

Republic of the Philippines  
**SANDIGANBAYAN**  
Quezon City

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Second Division

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

**Crim. Cases Nos. SB-17-CRM-2096  
to 2111**

*-versus-*

Present:

Herrera, Jr., J. *Chairperson*  
Musngi, J.  
Malabaguio, J.  
Lagos, J.\* &  
Pahimna, J.\*

**CANDIDO P. PANCRUDO, ET AL.,**  
*Accused.*

Promulgated:

July 10, 2023

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**RESOLUTION**

**HERRERA, JR., J.:**

For resolution of this Court in these cases are the following:

- 1) ***Motion for Reconsideration***<sup>1</sup> dated April 28, 2023 filed by accused Candido P. Pacrudo, Jr., through counsel; and
- 2) ***Motion for Reconsideration***<sup>2</sup> dated April 29, 2023 filed by accused Johanne Edward Labay, through counsel.

The plaintiff, through the Office of the Special Prosecutor, Office of the Ombudsman, filed a ***Consolidated Comment and Opposition [Re: Accused Pancrudo and Labay's Motions for Reconsideration dated 28 April 2023 and 29 April 2023, respectively]***<sup>3</sup> dated May 15, 2023.

\*Sitting as Special Member as per Adm. Order No. 8-C-2022

<sup>1</sup> Record, Vol. 9, pp. 462-272

<sup>2</sup> Record, Vol. 10, pp. 81-138

<sup>3</sup> Id, pp. 527-536

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*[Handwritten signatures and initials]*



In their motions, accused Pancrudo and Labay pray for reconsideration of the Court's **Decision**<sup>4</sup> promulgated on April 14, 2023 finding them, jointly with accused Rosalinda M. Lacsamana, guilty as follows:

- 1) In Criminal Cases Nos. Sb-17-CRM-2096 to 2103 of **Violation of Section 3 (e) of Republic Act (R.A.) No. 3019, as amended**, as charged in eight (8) separate **Informations**<sup>5</sup> all dated July 10, 2017;
- 2) In Criminal Cases Nos. SB-17-CRM-2104 to 2107 of the crime of **Malversation of Public Funds or Property**, defined and penalized under **Article 217 of the Revised Penal Code (RPC)**, as charged in four (4) separate **Informations**<sup>6</sup> also all dated July 10, 2017; and
- 3) In Criminal Cases Nos. SB-17-CRM-2108 to 2111 of the crime of **Malversation of Public Funds through Falsification**, as defined and penalized under **Article 217 of the Revised Penal Code (RPC)**, in relation to **Article 171** thereof, under four (4) separate **Informations**<sup>7</sup> likewise dated July 10, 2017.

Criminal Cases Nos. SB-17-CRM-2096 to 2103 pertain to releases of public funds from the Priority Development Assistance Fund (PDAF) allocation of accused Pancrudo to FarmerBusiness Development Corporation (FDC), a non-government organization (NGO), through FDC official Labay, for the implementation of Pancrudo's livelihood projects for his constituents in the 1<sup>st</sup> District of Bukidnon, but said livelihood projects turned out to be non-existent.

Criminal Cases Nos. SB-17-CRM-2104 to 2107 pertain to the acts of the accused in allowing FDC to take possession, appropriate or misappropriate the public funds from the PDAF released in connection with the livelihood projects of accused Pancrudo's constituents, but which turned out to be non-existent.

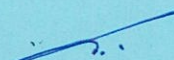
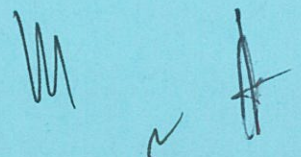
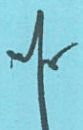
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<sup>4</sup> Record, Vol. 9, pp. 331-411

<sup>5</sup> Id, pp. 1-39

<sup>6</sup> Id, pp. 40-59

<sup>7</sup> Id, pp. 60-79





Criminal Cases Nos. SB-17-CRM-2108 to 2111 pertain to the preparation of documents intended to conceal the fictitious nature of the livelihood projects for which public funds from the PDAF allocations of accused Pancrudo were released.

In their motions, accused Pancrudo and Labay essentially contend that the Court erred in convicting them of the crimes charged because the evidence of the prosecution failed to prove their guilt beyond reasonable doubt or to prove that they conspired with their co-accused in committing the crimes charged.

After a careful study, the Court finds no valid reason to reconsider or modify the **Decision** dated April 14, 2023. The arguments raised by the accused have already been considered and passed upon by the Court when it rendered the aforementioned **Decision**.

a) Criminal Cases Nos. Sb-17-CRM-2096  
to 2103

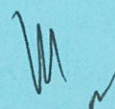
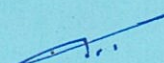
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In convicting accused Pancrudo of the graft charges against him, the Court explained, *inter alia*, that:

"On the other hand, accused Pancrudo is wont to diminish his participation in the subject PDAF disbursements, acknowledging only that he "recommended FDC to TRAC as the implementing partner organization that would implement projects utilizing my PDAF funds," without more. He disavows as his the signature affixed on the other documents where his name appears. Significantly, when he took the witness stand, he specifically denied his signatures on nine prosecution documents that were presented to him. Asking that they be accordingly marked, he nevertheless opted not to offer those same Exhibits as part of his defense.

He negates his involvement in this wise:

I sent a letter to TRC endorsing Farmers Business Development Corporation (FBDC) as the implementing partner. At that time, I did not know about FBDC (sic) except that its office was located inside the compound of the Department of Agriculture (DA) at Elliptical Road, Diliman, Quezon City. The presence of the FBDC's (sic) office inside the DA main office compound made me think that





said NGO was perhaps qualified to implement the project so I decided to issue endorsement in its favor. **My endorsement, however, of FBDC as the partner organization was just a proposal to TRC and is not tantamount to automatically designating FBDC as the outright implementor of the livelihood project** because I was aware at that there is an existing procedure before a non-governmental organization could avail of government fund to implement a government project." [emphasis supplied]

In the same breath that he professes familiarity with the framework governing the use by NGOs of government funds, he also lamely offers that his recommendation of FDC (FBDC, per his usage) had been based merely on the fact that its office was situated inside the premises of a government agency, inferring that it was perhaps qualified to implement his projects. He then points to the TRC as the entity responsible for ensuring that the NGO-implementor was actually qualified to undertake the projects.

The tenor of his letters, however, belie the mere recommendatory character that he wishes to typify his NGO designation with.

In his four letters – effectively prompting the TRC to release P41 Million worth of projects to FDC – he explains that the partnership "is necessary to efficiently undertake the livelihood program of this representation". He says the transfer of funds "would greatly help in the realization of our objective". Thus, notwithstanding the denomination of the letter as a mere request, his ratiocination why FDC is a worthy recipient of his PDAF allotment, borne on the official letterhead of the august House of Representatives, already carried the imprimatur and weight of congressional approbation.

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Again, it bears to stress that it is **not** the unconstitutionality of the legislators' post-enactment intervention in the budget that is at issue in the present cases. Their identification of a partner NGO or PO would have been deemed regular and accorded the badge of validity, but only if such selection could have reasonably passed regulatory muster and had not been executed with such arbitrariness or carelessness.

Here, however, accused Pancrudo **on multiple times** endorsed, sans any basis but the NGO's address, the transfer of his Priority Development Assistance Funds to FDC as a partner supposedly necessary for his livelihood projects to take off. Then on a mere sweeping denial, he brushes off his participation in the utilization of his multi-million PDAF, claiming absence of knowledge how or where it was spent and denying the signatures meant to lend concurrence and satisfaction to the supposed completion of the projects.

Time and again, however, the Supreme Court has eschewed denial as an "inherently weak defense." In its emphatic words: "Denial and alibi are among the weakest, if not the weakest, defenses in criminal



prosecution.” It is well-settled that denial, if unsubstantiated by clear and convincing evidence, is a self-serving assertion that deserves no weight in law.

In the cases before us, accused Pancrudo cries forgery of the signatures appearing on the subsequent liquidation documents but manifestly fails to adduce evidence to reinforce his claim.

Accused Pancrudo does not lift a finger, however, to sustain his claim. Quite contrary to common human experience and conduct, if indeed he and his constituents lost Forty-One Million Pesos (P41,000,000.00) in funds intended to uplift the latter, he would have at least endeavored to find out how such massive amount was funneled from his office and diverted from his intended beneficiaries. Instead, he endorses the FDC three more times over, unaccompanied by any palpable effort to determine how his funds were eventually utilized under the PDAF. His feigned lack of knowledge, however, begs credulity. Clearly, such lack of interest over the proper utilization of his allocated PDAF reeks of nothing but negligence that is both gross and inexcusable.”<sup>8</sup>

With respect to accused Labay, the Court declared, among others, that:

“Accused Labay’s signature on the documents supposed to evidence the utilization of the funds and the completion of the livelihood projects are undeniable. They were on the Project Final Reports (Exhibits “T”, “II”, “SS” and “YY-2”); the Liquidation Reports (Exhibits “T-1”, “II-2”, “SS-2”, and “YY-3”); and the Reports of Disbursements (Exhibits “T-3”, “II-4”, “SS-4”, and “YY-5”). They were additionally on FDC’s records of disbursement, ostensibly to show payment for provisions it secured in the conduct of the livelihood training sessions, such as VENUE AND ADMINISTRATIVE EXPENSES (Exhibits “T-10”, “II-17”, “SS-11”, and “YY-12”); CATERING (Exhibits “T-12”, “II-11”, “SS-13”, and “YY-14”); SALARIES AND WAGES, a.k.a. mobilization fees (Exhibits “T-8”, “II-9”, “SS-9”, and “YY-10”); TRANSPORTATION (Exhibits “T-14”, “II-13”, “SS-17”, and “YY-16”); TRAINING MATERIALS (Exhibits “T-16”, “II-15”, “SS-15”, and “YY-18”); and LIVELIHOOD TRAINING COURSE PACKAGE (Exhibits “T-4”, “II-5”, “SS-6”, and “YY-6”).

The array of evidence, however, suggests that none of the livelihood activities transpired as envisioned. The P9.45 Million in Official Receipts supposedly issued by Felta has been disowned by its head, and the liquidation documents submitted to FDC show, instead, an activity that was held from July 16 to 19, 2008. The verification made by COA disclose that several of those whom they surveyed and who responded denied receiving training kits or Livelihood Training Course Packages (LTCP) and that the residence of certain listed attendees could not even be established based on the feedback of Election Officers whom they have

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<sup>8</sup> Id, pp. 382-385

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reached out to. The utilization of the project funds for the purpose they were intended, being unsupported by Official Receipts, likewise could not be established. The only reasonable inference therefrom is that the PDAF activities did not really occur or were "ghost projects", contrary to the submissions made by FDC/accused Labay. His actions were veritably fraught with evident bad faith or that which contemplates a state of mind affirmatively operating with furtive design."<sup>9</sup>

b) Criminal Cases Nos. SB-17-CRM-2104  
to 2107

In convicting accused Pancrudo of the crimes of **Malversation of Public Funds**, the Court found, among others:

"The public nature of the Fund is likewise a fact to be conceded, being a component of the national budget under the **General Appropriations Act**.

The proffered evidence has also demonstrably shown – beyond reasonable doubt – that Pancrudo's subject PDAF had been misappropriated. The documentation purporting the Fund's due utilization in the conduct of livelihood training activities has been debunked in no uncertain manner by both the Commission on Audit and the other witnesses of the prosecution. There is a gaping discrepancy between the claimed occurrence of the project activities (April 21-26; May 18-23; May 26-30; and again on the same dates of May 26-30, 2008) and the documentation submitted by the FDC (showing an activity that transpired from July 16 to 19, 2008) in its attempt to liquidate and account for the funds. The registered list of beneficiaries/training recipients were highly suspect (most of the attendance sheets were undated) and a significant number of individuals who were sampled by COA for verification either did not respond or denied that they received training materials. As also extensively discussed earlier, the claimed transaction by FDC with the multi-media company Felta had been denounced by the latter's President, such disavowal being actually supported by the fact that the Official Receipts supposedly issued for the transaction had already been declared missing from their inventory.

All told, no other conclusions arises except that the amounts released to FARMERBUSINESS Development Corporation were indeed misappropriated."<sup>10</sup>

As regards accused Labay, the Court ruled:

"Contrarily, the Court holds that FDC president Labay positively misappropriated the project funds under the four SAROs in the following

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<sup>9</sup> Id, pp. 390-391

<sup>10</sup> Id, pp.396-395



amounts: P16 Million; P4.8 Million; P8 Million; and P4 Million. FDC was adequately shown to have received the aforesaid amounts as evidenced by the checks drawn by the TRC (Exhibits "K", "GG-2", "PP-1", and "WW-3") and the receipts issued by FDC therefor (Exhibits "Q", "GG-3", "PP-2", and "WW-4"). FDC, through its officers, thus clearly acquired custody of and control over the subject funds. Its subsequent failure to properly account for the amounts, providing only spurious documents to support their alleged utilization, ineluctably proves that the aggregate amount of P32.8 Million was misappropriated."<sup>11</sup>

c) Criminal Cases Nos. SB-17-CRM-2108  
to 2111

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In convicting accused Pancrudo and Labay of the charges of **Malversation through Falsification**, the Court explained:

"Accused Labay, who is a private individual, is brought before the Court together with the said public officers upon an allegation of conspiracy. The **Informations** charge that, because of their acts so-described therein, the 10% retention fees amounting to P2 Million; P600,000.00; P1 Million; and P500,000.00, respectively, were misappropriated or allowed to be misappropriated.

The fact of subsequent due custody of and control over the said amounts by FDC/accused Labay are sufficiently evidenced by the TRC checks issued in favor of the NGO (Exhibits "R-2", "HH-2", "RR-1", and "XX-2") and the concomitant Official Receipts issued by the latter (Exhibits "R-3", "HH-3", "RR-3", and "XX-3") for the said sums. That these PDAF-sourced funds are public in nature is duly established, being allotments provided under the **General Appropriations Act**.

The second-tranche releases under the four SAROs are supposed to be effected upon due completion of the project activities.

For such purpose, the liquidation documents especially gain heightened significance because disbursement was conditional on their propriety. Here, absent reliable and accurate substantiation of the utilization of the initial project funds released to the NGO, FDC's lawful claim to the 10% retention fee has no basis to stand on.

The Court duly notes that the second releases under the SAROs had been effectively prompted by the affirmation of 100% project completion declared by accused Labay – with the express conforme of accused Pancrudo – as appearing on Exhibits "T", "II", "II-20", "SS", "SS-1", "YY-2" and "YY-27", which comprise the Project Final Report and the PDAF Monitoring Report Form for the four disbursements.

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<sup>11</sup> Id, p. 398



Accused Pancrudo has repudiated his signature on the foregoing as having been forged and, yet, has not even attempted to show by competent evidence the fact of such claimed forgery. As things therefore stand, the documents are to be accorded credence as to their due execution and accorded their corresponding probative value.

Given the foregoing, the Court holds that Labay's certification and Pancrudo's concurrence **as to the verity of projects completion** render the two of them complicit in making untruthful statements, that is, passing off then projects as having been duly implemented when, in fact, no sufficient proof exists that they were indeed carried out and the truth of the matter is that the livelihood activities supposedly conducted were "ghost" or inexistent."<sup>12</sup>

The Court rules that the findings and conclusions contained in the **Decision** dated April 14, 2023 stand.

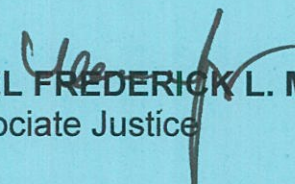
**WHEREFORE**, premises considered, the Court resolves to deny:


- 1) The **Motion for Reconsideration** dated April 28, 2023 filed by accused Candido P. Pacrudo, Jr., through counsel; and
- 2) The **Motion for Reconsideration** dated April 29, 2023 filed by accused Johanne Edward Labay, through counsel.

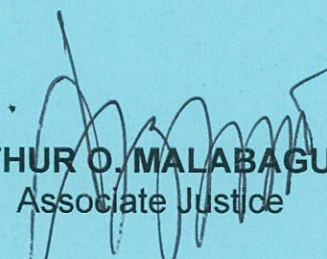
**SO ORDERED.**

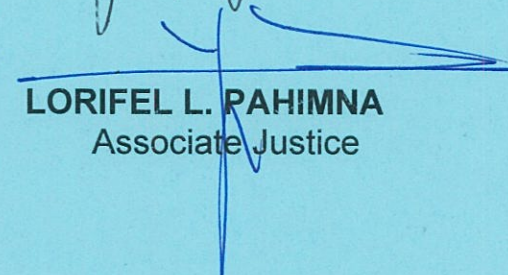
  
**OSCAR C. HERRERA, JR.**  
Chairperson  
Associate Justice

*I maintain my dissent*

  
**MICHAEL FREDERICK L. MUSNGI**  
Associate Justice

  
**RAFAEL R. LAGOS**  
Associate Justice

  
**ARTHUR O. MALABAGUIO**  
Associate Justice

  
**LORIFEL L. PAHIMNA**  
Associate Justice

<sup>12</sup> Id, pp. 400-401