleged supplier in the amounts of P2.5 million to P7.7 million for each transaction, in violation of the COA Circular No. 97-002, among others.

More importantly, there was a clear and deliberate failure on the part of accused-movant Ampatuan to exercise oversight powers and control in the implementation of the Project until its ultimate completion, especially considering the amount of public funds involved.

This Court is morally convinced that the totality of the acts of all the accused carved a grand ruse of simulating purchases, with each accused contributing their respective parts in achieving their ultimate criminal end, namely: accused-movant Guiabel for unjustifiably recommending the resort to alternative mode of negotiated procurement and signing the purchase requests and purchase orders for unspecified emergencies; accused Abpi for recommending to accused-movant Ampatuan, the head of the procuring entity, to resort to negotiated procurement in order to unlawfully favor supplier Tamoni Enterprises, despite the absence of the necessary certifications and compliance with proper procedures; and, accused-movant Ampatuan for blindly approving the recommendation of the Bids and Awards Committee (BAC) and disbursing public funds in favor of the said supplier, despite the lack of an inspection and acceptance report, and proof of deliveries to the intended beneficiaries.



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As discussed in the assailed Decision of March 23, 2023, it is not incumbent upon the prosecution to adduce positive evidence to support a negative averment the truth of which is fairly indicated by established circumstances and which, if untrue, could readily be disproved by the production of documents or other evidence within the defendant's knowledge or control (*People vs. Macalaba y Digayon*, G. R. Nos. 146284-86, January 20, 2003; 443 Phil 565).

It should also be emphasized that accused-movant Ampatuan was charged for having acted with evident bad faith, manifest partiality or gross inexcusable negligence. Jurisprudence has consistently guided us that these three (3) modes are not separate offenses and proof of the existence of any of these three (3) in connection with the prohibited acts committed, is sufficient to convict (*Abubakar vs. People*, G.R. Nos. 202408, 202409 and 202412, June 27, 2018).

In this regard, it must be stressed that Section 3 (e) of R. A. No. 3019 may be committed either by *dolo*, as when the accused acted with evident bad faith or manifest partiality, or by *culpa*, as when the accused committed gross inexcusable negligence.

Gross inexcusable negligence under Section 3 (e) of R. A. No. 3019, a culpable felony, does not require fraudulent intent or ill-will. A public officer is guilty of gross inexcusable negligence when there is a breach of duty that is committed flagrantly, palpably, and with willful indifference. A public officer who seriously breaches his or her duty in a blatant and extremely careless manner is guilty of gross inexcusable negligence under Section 3 (e) regardless of whether such breach of duty was done with malicious intent (*Richard T. Martel, et al. vs. People*, G. R. Nos. 224720 - 23, February 2, 2021).

Thus, a finding of guilt for accused-movant Ampatuan is proper, as explained in the assailed Decision, for other than acting with evident bad faith and manifest partiality, accused-movant Ampatuan, significantly acted with gross inexcusable negligence towards the ultimate end of perpetrating the crime.

Accused-movant Ampatuan raises anew his forgery defense. At the risk of being repetitive, a finding of forgery does not depend exclusively on the testimonies of expert witnesses, as judges can and must use their own judgment, through an independent examination of the questioned signature, in determining the authenticity of the handwriting



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(Belgica vs. Belgica, G. R. No. 149738, August 28, 2007; 558 Phil 67-76).

Also, not only were the specimen signatures provided by accused-movant Ampatuan not come from issuing government agencies themselves but also only two of the documents subjected to examination were dated 2009, while the rest were dated 2015 onwards, contrary to the acceptable five-year-before and five-year-after practice. Thus, we find no tenable ground to set aside our pronouncements on this point.

On to the complex crime of malversation through falsification of public documents, accused-movant Ampatuan argues that the second and fourth elements of this complex crime are absent, to wit: that he had custody or control of funds or property by reason of the duties of his office and that he appropriated, took, misappropriated or consented, or through abandonment or negligence, permitted another person to take them.

We disagree and instead reiterate, that when accused-movant Ampatuan, as the Provincial Governor, representing the Province of Maguindanao, entered into the Memorandum of Agreement (MOA) (Exh. "R") notarized on June 15, 2009 with the Department of Agriculture (DAR) for the transfer of P100 million intended for the implementation of the Cropping Enhancement and Production/Farm Inputs and Substances and approved the pertinent Disbursement Vouchers (Exhs. "AA" to "QQ") all dated June 8, 2009, for the procurement of the fertilizers, *palay* and corn seeds, he was considered an accountable officer. Thus, the second element is present.

As discussed in the assailed March 23, 2023 Decision, to wit - -

In Crim. Cases Nos. SB-19-CRM-0007 and 0008, there is no doubt that Provincial Governors Ampatuan, Sr. (+), and accused Ampatuan, are considered accountable officers in control of public funds pursuant to Sec. 340 of the Local Government Code and as enunciated in the case of Manuel vs. Sandiganbayan (665 SCRA 266, 284, February 8, 2012).

Section 340 states:

Persons Accountable for Local Government Funds. Any officer of the local government unit whose duty permits or



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requires the possession or custody of local government funds shall be accountable and responsible for the safekeeping thereof in conformity with the provisions of this Title. Other local officers who, though not accountable by the nature of their duties, may likewise be similarly held accountable and responsible for local government funds through their participation in the use or application thereof.

Local government officials become accountable public officers either (1) because of the nature of their functions; or (2) on account of their participation in the use or application of public funds.

Additionally, Provincial Governors Ampatuan, Sr. (+) and accused Ampatuan were considered local chief executives during the time material to their respective cases. As such, Sec. 102 of the Government Auditing Code of the Philippines becomes relevant, to wit - -

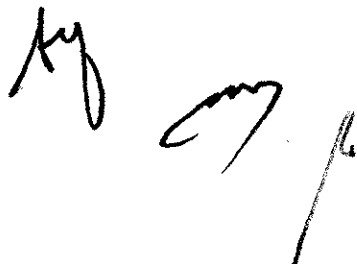
Primary and secondary responsibility. -
(1) The head of any agency of the government is immediately and primarily responsible for all government funds and property pertaining to his agency.

We also remember *Escobar vs. People* (G.R. No. 205576, November 20, 2017) where the Supreme Court ruled that public officials whose signatures are necessary for the disbursement of funds are accountable officers.

Additionally, it should also be emphasized that, through his overt acts of entering into a MOA, and subsequently signing the Disbursement Vouchers (Exhs. "AA" to "QQ"), all dated June 8, 2009, certifying that the supporting documents were complete and proper, accused-movant Ampatuan allowed for public funds in the amount of P98,249,850.00, to be released in cash for the fictitious purchases of fertilizers, *palay*, and corn seeds, as part of the grand scheme to cause undue injury to the government in the same amount.

Citing anew the assailed Decision, the MOA entered into by accused-movant Ampatuan required him, as head of the Province of Maguindanao, to perform and oversee the following, to wit - -

The LGU shall:



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(1) Act as the administrator of the project by **receiving the funds and oversee the implementation** x x x;

(2) **Prepare financial reports**, x x x;

(3) **Ensure** that the proposed beneficiaries of the project are among the CARP **beneficiaries**;

x x x

(8) **Provide** the DAR with **necessary audited financial reports** as to the disbursement of funds and **physical accomplishment of the Project** being implemented;

(9) **Submit Certificate of Project Completion and Acceptance of the Project** being implemented;

(10) **Ensure that the funding must be strictly used for the purpose for which the fund is allocated**; x x x
(bold ours)

Evidently, it was part of the duty of accused-movant Ampatuan as the signatory to the MOA to comply with its terms, and this includes being held accountable for the funds entrusted to him for the implementation of the Project. This act and the participation of the other accused caused the diversion of the public funds for fictitious purchases, the crime charged would not have been committed.

The predominant defense raised by accused-movant Ampatuan is that his signatures appearing on the Disbursement Vouchers (Exhs. "AA" to "QQ"), all dated June 8, 2009, were forged.

Again, this issued has been thoroughly discussed by this Court in the assailed Decision. Other than his presentation of an expert witness, no strong evidence of non-culpability was further presented.

It cannot be denied that accused-movant Ampatuan was given every opportunity to present vital documents in his favor, *i.e.*, liquidation reports, the acceptance and inspection reports, certification of receipt of deliveries of said goods, and more importantly, the list of beneficiaries, that would prove that he performed his duties under the MOA. However, he miserably failed to do so.

Thus, applying the presumption in Article 217 of the Revised Penal Code, as amended, it was enough that the prosecution only had to prove that the accused received public funds or property and that he could not account for them or did not have them in his possession and could not

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give a reasonable excuse for the disappearance of the same (Estrada vs. Sandiganbayan, G.R. No. 125160, June 20, 2000).

Finally, it is also noteworthy that accountable public officer may be convicted of malversation even if there is no direct evidence of misappropriation and the only evidence is that there is a shortage in his accounts which he has not been able to explain satisfactorily (Navallo vs. Sandiganbayan, 234 SCRA 175, 185). Hence, in the absence of substantial defense to refute the charges against him, We maintain our finding that accused-movant Ampatuan is liable for the misappropriation of public funds by allowing such funds intended for farmer beneficiaries to be taken or misappropriated.

On the part of accused-movant Guiabel, nothing new was posed by him in his Motion. The issues raised therein were already sufficiently considered and ruled upon in the assailed Decision.

He, however, stressed that he merely acted due to a compulsion of irresistible force and/or impulse of uncontrollable fear. He insists that he was forced to sign pertinent documents by the late Provincial Governor Andal Ampatuan, Sr. in an incident narrated by his lone witness, Monib T. Usman. Hence, these exempting circumstances should not hold him criminally liable.

This Court is not convinced with the position taken by accused Guiabel. In the assailed Decision, this Court has clearly and squarely discussed his participation. Although he continues to harp on the presence of duress, being an affirmative allegation, this requires clear and convincing evidence, which he failed to present.

It must be recalled that accused-movant Guiabel, through his witness, Monib T. Usman, never disputed, but actually admitted his signatures in the documents presented in this case, despite non-deliveries of the supplies allegedly procured and actual receipt by the intended beneficiaries.

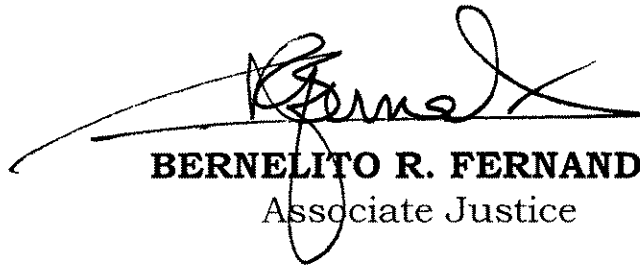
In sum and after a careful study of the arguments raised by the accused-movants and the prosecution, in light of the findings and discussion in the assailed Decision, this Court finds no cogent reason to reconsider, amend, alter or even reverse the promulgated Decision of March 10, 2023.

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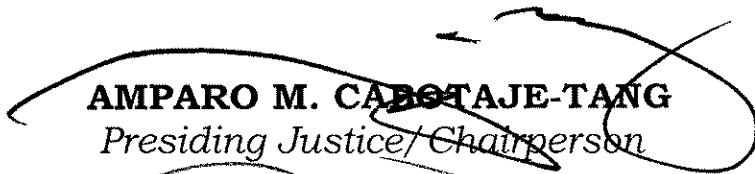
WHEREFORE, premises considered, the Motion for Reconsideration dated March 23, 2023 of accused-movant Datu Sajid Islam Ampatuan and the Motion for Reconsideration of accused-movant Mosibicak L. Guiabel dated March 27, 2023, are both hereby **DENIED** for lack of merit.

SO ORDERED.

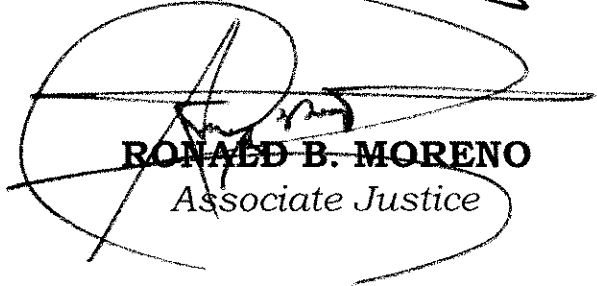


BERNELITO R. FERNANDEZ
Associate Justice

We concur:



AMPARO M. CABSTAJE-TANG
Presiding Justice/Chairperson



RONALD B. MORENO
Associate Justice