



REPUBLIC OF THE PHILIPPINES

Sandiganbayan
QUEZON CITY

Sixth Division

PEOPLE OF THE PHILIPPINES,
Plaintiff,

- versus -

**MIGUEL DRACULAN ESCOBAR,
JUANITO HERMINIA PURISIMA,
AMELIA CARMELA CONSTANTINO
ZOLETA,
SUZETTE OCAYA CLERIGO,
ALEXIS JUDE KIAMCO DELA CRUZ, and
VELSIE BANZON**

Accused.

**CRIM. CASE NO. SB-11-CRM-
0458**

For: Violation of Section 3(e) of
Republic Act No. 3019, as
amended

**CRIM. CASE NO. SB-11-CRM-
0459**

For: Malversation of Public Funds
Thru Falsification of Public
Documents

P R E S E N T :

**FERNANDEZ, SJ, J., Chairperson
MUSNGI,* J. and
VIVERO, J.**

Promulgated: 09 NOV 2023

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RESOLUTION

VIVERO, J.:

Submitted for resolution are the following:

- 1) *Motion for Reconsideration (of the Decision of Conviction Promulgated on August 15, 2023)* dated 30 August 2023 filed by accused Miguel Escobar; and
- 2) *Motion for Reconsideration* dated 30 August 2023 filed by accused Alexis Dela Cruz.

* In view of the inhibition of J. Miranda (per Administrative Order No. 307-A-2017 dated August 31, 2017).

The plaintiff, through the Office of the Special Prosecutor, filed its *Comment/Opposition (to Accused Miguel D. Escobar's Motion for Reconsideration)*² and *Comment/Opposition (to Accused Alexis Jude K. Dela Cruz's Motion for Reconsideration)*.³

The aforementioned accused, in their separate Motions, pray that this Court reconsider its decision and resolve to dismiss the above-entitled cases for inordinate delay and insufficiency of evidence to prove their guilt beyond reasonable doubt.

Their Motions stemmed from the Decision promulgated on 15 August 2023, the dispositive portion of which reads:

"WHEREFORE, in light of the foregoing, judgment is hereby rendered:

A. CRIMINAL LIABILITY:

1. Criminal Case No. SB-11-CRM-0458:

Accused **MIGUEL DRACULAN ESCOBAR** and **ALEXIS JUDE KIAMCO DELA CRUZ** are each found **GUILTY** beyond reasonable doubt for violation of Section 3(e) of Republic Act No. 3019 and are each sentenced to suffer the indeterminate penalty of imprisonment of **SIX (6) YEARS AND ONE (1) MONTH**, as minimum, to **TEN (10) YEARS**, as maximum, with **PERPETUAL DISQUALIFICATION** to hold public office.

2. Criminal Case No. SB-11-CRM-0459:

Accused **MIGUEL DRACULAN ESCOBAR** and **ALEXIS JUDE KIAMCO DELA CRUZ** are each found **GUILTY** beyond reasonable doubt of the complex crime of Malversation through Falsification of Public Documents and are each sentenced to suffer an indeterminate penalty of **SIX (6) YEARS** of *prision correccional*, as minimum, to **TEN (10) YEARS and ONE (1) DAY** of *prision mayor*, as maximum, with **PERPETUAL SPECIAL DISQUALIFICATION** to hold public office.

In addition, each accused is ordered to pay a fine of Five Thousand Pesos (PhP 5,000).

B. CIVIL LIABILITY:

The Court finds accused **MIGUEL DRACULAN ESCOBAR** and **ALEXIS JUDE KIAMCO DELA CRUZ** civilly liable in **Criminal Cases No. SB-11-CRM-0458 and 0459**. Hence, they must refund jointly and severally to the Bureau of the Treasury, the amount of Four Hundred Fifty Thousand Pesos (PhP 450,000) with

² Dated 22 September 2023.

³ Dated 15 September 2023.

legal interest of six percent (6%) per *annum* reckoned from the finality of the decision until full satisfaction, unless they can present proof that they have previously reimbursed said amount.

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SO ORDERED."

Both accused, in their respective Motions, claim that their right to speedy disposition of cases were violated. They insist that there was inordinate delay when the Informations were filed on 17 November 2011 with the Sandiganbayan considering that seven (7) years, three (3) months and six (6) days had elapsed from 11 August 2004 or when the Resolution covering the subject transaction was issued by the Office of the Ombudsman-Mindanao.

In support of their claim of inordinate delay, they cited the Supreme Court's ruling in G.R. Nos. 228349 and 228353 ordering the Sandiganbayan Third Division to dismiss Criminal Case Nos. SB-12-CRM-0129 and SB-12-CRM-0130 for violation of accused's constitutional right to speedy disposition of cases. They argue that said ruling should be applied here given that the transactions involved in the cases decided by the Supreme Court were covered in the same OMB-Mindanao Resolution dated 11 August 2004.

Accused Escobar continue to contend that his approval of the letter request, disbursement voucher and check were made in good faith after relying on the review and actions of his subordinates. According to him, mere signing of the letter request, disbursement voucher and check were not overt acts sufficient to make him a co-conspirator for the crimes charged.

For his part, accused Dela Cruz posits that his only participation in these cases was simply his act of certifying the availability of funds for the Malapatan Fishermen's Group's request for financial assistance, which does not constitute the crimes charged.

He also attempted to cast doubt on witness Mary Ann Gadian and Sheryl Desiree Jane Tangan's testimonies based on the following: 1) The testimony of Gadian, that accused Dela Cruz prepared the identification card of accused Velsie Banzon, and that he signed for Kadir Andulcan in the letter request and project design, was not corroborated by Tangan; 2) Tangan's testimony was merely hearsay; 3) Gadian and Tangan's testimonies should not be given weight since they are clearly more guilty than accused Dela Cruz given their admission that they falsified the documents for the Malapatan Fishermen's Group transaction; and 4) Failure of the prosecution to present, during trial, the ID which accused Dela Cruz allegedly prepared for accused Banzon.

Accused Dela Cruz further argues that he had no reason to conspire with his co-accused considering that he did not receive a single centavo from the fraudulent transaction; aside from that, there was no showing of any interaction between him and accused Escobar which would establish the existence of conspiracy.

In its Comment/Opposition, the prosecution asserts that this Court's Resolution dated 23 July 2012, finding that there was no undue delay became final



considering accused Escobar's failure to file an appeal to the Supreme Court challenging said ruling. Thus, accused cannot use it as ground for the reconsideration.

Further, the prosecution strongly disagrees with accused Escobar's claim that the ruling in G.R. Nos. 228349 and 228353 should be applied herein considering that the subject matter or transactions involved in these cases are different from each other.

As for accused Escobar's defense of good faith, the prosecution contends that the same is bereft of merit. Evidence shows that before signing the letter request, project design, disbursement voucher, and check, accused Escobar had foreknowledge of the circumstances that could have alerted him to exercise higher degree of diligence in signing them.

The prosecution posed that: accused Dela Cruz failed to present convincing evidence that controverts Gadian and Tangan's testimonies nor did he advance any proof that said witnesses were prompted with ill motive in ascribing the act of falsification against him; its failure to include the fake ID of accused Banzon as one of its documentary evidence will not cast doubt to the actual existence of the said document; and the fact that the check was encashed by the person posing as Velsie Banzon as per testimony of COA Auditor Helen M. Cailing, is an implicit proof of the actual existence of the fake ID used by the person posing as Velsie Banzon.

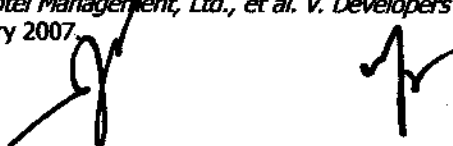
THE COURT'S RULING

After a careful review of the arguments raised before this Court, we find no valid reason to grant the *Motions for Reconsideration* filed by accused Escobar and Dela Cruz.

A cursory reading of the Motions reveal that no new issue was raised therein. The issues and arguments mentioned were mere rehash of what have been raised in their previous pleadings that were fully considered and squarely addressed and found to be without merit by this Court.

While it has been recognized that a motion for reconsideration tends to harp on the same issues that were already considered in the decision sought to be reconsidered,⁴ it is imperative for accused Escobar and Dela Cruz to raise matters substantially plausible or compellingly persuasive to justify the reconsideration sought. However, they failed on this duty when they did not raise any new matter or compelling reason in their respective Motions that will convince this Court to embark on another evaluation and analysis of the issues of this case. Therefore, this Court can only reiterate its ruling that the prosecution sufficiently proved the existence of all the essential elements of the crimes charged as well as the existence of conspiracy among the accused.

⁴ *Shangri-La International Hotel Management, Ltd., et al. v. Developers Group Of Companies, Inc.*, G.R. No. 159938, 22 January 2007.



Be that as it may, the issue on inordinate delay was resolved and extensively discussed by this Court in its Resolution dated 26 June 2012, denying accused Escobar's *Omnibus Motion for Dismissal/Prohibition of or Quashal of Information/Reinvestigation*, to wit:

"Based on the records before Us, accused Escobar appears to have not asserted his right to speedy disposition of the instant case, and did not file any motion for early resolution of the investigation.
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Considering that there was no showing of vindictive, capricious, vexatious and oppressive cause of delay, We cannot grant the dismissal of this case. Escobar knew that there could be cases filed against him, because of the preliminary investigation conducted by the Office of the Ombudsman in Mindanao. The 293-page Resolution of the Office of the Ombudsman in Mindanao dated August 11, 2004 already included the recommendation for filing of the instant cases. In that resolution, there was already a mention of the Malapatan Fishermen's Group of Poblacion, Malapatan, along with the involvement of the other groups and cooperatives that gave rise to the numerous cases already filed and pending against the accused. He cannot, therefore, claim that he could not have known that a case relative to the Malapatan cooperative will be filed. Though it may have taken some time before the Ombudsman actually filed the Informations, nevertheless, it was also incumbent upon the accused to assert his right to a speedy trial even prior to the filing of the Informations. Because of this, the accused may be considered to have slept on his right.

Undeterred, accused Escobar filed a *Motion for Reconsideration* dated 23 July 2012, which was also denied, thus:

"Accused Escobar argues that he did not receive any notice as to the outcome of the Ombudsman's investigation on the matter. He argued, in his Omnibus Motion, that he did not receive any notice or order coming from the Office of the Ombudsman directing him to submit his counteravailing evidence during the preliminary investigation. However, it appears from the records that instead of filing his counter-affidavit, the accused, together with all the other elective officials and some appointed officials involved in these cases filed a Petition for Prohibition, Mandamus, Injunction, with Writ of Preliminary Injunction, and Temporary Restraining Order, which was dismissed. The case even reached the Supreme Court, but the same was dismissed in 2003. The accused did not file his counter-affidavit to rebut allegations against him.

Accused Escobar, not being totally blameless, should have inquired with the Office of the Ombudsman why there was a delay in the resolution of this case. He admitted that no resolution was received by him in 2004 or 2005, and that he only came to know about the Resolution when the Informations were filed. xxx



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Despite knowing that there was a pending case against him, and this fact was not denied by the accused, there was no action from his end. His years of silence could only be interpreted as disinterest and apathy towards the accusations against him, and the time elapsed could only be taken against him. Assuming that he knew of the final approval by the Office of the Ombudsman of the Resolutions finding probable cause against him in 2004 or 2005, the accused should have followed-up and inquired with the Ombudsman why nothing was happening after such final approval. The stage of any investigation by the Ombudsman does not stop with the approval of a Resolution by the Ombudsman. It necessarily ends with the filing of the Information with the Court. Because of the accused's failure to assert his right despite the seven (7) year hiatus, he cannot complain and use the right to speedy disposition of cases as a convenient excuse for him to get out of defending himself in these cases."⁵

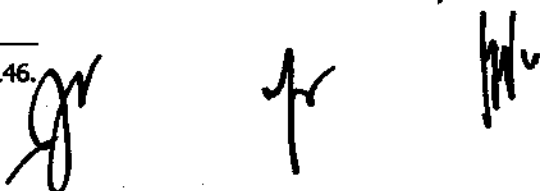
Anent accused Escobar's defense of good faith, We reiterate our ruling in the assailed Decision that he cannot simply invoke good faith to escape liability, viz:

"[A]ccused Escobar claimed that he relied in good faith that Provincial Administrator Maglante reviewed the letter request and supporting documents for the financial assistance to the Malapatan Fishermen's Group. And after such review, she found that the proposed project to be funded was legitimate, lawful and in line with the development thrusts of the province as evidenced by her initials in the disbursement voucher.

However, accused Escobar cannot simply invoke the *Arias* doctrine to absolve him from liability by reason of his negligence. There were noticeable if not palpable deficiencies/irregularities in the letter request and disbursement voucher which should have alerted him to verify the request. The lack of accreditation and MOA should have prompted him to exercise a higher degree of diligence and to make his own review of the voucher and documents before making his certification. Accused Escobar's inaction amounted to a breach of legal duty to ensure that financial assistance to NGOs and POs were made in accordance with the COA Circular and other laws. Accused Escobar, as the final reviewer of the disbursement vouchers, acted without even the slightest care and with indifference resulting in the disbursement of public funds to a fictitious person and association. Thus, the *Arias* doctrine is not applicable."

Likewise, accused Dela Cruz's defense that conspiracy was not established is unfounded. In support of his claim, he argues that there was no direct interaction between him and accused Escobar and that he did not receive any remuneration or reward from the fraudulent transaction. Contrariwise, this Court found:

⁵ *Rollo*, Volume II, pp. 139-A-146.



"In following the instructions of accused Zoleta to prepare the fictitious documents and to accompany the dummy treasurer to receive and encash the check, Ms. Gadian and Ms. Tangan indubitably conspired in the commission of the crimes. Likewise, the act of accused Dela Cruz in preparing the fake ID of the person who posed as Velsie Banzon and signing above the name of Kadir Andulcan in the letter request and project proposal, proved his role as a conspirator. Each of them performed their own part/role for the attainment of the same object which is to misappropriate funds of the province.

As for accused Escobar, although no direct evidence was shown to prove his participation in the falsification of documents, records show that he was informed of the transaction by Board Member Purisima.

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Accused Escobar's silence or inaction despite knowledge of the anomalous transaction by other officials of the province was tantamount to his approval. Moreover, his conduct of approving the disbursement voucher despite the lack of supporting documents which resulted in the encashment of Four Hundred Fifty Thousand Pesos (PhP 450,000) by the person who posed as accused Banzon speaks most eloquently of his participation in the conspiracy.⁶

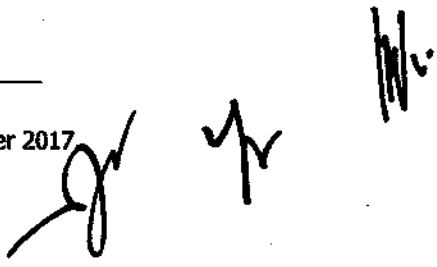
Contrary to accused Dela Cruz's claims, proof of conspiracy need not be based on direct evidence. It may be inferred from the parties' conduct showing common understanding as to the commission of the crime. Therefore, direct proof that accused Escobar and Dela Cruz actually met and planned the commission of the crimes is not necessary. As discussed in the assailed Decision, conspiracy among the accused was established through documentary and testimonial evidence showing that they acted towards their common objective which is to misappropriate funds from the Province of Sarangani.

This is consistent with the earlier pronouncement of the Supreme Court in *Napoles v. Sandiganbayan*⁷ that [c]onspiracy may be implied from the intentional participation in the transaction that furthers the common design and purpose. As long as the prosecution was able to prove that two or more persons aimed their acts towards the accomplishment of the same unlawful object, each doing a part so that their combined acts, though apparently independent, were in fact connected and cooperative, indicating a closeness of personal association and a concurrence of sentiment, the conspiracy may be inferred even if no actual meeting among them was proven.

Accused Dela Cruz's claim that he did not receive any money or remuneration from the transaction and that shows his lack of motive to commit the crime is

⁶ *Rollo*, Volume 7, pp. 67-70.

⁷ G.R. No. 224162, 7 November 2017



misplaced. Receipt of a sum of money or motive is not an essential element of the crime, thus, dispensable for conviction.

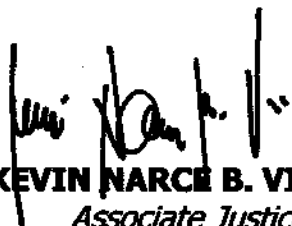
On the contention that witness Tangan's testimony is merely hearsay, the same is belied by her testimony in open court wherein she narrated the events that occurred in processing the request for financial assistance. Assuming that indeed Tangan failed to corroborate Gadian's testimony, the latter's positive testimony that accused Dela Cruz signed for Kadir Andulcan and prepared the ID of Velsie Banzon is enough. The testimony of a single witness, if positive and credible, is sufficient to sustain a conviction even in the absence of corroboration unless such corroboration is expressly required by law. Truth is established not by the number of witnesses but by the quality of their testimonies.⁸

As opposed to accused Dela Cruz's bare denials, this Court found the testimonies of Gadian and Tangan to be straightforward and consistent with each other. Their testimonies taken together with the evidence on record established beyond reasonable doubt the fact that accused Dela Cruz prepared the fake ID and signed for Kadir Andulcan.

All told, accused Escobar and Dela Cruz failed to show any compelling reason why this Court should re-evaluate their arguments in their Motions and overturn its earlier pronouncement.


WHEREFORE, the ***Motion for Reconsideration (of the Decision of Conviction Promulgated on August 15, 2023)*** dated 30 August 2023 filed by accused Miguel Escobar and ***Motion for Reconsideration*** dated 30 August 2023 filed by accused Alexis Dela Cruz are hereby **DENIED** for lack of merit.

SO ORDERED.


KEVIN NARCE B. VIVERO
Associate Justice

WE CONCUR:


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson


MICHAEL FREDERICK L. MUSNGI
Associate Justice

⁸ *People v. Ferrer, et al.*, G.R. 102062, 14 March 1996.