



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
QUEZON CITY

SEVENTH DIVISION

MINUTES of the proceedings held on July 20, 2023.

Present:

Justice MA. THERESA C. GOMEZ-ESTOESTA ----- Chairperson
Justice ZALDY V. TRESPESES ----- Member
Justice GEORGINA D. HIDALGO ----- Member

The following resolution was adopted:

SB-19-CRM-0127 to 0137 - People vs. Teresita J. Soliva

This resolves the following:

1. Accused Teresita J. Soliva's "MOTION FOR RECONSIDERATION" dated June 30, 2023;¹ and,
2. Prosecution's "COMMENT/OBJECTION" dated July 7, 2023.²

HIDALGO, J.:

On June 16, 2023, this court promulgated a judgment in absentia which found the accused herein guilty beyond reasonable doubt of Malversation of Public Funds under Article 217 of the Revised Penal Code (RPC) and ten (10) counts of Failure of Accountable Officer to Render Accounts under Article 218 of the RPC. The *fallo* of the Decision reads:

WHEREFORE, the judgment is hereby rendered as follows:

1. FOR **SB-19-CRM-0127 (MALVERSIONATION OF PUBLIC FUNDS, ARTICLE 217 OF THE REVISED PENAL CODE)**

Finding accused Teresita Jugao Soliva **GUILTY** beyond reasonable doubt of the crime of Malversation of Public Funds defined and penalized under Article 217 of the Revised Penal Code. Consequently, she is hereby ordered to suffer the **indeterminate prison term of two (2) years, four (4) months and one (1) day of prison correccional, as minimum, to six (6) years and one (1) day of prison mayor, as maximum.** In addition, she is hereby ordered to suffer **perpetual special disqualification from holding any public office**

¹ Records, Vol. 2, pp. 491-494.

² Records, Vol. 2, pp. 534-543.

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and to pay a **fine in the amount of FIVE HUNDRED FIFTY-ONE THOUSAND PESOS (Php 551,000.00).**

2. FOR **SB-19-CRM-0128 (FAILURE OF ACCOUNTABLE OFFICER TO RENDER ACCOUNT, ARTICLE 218 OF THE REVISED PENAL CODE)**

Finding accused Teresita Jugao Soliva **GUILTY** beyond reasonable doubt of the crime of Failure of of Accountable Officer to Render Accounts defined and penalized under Article 218 of the Revised Penal Code. Consequently, she is hereby ordered to suffer the **indeterminate prison term of four (4) months and one (1) day of arresto mayor as minimum to one (1) year, one (1) month and eleven (11) days of prision correccional as maximum.** In addition, she is hereby ordered to pay the amount of **FORTY THOUSAND PESOS (Php 40,000.00)** by way of fine.

3. FOR **SB-19-CRM-0129 (FAILURE OF ACCOUNTABLE OFFICER TO RENDER ACCOUNT, ARTICLE 218 OF THE REVISED PENAL CODE)**

Finding accused Teresita Jugao Soliva **GUILTY** beyond reasonable doubt of the crime of Failure of of Accountable Officer to Render Accounts defined and penalized under Article 218 of the Revised Penal Code. Consequently, she is hereby ordered to suffer the **indeterminate prison term of four (4) months and one (1) day of arresto mayor as minimum to one (1) year, one (1) month and eleven (11) days of prision correccional as maximum.** In addition, she is hereby ordered to pay the amount of **FORTY THOUSAND PESOS (Php 40,000.00)** by way of fine.

4. FOR **SB-19-CRM-0130 (FAILURE OF ACCOUNTABLE OFFICER TO RENDER ACCOUNT, ARTICLE 218 OF THE REVISED PENAL CODE)**

Finding accused Teresita Jugao Soliva **GUILTY** beyond reasonable doubt of the crime of Failure of of Accountable Officer to Render Accounts defined and penalized under Article 218 of the Revised Penal Code. Consequently, she is hereby ordered to suffer the **indeterminate prison term of four (4) months and one (1) day of arresto mayor as minimum to one (1) year, one (1) month and eleven (11) days of prision correccional as maximum.** In addition, she is hereby ordered to pay the amount of **FORTY THOUSAND PESOS (Php 40,000.00)** by way of fine.

5. FOR **SB-19-CRM-0131 (FAILURE OF ACCOUNTABLE OFFICER TO RENDER ACCOUNT, ARTICLE 218 OF THE REVISED PENAL CODE)**

Finding accused Teresita Jugao Soliva **GUILTY** beyond reasonable doubt of the crime of Failure of of Accountable Officer to

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Render Accounts defined and penalized under Article 218 of the Revised Penal Code. Consequently, she is hereby ordered to suffer the **indeterminate prison term of four (4) months and one (1) day of arresto mayor as minimum to one (1) year, one (1) month and eleven (11) days of prision correccional as maximum.** In addition, she is hereby ordered to pay the amount of **FORTY THOUSAND PESOS (Php 40,000.00)** by way of fine.

6. FOR **SB-19-CRM-0132** (FAILURE OF ACCOUNTABLE OFFICER TO RENDER ACCOUNT, ARTICLE 218 OF THE REVISED PENAL CODE)

Finding accused Teresita Jugao Soliva **GUILTY** beyond reasonable doubt of the crime of Failure of of Accountable Officer to Render Accounts defined and penalized under Article 218 of the Revised Penal Code. Consequently, she is hereby ordered to suffer the **indeterminate prison term of four (4) months and one (1) day of arresto mayor as minimum to one (1) year, one (1) month and eleven (11) days of prision correccional as maximum.** In addition, she is hereby ordered to pay the amount of **FORTY THOUSAND PESOS (Php 40,000.00)** by way of fine.

7. FOR **SB-19-CRM-0133** (FAILURE OF ACCOUNTABLE OFFICER TO RENDER ACCOUNT, ARTICLE 218 OF THE REVISED PENAL CODE)

Finding accused Teresita Jugao Soliva **GUILTY** beyond reasonable doubt of the crime of Failure of of Accountable Officer to Render Accounts defined and penalized under Article 218 of the Revised Penal Code. Consequently, she is hereby ordered to suffer the **indeterminate prison term of four (4) months and one (1) day of arresto mayor as minimum to one (1) year, one (1) month and eleven (11) days of prision correccional as maximum.** In addition, she is hereby ordered to pay the amount of **FORTY THOUSAND PESOS (Php 40,000.00)** by way of fine.

8. FOR **SB-19-CRM-0134** (FAILURE OF ACCOUNTABLE OFFICER TO RENDER ACCOUNT, ARTICLE 218 OF THE REVISED PENAL CODE)

Finding accused Teresita Jugao Soliva **GUILTY** beyond reasonable doubt of the crime of Failure of of Accountable Officer to Render Accounts defined and penalized under Article 218 of the Revised Penal Code. Consequently, she is hereby ordered to suffer the **indeterminate prison term of four (4) months and one (1) day of arresto mayor as minimum to one (1) year, one (1) month and eleven (11) days of prision correccional as maximum.** In addition, she is hereby ordered to pay the amount of **FORTY THOUSAND PESOS (Php 40,000.00)** by way of fine.

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9. FOR **SB-19-CRM-0135** (FAILURE OF ACCOUNTABLE OFFICER TO RENDER ACCOUNT, ARTICLE 218 OF THE REVISED PENAL CODE)

Finding accused Teresita Jugao Soliva **GUILTY** beyond reasonable doubt of the crime of Failure of of Accountable Officer to Render Accounts defined and penalized under Article 218 of the Revised Penal Code. Consequently, she is hereby ordered to suffer the **indeterminate prison term of four (4) months and one (1) day of arresto mayor as minimum to one (1) year, one (1) month and eleven (11) days of prision correccional as maximum.** In addition, she is hereby ordered to pay the amount of **FORTY THOUSAND PESOS (Php 40,000.00)** by way of fine.

10. FOR **SB-19-CRM-0136** (FAILURE OF ACCOUNTABLE OFFICER TO RENDER ACCOUNT, ARTICLE 218 OF THE REVISED PENAL CODE)

Finding accused Teresita Jugao Soliva **GUILTY** beyond reasonable doubt of the crime of Failure of of Accountable Officer to Render Accounts defined and penalized under Article 218 of the Revised Penal Code. Consequently, she is hereby ordered to suffer the **indeterminate prison term of four (4) months and one (1) day of arresto mayor as minimum to one (1) year, one (1) month and eleven (11) days of prision correccional as maximum.** In addition, she is hereby ordered to pay the amount of **FORTY THOUSAND PESOS (Php 40,000.00)** by way of fine.

11. FOR **SB-19-CRM-0137** (FAILURE OF ACCOUNTABLE OFFICER TO RENDER ACCOUNT, ARTICLE 218 OF THE REVISED PENAL CODE)

Finding accused Teresita Jugao Soliva **GUILTY** beyond reasonable doubt of the crime of Failure of of Accountable Officer to Render Accounts defined and penalized under Article 218 of the Revised Penal Code. Consequently, she is hereby ordered to suffer the **indeterminate prison term of four (4) months and one (1) day of arresto mayor as minimum to one (1) year, one (1) month and eleven (11) days of prision correccional as maximum.** In addition, she is hereby ordered to pay the amount of **FORTY THOUSAND PESOS (Php 40,000.00)** by way of fine.

SO ORDERED.

Aggrieved, herein accused Teresita J. Soliva (Accused Soliva) filed her Motion for Leave of Court to Avail Remedies with Reconsideration³ dated June 30, 2023.

³ Records, Vol. 2, pp. 491-494.

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On July 3, 2023, as soon as the accused physically appeared, the court, in the interest of justice, issued an Order⁴ admitting the Motion for Reconsideration filed by accused Soliva. Consequently, the court allowed her to avail of the post-judgment remedies as provided for under Section 6 of Rule 120 of the Rules of Court.

To counter the Motion for Reconsideration, the prosecution filed its Comment/Opposition⁵ on July 7, 2023.

The arguments of the parties are hereunder summarized, to wit:

Accused Soliva

In support of her Motion, accused Soliva presents the following arguments:

1. She was charged with crimes that are *mala in se*, where proving criminal intent is crucial. She claims that the prosecution's evidence lacks proof of her willful intent to commit the crimes. While evidence might show her failure to account for cash advances during her term as Mayor, there was no indication of malicious intent. As it is the prosecution's duty to establish how and why the act intended to harm the government, the lack of additional evidence for such intent leads to the conclusion that no crimes were committed;

2. She was convicted of Malversation of Public Funds or Property based on an alleged amount of Php 551,000.00 malversed. However, new evidence emerged showing that she made payments to the Municipality of Remedios T. Romualdez (RTR). A Certification dated October 4, 202, [claimed by her as Annex "A" in her Motion for Reconsideration, though nothing is attached to the Motion], issued by the Municipal Accountant of RTR indicates an outstanding balance is Php 877,467.02. Of this amount, Php 219,622.03 was paid by her to the Municipality of RTR through her terminal leave credits, as confirmed by a Certification dated March 14, 2023, [claimed by her as Annex "B" in her Motion for Reconsideration, though nothing is attached to the Motion], issued by the Municipal Accountant of RTR. Consequently, the Certification dated March 14, 2023, can be considered as newly discovered evidence in her defense, warranting a potential new trial to potentially reduce the imposed penalty; and,

3. By way of appeal to the court, she said that given her promptness in settling her civil liability, the accused respectfully requests the Honorable Court to show leniency and compassion by reducing the imprisonment

⁴ Records, Vol. 2, pp. 519.

⁵ Records, Vol. 2, pp. 534-543.

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penalty, thus enabling her to seek probation. In her Motion for Leave to Avail of the Remedies, she reiterates that her failure to appear in court for evidence presentation was not a deliberate disregard for the judicial process. Instead, it resulted from physical constraints and difficulties due to her advanced age and the considerable distance between her residence in Iloilo and the court situated in Metro Manila.

Prosecution

To counter the above allegations of the defense, the prosecution presents the following arguments, viz:

1. The accused has misunderstood the concept of newly discovered evidence. The alleged Certification, which was not even attached to the Motion, cannot be considered newly discovered evidence and cannot be the basis for a new trial. The court had waited for any evidence, whether documentary or otherwise, from the accused, but she neglected her rights for an unreasonably long time. In fact, the accused herself admitted that she regrettably failed to present her defense. In other words, there is no after-discovered evidence to speak of, but only after-thought evidence, which appears to be an attempt to mitigate her civil liability *ex delicto* and effectively serves as a judicial admission. Thus, the alleged Certification mentioned by the accused in her motion does not qualify as newly discovered evidence as contemplated by law;

2. In her motion seeking reconsideration of the judgment of conviction, the accused committed a misinterpretation of the law by attempting to distinguish the nature of the crimes under criminal law. She argued that the crimes she was charged with are not *mala prohibita* and denied any willful intent to commit them. What is the point of saying that those crimes which she was convicted of were committed without willfulness if those crimes are not *mala prohibita*. In other words, she is technically admitting that she had committed the crimes with willful intent.

The prosecution further contends that the accused neglected her legal and moral obligation to account for public funds, despite holding the position of a former mayor and an accountable officer under the law. This moral upheaval renders the crimes for which she was convicted inherently immoral or *mala in se*, contrary to the accused-movant's arguments. Conversely, if the crimes are *mala prohibita*, then her conviction is even more appropriate for reasons of public policy.

The culpability of the accused for both crimes was undoubtedly established beyond reasonable doubt. Her attempts to downplay the clarity of the elements of her crimes, as defined and penalized under the law, through a

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distorted characterization of their nature, lack substance and fail to undermine the strength of the prosecution's case; and,

3. The motion for reconsideration must be denied. The accused has been accorded sufficient time and opportunity to present her evidence in chief, if any, to refute the criminal charges against her. Despite all the leniency and leeway given to her by the court, she failed to present any evidence whatsoever and delayed the proceedings without justifiable reasons, thus hindering the otherwise orderly dispensation of justice.

Our Ruling

Going over the grounds raised by the accused in her Motion and the comments of the prosecution, the Court finds no sufficient basis to depart from its previous judgment finding the accused GUILTY of the crimes charged.

Allow us to discuss our stand.

On accused's allegation of a newly discovered evidence

Rule 121, Section 2 of the Rules of Court⁶ provides for the grounds for a new trial, to wit:

Section 2. Grounds for a new trial. — The court shall grant a new trial on any of the following grounds:

(a) The errors of law or irregularities prejudicial to the substantial rights of the accused have been committed during the trial;

(b) The new and material evidence has been discovered which the accused could not with reasonable diligence have discovered and produced at the trial and which if introduced and admitted would probably change the judgment.⁷ (Emphasis supplied)

The accused repeatedly harps on a Certification dated 14 March 2023 as newly discovered evidence. Additionally, she asserts that she has already paid the amount of Php 219,622.03 to the Municipality of RTR through her terminal leave credits. Accused, in effect, invokes payment of the civil aspect of the case. Moreover, she asserts that said Certification, when considered as a newly discovered evidence, might reduce the penalty imposed thereby

⁶ Rule 121, Section 2, Rules of Court.

⁷ Rule 121, Section 2, Rules of Court.

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qualifying her to go on probation.

We are not persuaded.

First, the Certification dated 14 March 2023 was not even attached to the Motion for Leave of Court to Avail Remedies nor to the Motion for Reconsideration. Be that as it may, said Certification, existing or not, is not and cannot be considered as a newly discovered evidence.

The Certification dated 14 March 2023 alluded to by the accused which has not been attached to the Motion for Reconsideration is not a newly discovered evidence as contemplated by law that would warrant a new trial. It should be recalled that even while these cases were being tried, the accused has been talking of a certification to show her intention to pay the amount she allegedly did not account for nor liquidate. In fact, this was the reason why the trial was delayed. Record shows that the accused always promised to present a certification as proof of payment, but unfortunately, was never able to show. Nonetheless, if at all, the Certification will only show payment of the civil liability. It will not at all affect the accused's criminal liability. Jurisprudence is replete of cases saying, "the civil aspect is different from the criminal aspect of a case."⁸ Thereby making the settlement of the civil aspect of the case immaterial in criminal cases.

Moreover, in *Crispino, et al. vs. Tansay*⁹, the Supreme Court ruled that newly discovered evidence has a specific meaning under the law. Under Rule 53 of the Rules of Court, the following criteria must be satisfied for evidence to be considered newly discovered: (a) the evidence could not have been discovered prior to the trial in the court below by exercise of due diligence; and (2) it is of such character as would probably change the result.¹⁰

As correctly argued by the prosecution, the supposed Certification dated 14 March 2023 lacks the characteristics of newly discovered evidence that could not have been procured prior to the trial through the exercise of due diligence. Furthermore, its potential to substantially impact the court's judgment is negligible. Had this Certification genuinely existed, its discovery could have been reasonably achieved during the preliminary stages of the proceedings back in 2019, making it available for presentation during the trial. Notwithstanding the date mentioned, 4 March 2023, its existence before the court trial is apparent. Regrettably, the accused failed to exhibit due diligence in obtaining this purported evidence, resulting in unnecessary delays in the proceedings. To reiterate, as per record, several opportunities were afforded to accused Soliva to secure said Certification before the presentation of her

⁸ JCLV Realty & Development Corporation v. Mangali, G.R. No. 236618, August 27, 2020.

⁹ G.R. No. 184466, December 5, 2016.

¹⁰ Crispino, et al. vs. Tansay, G.R. No. 184466, December 5, 2016.

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evidence.

Second, the court could not give credence to the said Certification. This will not overturn the court's prior determination regarding the accused's criminal liability and, most notably, the court's judgment of conviction. It should be noted that the cases filed against accused are not ordinary collection suits which could be settled by payment of money, but Malversation of Public Funds and Failure to Liquidate Public Funds which could not be settled by payment being criminal in nature.

Curtly said, the Certification lacks the capacity to function as exculpatory evidence due to its limited weight and evidentiary value. It fails to absolve the accused of her alleged actions, specifically her deliberate failure to account for entrusted public funds within the prescribed period and misappropriation of said funds.

On criminal intent

Accused Soliva contends that the charges filed against her are offenses categorized as *mala in se*, implying that the presence of criminal intent is crucial and must be duly established. She further asserts that the prosecution's evidence fails to demonstrate her willful intent to commit the alleged crimes. As a result, considering the dearth of evidence concerning the accused's intent, it is reasonable to infer that no criminal offenses have been committed.

To refute the accused's argument, the prosecution contends that it is both illogical and absurd to claim that criminal intent was not established and that no crimes were committed, especially when the accused's assertions concerning the nature of the crimes are misguided. The prosecution asserts that the accused ought to recognize that the willful intent she seeks is unmistakably evident, standing at the threshold of her moral upheaval. Furthermore, the prosecution emphasizes that the crimes accused has committed are defined and penalized under the Revised Penal Code. All the necessary elements have been duly established and convincingly proven by it. As such, the accused's attempt to challenge the existence of criminal intent and the commission of the crimes remains unsubstantiated considering the solid evidentiary foundation presented by them.

We find the arguments put forth by the accused to be misplaced and devoid of merit.

As aptly asserted by the prosecution, accused Soliva knowingly and intentionally committed the crimes charged. A retrospective analysis reveals that she was afforded sufficient time and opportunities to settle her outstanding cash advances. Furthermore, she received three demand letters

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from both the Municipality of RTR and the COA, yet she failed to take appropriate actions to fulfill her obligations. Instead, she resorted to stalling the court proceedings to acquire a purported certification, which appears to be of no help at all.

Accused Soliva's culpability for both crimes has been unequivocally established beyond reasonable doubt. The commission of these crimes caused significant damage to the government, particularly to the municipality of Remedios T. Romualdez. The funds she deliberately failed to account for are public funds, for which she is accountable under the law. Thus, it is unreasonable, even absurd, to assert that her criminal intent was not proven, and that no crimes were committed, based on her misguided assertions regarding the nature of the offenses.

Furthermore, it is now untimely for the accused to raise issues that have already been decided by the court. The accused cannot be allowed to further delay or impede the proceedings without justifiable reasons, especially after being given ample time to present her case in court. Her failure to present any evidence, whether testimonial or documentary, over an extended period renders her estopped by laches, and such negligence and lapses rest solely on the accused.

Hence, there is no valid justification to reconsider or disturb the judgment of conviction. It is imperative to bring an end to the litigation and uphold the finality of the court's decision. Justice demands that the judicial process be respected and concluded, and the accused must bear the consequences of her actions as determined by the court.

WHEREFORE, premises considered, the Motion for Reconsideration of herein accused is hereby **DENIED** for lack of merit.

SO ORDERED.

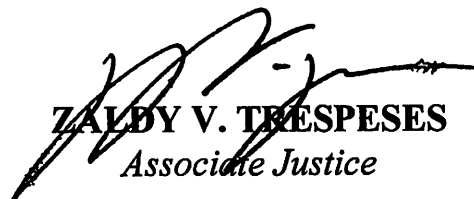
Quezon City, Philippines.

GEORGINA D. HIDALGO
Associate Justice

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WE CONCUR:


MA. THERESA DOLORES C. GOMEZ-ESTOESTA
Associate Justice
Chairperson


ZALDY V. TRESPESSES
Associate Justice

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