

Republic of the Philippines
SANDIGANBAYAN
Quezon City

Second Division

PEOPLE OF THE PHILIPPINES,
Plaintiff,

Crim. Cases Nos.
SB-22-CRM-0038 to 0047

-versus-

Present:
Herrera, Jr., J., *Chairperson*
Caldona, J.
Malabaguio, J.

ANTONIO Y. ORTIZ, ET AL.,
Accused.

Promulgated:
June 16, 2023 ant

X-----X

RESOLUTION

HERRERA, JR., J.:

For resolution of the Court are the following:

- a) ***Motion To Demur With Leave of Court***¹ dated April 17, 2023 filed by accused Francisco Figura, through counsel;
- b) ***Motion for Leave to File Demurrer to Evidence***² dated April 17, 2023 filed by accused Rolleo Ignacio and Bernardita Ignacio, through counsel; and
- c) ***Motion For Leave To File Demurrer to Evidence***³ dated April 18, 2023 filed by accused Dennis Cunanan, through counsel.

The plaintiff, through the Office of the Special Prosecutor, Office of the Ombudsman, filed a ***Consolidated Comment (Re: 1. Motion for Leave to File Demurrer to Evidence dated 17 April 2013 filed by Spouses Rolleo and Bernardita Ignacio; 2. Motion to Demur with Leave of Court dated 17 April 2023 filed by Francisco B. Figura; and 3. Motion for Leave to File Demurrer to Evidence dated 18 April 2023 Filed by Dennis L. Cunanan)***⁴ dated April 28, 2023.

¹ Record, Vol. 6, pp. 72-76

² Id, pp. 77-80

³ Id, pp. 81-97

⁴ Id, pp. 98-120

These pertain to ten (10) criminal cases under ten (10) separate **Informations**⁵, all dated February 28, 2019, to wit:

- 1) Four (4) counts of **Violation of Section 3 (e) of Republic Act (R.A.) 3019, as amended**, also known as the **Anti-Graft and Corrupt Practices Act**, docketed as **Criminal Cases Nos. SB-22-CRM-0038 to 0041**;
- 2) Four (4) counts of **Malversation of Public Funds under Article 217 of the Revised Penal Code (RPC)** docketed as **Criminal Cases Nos. SB-22-CRM-0042 to 0045**; and
- 3) Two (2) counts of **Falsification by a Public Officer under Article 171 (2) of the Revised Penal Code** docketed as **Criminal Cases Nos. SB-22-CRM-0046 to 0047**.

In Criminal Cases Nos. SB-22-CRM-0038 and 0039, among those jointly charged are accused Cunanan and Figura; while in Criminal Cases Nos. SB-22-CRM-0040 to 0041, among those jointly charged are accused Cunanan, Figura and the Ignacios.

In Criminal Cases Nos. SB-22-CRM-0042 and 0043, among those jointly charged are accused Cunanan and Figura; while in Criminal Cases Nos. SB-22-CRM-0044 and 0045, among those jointly charged are accused Cunanan, Figura and the Ignacios.

In Criminal Cases Nos. SB-22-CRM-0046 and 0047, among those jointly charged are accused Cunanan, Figura and the Ignacios.

The accusatory portion of the **Information**⁶ in Criminal Case No. SB-22-CRM-0038 for **Violation of Section 3 (e) of R.A. 3019** reads:

"That from February 2007 to March 2007, or sometime prior or subsequent thereto, in the Cities of Pasig and Makati, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, public officers Director General **ANTONIO ORTIZ y YRIGON** (Ortiz), Deputy Director General **DENNIS CUNANAN y LACSON** (Cunanan), and Department Manager III **FRANCISCO FIGURA y BALDOZA** (Figura), all of the Technology and Livelihood Resource Center (TLRC), while in the

⁵ Id, pp. 1-40

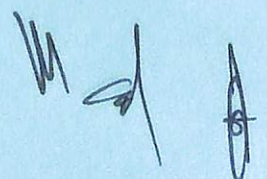
⁶ Id, pp. 1-4

performance of their administrative and/or official functions, committing the offense in relation to their office, through manifest partiality, evident bad faith and/or gross inexcusable negligence, conspiring with one another and with private individuals **CARLOS SORIANO** (Soriano), **CATHERINE GARI** (Gari), **GODOFREDO ROQUE** (Roque), **MARIA PAZ VEGA** (Vega) and **MARILOU FERRER** (Ferrer) of Kaagapay Magpakailanman Foundation, Inc. (KMFI), a non-government organization (NGO), and **FRANCISCA/France A. MERCADO** (Mercado) of Kabalikat sa Kalusugan at Kaunlaran Foundation, Inc. (KKKFI), also an NGO, did then and there, willfully, unlawfully and criminally, cause undue injury to the government and/or give unwarranted benefits and advantage to KMFI in the amount of **FIVE MILLION PESOS (PhP5,000,000.00)**, more or less, sourced from Congressman Joey D. Hizon's (Hizon) Priority Development Assistance Fund (PDAF) intended for the 5th District of Manila, through a scheme described as follows:

- (a) **Ortiz**, after receipt by the TLRC of the PhP5 Million PDAF, facilitated, processed and approved the disbursement of said PDAF through **Special Allotment Release Order No. ROCS-07-03915** by, among other acts, (1) signing/entering into an undated Memorandum of Agreement (MOA) with Hizon and KMFI, (2) approving the Memorandum dated 2 March 2007 prepared by Belina A. Concepcion for the release of the PDAF of Congressman Hizon, (3) approving undated DV No. 012007030392, and (4) signing Check No. 850359 dated 7 March 2007 in favor of KMFI, and thereafter failing to monitor KMFI's non-implementation of the project;
- (b) **Cunanan** certified in said DV that the expenses are necessary, lawful and incurred under his direct supervision;
- (c) **Figura** signed Check No. 850359 Dated 7 March 2007;
- (d) **Soriano, Gari, Roque, Vega and Ferrer**, as officers/members of KMFI, (1) received PhP4,800,000.00 out of PhP5 Million worth of PDAF, and (2) Soriano signed the undated Work and Financial Plan (WFP) of KMFI; and
- (e) **Mercado** of KKKFI and acting as Project Coordinator of KMFI, (1) prepared the undated WFP of KMFI, and (2) signed the MOA on behalf of KMFI,

All accused committed the above acts despite (a) the NGOs not having been identified in the FY 2007 General Appropriations Act (GAA) as among the implementing arms of PDAF funded projects; (b) absence of appropriation law earmarking an amount for the implementation by the NGOs; (c) non-compliance with COA Circular No. 96-003; (d) non-compliance with R.A. No. 9184 and its Implementing Rules and Regulations; and (e) non-implementation of the project, with accused failing to account and liquidate the PhP5 Million PDAF disbursed, to the damage and prejudice of the Republic of the Philippines.

CONTRARY TO LAW."



Essentially, the accusatory portion of the **Information**⁷ in Criminal Case No. SB-22-CRM-0039 is similarly worded as in Criminal Case No. SB-22-CRM-0038 quoted above, except that it involves the amount of PhP10,000.00; SARO No. ROCS-07-04214; DV No. 012007030587; Check No. 8501416 dated April 2, 2007; Memorandum of Agreement dated March 21, 2007; and Kabalikat sa Kalusugan at Kaunlaran Foundation, Inc. (KKKFI) as the NGO and whose officers and members are accused Romeo G. Cucueco, Francisca/France A. Mercado, Filo Mayo G. Cucueco, Carmelita A. Barredo and Melinda A. Guerrero.

The same is true with the accusatory portions in the **Informations**⁸ in Criminal Cases Nos. SB-22-CRM-0040 and 0041, except that:

- (a) Criminal Case No. SB-22-CRM-0040 involves SARO No. ROCS-0703098; DV No. 012007030568; Memorandum of Agreement dated March 26, 2007; Check No. 850408 dated March 28, 2007; and the Dr. Rodolfo A. Ignacio, Sr. Foundation, Inc. (DRAISFI) as the NGO and whose officers and members are accused Rolleo L. Ignacio, Rogelio Garcia and Bernardita A. Ignacio; and
- (b) Criminal Case No. SB-22-CRM-0041 involves SARO No. D-07-04162; Memorandum of Agreement dated March 21, 2007; DV No. 012007030536; Check No. 850398 dated March 22, 2007; and with (DRAISFI) as the NGO and whose officers and members are the same as those in Criminal Case No. SB-22-CRM-0040.

The accusatory portion of the **Information**⁹ in Criminal Case No. SB-22-CRM-0042 reads:

"That from February 2007 to March 2007, or sometime prior or subsequent thereto, in the Cities of Pasig and Makati, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, public officers Director General **ANTONIO ORTIZ y YRIGON** (Ortiz), Deputy Director General **DENNIS CUNANAN y LACSON** (Cunanan), and Department Manager III **FRANCISCO FIGURA y BALDOZA** (Figura), all of the Technology and Livelihood Resource Center (TLRC), while in the

⁷ Id, pp. 5-8

⁸ Id, pp. 9-16

⁹ Id, pp. 17-20

performance of their administrative and/or official functions, committing the offense in relation to their office, through manifest partiality, evident bad faith and/or gross inexcusable negligence, conspiring with one another and with private individuals **CARLOS SORIANO** (Soriano), **CATHERINE GARI** (Gari), **GODOFREDO ROQUE** (Roque), **MARIA PAZ VEGA** (Vega) and **MARILOU FERRER** (Ferrer) of Kaagapay Magpakailanman Foundation, Inc. (KMFI), a non-government organization (NGO), and **FRANCISCA/FRANCE A. MERCADO** (Mercado) of Kabalikat sa Kalusugan at Kaunlaran Foundation, Inc. (KKKFI), also an NGO, did then and there, willfully, unlawfully and criminally, cause undue injury to the government and/or give unwarranted benefits and advantage to KMFI in the amount of FIVE MILLION PESOS (PhP5,000,000.00, more or less, sourced from Congressman Joey D. Hizon's (Hizon) Priority Development Assistance Fund (PDAF) intended for the 5th District of Manila, through a scheme described as follows:

- (a) **Ortiz**, after receipt by the TLRC of the PhP5 Million PDAF, facilitated, processed and approved the disbursement of said PDAF through **Special Allotment Release Order No. ROCS-07-03915** by, among other acts, (1) signing/entering into an undated Memorandum of Agreement (MOA) with Hizon and KMFI, (2) approving the Memorandum dated 2 March 2007 prepared by Belina A. Concepcion for the release of the PDAF of Congressman Hizon, (3) approving undated DV No. 012007030392, and (4) signing Check No. 850359 dated 7 March 2007 in favor of KMFI, and thereafter failing to monitor KMFI's non-implementation of the project;
- (b) **Cunanan** certified in said DV that the expenses are necessary, lawful and incurred under his direct supervision;
- (c) **Figura** signed Check No. 850359 Dated 7 March 2007;
- (d) **Soriano, Gari, Roque, Vega and Ferrer**, as officers/members of KMFI, (1) received PhP4,800,000.00 out of PhP5 Million worth of PDAF, and (2) Soriano signed the undated Work and Financial Plan (WFP) of KMFI; and
- (e) **Mercado** of KKKFI and acting as Project Coordinator of KMFI, (1) prepared the undated WFP of KMFI, and (2) signed the MOA on behalf of KMFI,

All accused committed the above acts despite (a) the NGOs not having been identified in the FY 2007 General Appropriations Act (GAA) as among the implementing arms of PDAF funded projects; (b) absence of appropriation law earmarking an amount for the implementation by the NGOs; (c) non-compliance with COA Circular No. 96-003; (d) non-compliance with R.A. No. 9184 and its Implementing Rules and Regulations; and (e) non-implementation of the project, with accused failing to account and liquidate the PhP5 Million PDAF disbursed, to the damage and prejudice of the Republic of the Philippines.

CONTRARY TO LAW."

Essentially, the accusatory portion of the **Information** ¹⁰ for **Malversation of Public Funds** in Criminal Case No. SB-22-CRM-0043 is similarly worded as in Criminal Case No. SB-22-CRM-0042 quoted above, except that it involves the amount of PhP10,000.00; SARO No. ROCS-07-04214; DV No. 0120070300587; Check No. 850416 dated April 7, 2007; Memorandum of Agreement dated April 21, 2007; and Kabalikat sa Kalusugan at Kaunlaran Foundation Inc. (KKKFI) as the NGO and whose officers and members are accused Romeo G. Cucueco, Jr.; Francisca/France A. Mercado; Filo Mayo G. Cucueco; Carmelita Barredo and Melinda A. Guerrero.

The same is true with the accusatory portions of the **Informations** ¹¹ in Criminal Cases Nos. SB-22-CRM-0044 and 0045; except that:

- (a) Criminal Case No. SB-22-CRM-0044 involves SARO No. ROCS-07-03098; DV No. 012007030568; Memorandum of Agreement dated March 29, 22007; Check No. 850408 dated March 28, 2007; and the Dr. Rodolfo A. Ignacio, Sr. Foundation, Inc. (DRAISFI) as the NGO and whose officers and members are accused Rolleo L. Ignacio, Adelina L. Ignacio, Marlyn/Marilyn I. Limon, Rodolfo L. Ignacio, Jr. Rogelio Garcia and Bernardita A. Ignacio; and
- (b) Criminal Case No. SB-22-CRM-0045 involves SARO No. D-07-04162; DC No. 012007030536; Memorandum of Agreement dated March 21, 2007; DRAFSI as the NGO and whose officers and members are Rolleo L. Ignacio, Madeline L. Ignacio, Marlyn/Marilyn I. Limon; Rodolfo L. Ignacio, Jr. Rogelio Garcia and Bernardita A. Ignacio.

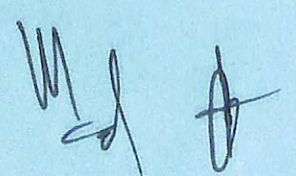
The accusatory portion of the **Information** ¹² for **Falsification by a Public Officer** in Criminal Case No. SB-22-CRM-0046 reads:

"That from February 2007 to March 2007, or sometime prior or subsequent thereto, in the Cities of Pasig and Makati, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused,

¹⁰ Id, pp. 21-24

¹¹ Id, pp.25-32

¹² Id, pp. 33-36



public officers Director General **ANTONIO ORTIZ y YRIGON** (Ortiz), Deputy Director General **DENNIS CUNANAN y LACSON** (Cunanan), Group Manager **MARIA ROSALINDA LACSAMANA y MASONGSONG** (Lacsamana) and Department Manager III **FRANCISCO FIGURA y BALDOZA** (Figura), all of the Technology and Livelihood Resource Center (TLRC), while in the performance of their administrative and/or official functions, committing the offense in relation to their office, through manifest partiality, evident bad faith and/or gross inexcusable negligence, conspiring with one another and with private individuals **ROLLEO IGNACIO y LUNA** (Rolleo Ignacio), **ADELINE IGNACIO y LUNA** (A. Ignacio), **MARLYN/MARILYN LIMON y IGNACIO** (Limon), **RODOLFO L. IGNACIO , JR.** (Rodolfo Ignacio), **ROGELIO GARCIA** (Garcia) and **BERNADITA/BERNARDITA IGNACIO y AQUINO** (B. Ignacio), all of Dr. Rodolfo A. Ignacio, Sr. Foundation Inc, (DRAISFI), a non-governmental organization (NGO), did then and there, willfully, unlawfully and feloniously cause to appear that a livelihood program funded from Congressman Joey D. Hizon's 2007 Priority Development Assistance Fund' (PDAF) under SARO No. ROCS-07-03098, was implemented in the 5th District of Manila and that bona fide residents therein received/benefitted from said livelihood program amounting to at least **FIVE MILLION PESOS (PhP5,000,000.00)**, by preparing and/or submitting documents in relation to SARO No. ROCS-07-03098 and Disbursement Voucher No. 01200703568, such as: an undated Liquidation and Disbursement Report; Disbursement Voucher Nos. 2007-109, 2007-110, 2007-111, 2007-112, 2007-113, 2007-114, 2007-115, 2007-116, & 2007-117, all dated 2 May 2007; eight undated Acknowledgment Receipts; eight undated Certificate of Acceptance of Services Rendered; and List of Beneficiaries, for the purported Livelihood Trainings and Seminars Conducted in various barangays in the 5th District of Manila in 2007, when in truth and in fact, no such livelihood program was implemented therein and none of the residents therein received/benefitted from the said program, to the damage and prejudice of public interest in the aforesaid amount.

CONTRARY TO LAW."

The accusatory portion of the *Information*¹³ in Criminal Case No. SB-22-CRM-0047 is similarly worded as in Criminal Case No. SB-22-CRM-0047, except that it involves SARO-No. D-07-04162 and DV No. 012007030536.

In their separate motions praying for leave of court to file demurrer to evidence, accused Figura, Rolleo and Bernardita Ignacio, and Cunanan essentially contend that the evidence adduced by the prosecution is insufficient to prove their guilt of the crimes charged against them.

The contention of the above-mentioned accused is untenable.

¹³ Id, pp. 37-40

To prove the charges, the prosecution presented the following as witnesses: (1) Marissa A. Santos, Chief Administrative Office, Central Records Division, Department of Budget and Management (DBM); (2) Atty. Ted Emmanuel Lorezco, Graft Investigation and Prosecution Officer II, Field Investigation Office, Office of the Ombudsman; (3) Ms. Joan Agnes N. Alfafares, State Auditor IV, Commission on Audit (COA); (4) Ms. Analyn B. Dacumos, Records Officer IV, Business Permit and Licensing Department, Quezon City; (5) Ms. Melanie B. de Mesa, Assistant Department Head, Business Permit and Licensing Department, Pasig City; (6) Ms. Monette M. Mamolatero, Officer-in-Charge and Chief, Client Support Section, Revenue District 43, Pasig City; (7) Atty. Katrina Abad, Officer-in-Charge, Administrative Staff, Bureau of Permits, City of Manila; (8) Ms. Elenita A. Ramirez, Supervising Administrative Officer, Bureau of Permits and Licensing Office, Calapan City; (9) Ms. Priscilla C. Perez, Barangay Chairman, Barangay Zone 815, Zone 88, City of Manila; (10) Mr. Teodoro M. de Castro, Barangay Chairman, Barangay 663-A, Zone 71, City of Manila; (11) David Y. Go, Barangay Kagawad, Barangay 682, Zone 74, 5th District, City of Manila (12) Atty. R.J. Bernal of the Securities and Exchange Commission (SEC).

The prosecution also submitted as evidence various documents marked as Exhibits "A", "B", "B-1" to "B-5", "F", "F-1" to "F-3", "G", "G-1" and "G-2", "H", "H-1" to "H3", "I", "I-1", "I-a" to "I-c", "I-2" to "I-12", "J", "J-a" to "J-e", "J-1" to "J-12", "K", "K-1", "K-1-a" to "K-1-c", "K-2" to "K-10", "K-10-a" and "K-10-b", "K-11" and "K-11-a", "K-12" to "K-39", "L", "L-a" to "L-c", "L-1" to "L-38", "M", "M-1" to "M-34", "N", "N-1" to "N-175", "O", "Q", "Q-1" to "Q-8", "R", "R-1" to "R-5" and "T".

After a careful study, the Court finds that the evidence adduced by the prosecution, testimonial and documentary, appear to be *prima facie* sufficient to sustain the conviction of the accused of the crimes charged against them, unless successfully rebutted by defense evidence. The **Informations** covering the charges all allege conspiracy among the accused in the commission of the crimes charged. There is therefore a need for accused Figura, Rolleo and

Bernardita Ignacio, and Cunanan to present evidence to disprove the charges against them or their non-participation in the alleged conspiracy.

A *prima facie* case is a cause of action that is sufficiently established by a party's evidence to justify a verdict in his favor, provided such evidence is not successfully rebutted by the other party.

In ***Cometa V. State Investment Trust, Inc.***¹⁴ the Supreme Court stated:

"It denotes evidence which, if unexplained and uncontradicted, is sufficient to sustain a prosecution or establish the facts, as to counterbalance the presumption of innocence and warrant the conviction of the accused."

In ***Soriques v. Sandiganbayan***,¹⁵ the Supreme Court explained:

"The determination of the sufficiency or insufficiency of the evidence presented by the prosecution as to establish a *prima facie* case against an accused is left to the exercise of sound judicial discretion."

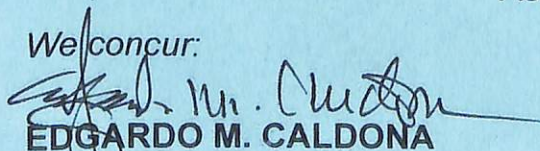
WHEREFORE, premises considered, the Court hereby deny the following:

- a) ***Motion To Demur With Leave*** of Court dated April 17, 2023 filed by accused Francisco Figura, through counsel;
- b) ***Motion for Leave to File Demurrer to Evidence*** dated April 17, 2023 filed by accused Rolleo Ignacio and Bernardita Ignacio, through counsel; and
- c) ***Motion For Leave To File Demurrer to Evidence*** dated April 18, 2023 filed by accused Dennis Cunanan, through counsel.

SO ORDERED.


OSCAR C. HERRERA, JR.
Chairperson
Associate Justice

We concur:


EDGARDO M. CALDONA
Associate Justice


ARTHUR O. MALABAGUIO
Associate Justice

¹⁴ G.R. No. 124062, December 29, 1999

¹⁵ 474 SCRA 222