PEOPLE OF THE PHILIPPINES, PLAINTIFF, REV. BENEDICTO O. PILONGO, PRIVATE COMPLAINANT-APPELLANT, VS. RODERICK B. GAMIT, ACCUSED-APPELLEE.

Ponente: CARANDANG, J.

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CARANDANG, J.:

This is an appeal filed by private complainant-appellant Rev. Benedicto O. Pilongo (appellant) on the civil aspect of the Consolidated Decision[1] dated 4 November 2011 of the Regional Trial Court Branch 84 of Malolos City, Bulacan (lower court) acquitting on reasonable doubt the accused-appellee Roderick B. Gamit (appellee) in Criminal Case Nos. 1733-M-06, 1734-M-06, 1735-M-06, and 1736-M-06 for qualified theft under Article 310 of the Revised Penal Code.

The four (4) information against the appellee read:

Criminal Case No. 1733-M-2006

> "That between the period of April 28, 2004 to December 10, 2005 in the municipality of Marilao, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being then employed as a driver of one Rev. Benedicto O. Pilongo, and having access to properties thereof, did then and there willfully, unlawfully and feloniously, with grave abuse of confidence and breach of trust, with intent of gain and without knowledge and consent of the owner thereof, take, steal, and carry away with him cash amounting to P54,081.00 intended to be used to buy construction materials, belonging to the said Rev. Benedicto O. Pilongo, to the damage and prejudice of said complainant in the said amount of P54,081.00.
>
> Contrary to law."

Criminal Case No. 1734-M-2006

> "That between the period of October 11, 2005 to December 3, 2005 in the municipality of Marilao, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being then employed as a driver of one Rev. Benedicto O. Pilongo, and having access to properties thereof, did then and there willfully, unlawfully and feloniously, with grave abuse of confidence and breach of trust, with intent of gain and without knowledge and consent of the owner thereof, take, steal, and carry away with him cash amounting to P19,950.00 which is to be used to purchase dog food cereals, belonging to the said Rev. Benedicto O. Pilongo, to the damage and prejudice of said complainant in the said amount of P19,950.00.
>
> Contrary to law."

Criminal Case No. 1735-M-2006

"That on or about the 1[st] day of October, 2005 in the municipality of Marilao, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being then employed as a driver of one Rev. Benedicto O. Pilongo, and having access to properties thereof, did then and there willfully, unlawfully and feloniously, with grave abuse of confidence and breach of trust, with intent of gain and without knowledge

and consent of the owner thereof, take, steal, and carry away with him cash amounting to P10,624.00 intended for the payment of water bills, belonging to the said Rev. Benedicto O. Pilongo, to the damage and prejudice of said complainant in the said amount of P10,624.00.

> Contrary to law."

Criminal Case No. 1736-M-2006

> "That on or about the 1[st] day of October, 2005 in the municipality of Marilao, province of Bulacan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being then employed as a driver of one Rev. Benedicto O. Pilongo, and having access to properties thereof, did then and there willfully, unlawfully and feloniously, with grave abuse of confidence and breach of trust, with intent of gain and without knowledge and consent of the owner thereof, take, steal, and carry away with him cash amounting to P4,705.00 intended for the payment of water bills, belonging to the said Rev. Benedicto O. Pilongo, to the damage and prejudice of said complainant in the said amount of P4,705.00
>
> Contrary to law."

When arraigned, the appellee pleaded not guilty to the charges, whereupon trial commenced. In the course of the trial, the prosecution presented Rev. Benedicto Pilongo, Randy Arbacan, Maritess Duran, and Mario Lamud, as its witnesses. For its part, the defense presented the appellee as its lone witness.

The Evidence for the Prosecution

The appellee worked for the appellant as the latter's driver starting January 2004 until December 16, 2005. In addition, the appellee was in charge of the payment of the appellant's utility bills, the purchase of food for his pet dogs and construction materials for his house, among others. At first, the appellant had a very good relationship with the appellee who was very respectful, cooperative and polite. Because of the good traits of the appellee, the appellant treated him like a younger brother and gave him his trust and confidence.[2]

However, their good relationship turned sour when the appellant discovered that the appellee was allegedly stealing from him so he eventually filed the present charges against the latter.[3]

As to Criminal Case No. 1733-M-2006, the appellant testified that he designated the accused to purchase construction materials from Iral Hardware Store to be utilized in his house under construction. He further testified that he entrusted to the appellee the money for the payment of the construction materials he purchased from Iral Hardware Store.[4]

After talking with the management of Iral Hardware Store, the appellant found out that the appellee was overpricing the construction materials he ordered from the said store. The appellant then secured from Iral Hardware Store the original copies of the cash and sales invoices[5] in its possession and compared them with the customer's copies[6] given to him by the appellant and discovered the variance in the amounts written in the cash and sales invoices in the possession of Iral Hardware Store with that of the customer's copies. The total discrepancies amounted to P54,081.00.[7]

Mario Lamud, Iral Hardware Store's former employee, corroborated the appellant's testimony. He testified that he conspired with the appellee in falsifying the receipts which Iral Hardware Store issued to the appellant with padded amounts compared to the actual value as indicated in the receipts retained by their store. He admitted that it was the appellee who ordered him to falsify the amounts stated in the receipts he issued to the appellant and the former gave him money for doing so. As a result thereof, he was dismissed from his employment.[8]

Anent Criminal Case No. 1734-M-2006, the appellant testified that on several occasions from October to

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December 2005, he designated the appellee to purchase dog food at Pamela Aireen Enterprises located at Cartimar in Pasay City for his 64 imported dogs. He presented the delivery receipts[9] with the name "ODECK" written by the appellee which the latter gave him as proofs of the purchases of dog food. After he conducted an investigation on the foregoing purchases, he discovered that the appellee also overpriced the value of the dog food and pocketed the excess in the total sum of Php19,950.00. He ordered the accused to return the said excess but the latter did not do so.[10]

This was corroborated by Maritess Duran, the saleslady of Pamela Aireen Enterprises. She testified that prior to coming to their store, the appellee would send her text messages through SMS to order a certain quantity of dog food.[11] Upon the arrival at the store, however, the appellee would purchase a smaller amount of dog food than that which he ordered through SMS. She further revealed that in all the transactions the appellee made with Pamela Aireen Enterprises, he requested that the quantities of the dog food to be reflected in their delivery receipts must be those which he originally ordered through SMS and not those which he actually purchased. Duran clarified that it is the appellee who received and paid the items he purchased in Pamela Aireen Enterprises. She likewise identified the name "ODECK" in the said delivery receipts as the signature of the appellee.[12] When Ms. Duran asked the appellee why he requested her to write in the delivery receipts bigger quantities of dog food than those which he actually purchased, the latter assured her that everything is in order and that the appellant will never find out.[13]

As regards Criminal Case No. 1735-M-2006, the appellant testified that he assigned the appellee to settle his water bills at the Marilao Water District as of 30 September 2005 and gave him the sum of P15,642.00 but the latter paid only the sum of P10,936.00 and executed a promissory note dated October 1, 2005 for the balance in the amount of P4,705.80. The appellant discovered that the accused did not remit the full amount of P15,642.00 and paid only P10,936.00 when he received a notice of disconnection from the Marilao Water District.[14] As a consequence, he was forced to pay the balance of the said amount.[15]

With regard to Criminal Case No. 1736-M-2006, the appellant testified that sometime in November 2005, he gave the appellee the amount of P10,624.00 to settle the water bills as of 14 November 2005. However, he found out later that the appellee did not pay the said amount to Marilao Water District when he received a notice of disconnection from the latter. As a result, he was also forced to pay the said amount.[16]

The Evidence for the Defense

The defense presented the lone testimony of the appellee, who denied the charges against him. He testified that the appellant filed the criminal cases against him because he found out that the appellant is not a real priest and the money that the latter solicited from abroad purportedly for religious purposes were diverted and used for the construction of his house. The appellee added that the appellant used his name, without his consent, as the "recipient" of the money the appellant solicited from donors from the United States.[17]

Ruling of the RTC

On 4 November 2011, the lower court issued the assailed Consolidated Decision acquitting the accused of all the criminal charges against him. The dispositive part of the Consolidated Decision reads:

> "WHEREFORE, for failure of the prosecution to establish the guilt of the accused beyond reasonable doubt, RODERICK GAMIT is hereby ACQUITTED of the offense (sic) charged.
>
> SO ORDERED."

In acquitting the appellee of the criminal charges, the lower court found it unbelievable that the appellant, who possesses superior educational attainment as compared to the appellee, "a mere driver or bodyguard", would give

too much trust and confidence to the latter to the extent that he would give the latter large sums of money to be used for the construction of his house, the purchase of dog food and the payment of utility bills. The lower court added that the appellant never bothered to have the appellee received in writing the large amount he entrusted to the latter, as an ordinary intelligent or reasonable man would have done so.[18]

The lower court also did not give weight to the receipts submitted in evidence by the prosecution in Criminal Case No. 1733-M-2006 because the receipts retained by hardware store as well as the customer's copies purportedly do not bear the signature of the appellee. The lower court likewise deemed the testimony of the former employee of the hardware store inadmissible because after having admitted that he facilitated the misappropriation by the appellee of appellant's money, he should have been included in the criminal charge as a co-conspirator. The lower court added that there should have been prior proof of conspiracy pursuant to Section 30[19], Rule 130 of the Rules of Court.

The lower court also did not give much credence to the delivery receipts issued by Pamela Aireen Enterprises because they were not BIR-approved official receipts and were merely duplicate and not original copies. The lower court likewise deemed inconsequential the written notes of Ms. Duran regarding the orders made by the appellee through SMS.[20]

As to the alleged misappropriated money intended for payment of water bills, the lower court found no proof that the appellee pocketed the money intended for the payment of the appellant's water bills. It ruled that the customer ledger card and the official receipt issued by the Marilao Water District reflect nothing irregular as they merely show the summary of the account of the appellant and his payment of the unpaid bills, respectively. The lower court adds that the non-presentation by the prosecution of any personnel of the Marilao Water District who could verify and substantiate the accusations against the appellee is fatal to the prosecution's cause.[21]

On 6 February 2012, the appellant filed his Urgent Motion for Reconsideration of the 4 November 2011 Consolidated Decision but it was denied by the lower court in an Order dated 29 March 2012 for lack of merit.

Hence, the instant appeal.

ISSUES

- WHETHER OR NOT THE LOWER COURT GRAVELY ERRED WHEN IT FAILED TO COMPLY WITH SECTION 2, RULE 120 OF THE RULES OF COURT WHICH STATES THAT “IN CASE THE JUDGMENT IS OF ACQUITTAL, IT SHALL STATE WHETHER THE EVIDENCE OF THE PROSECUTION ABSOLUTELY FAILED TO PROVE THE GUILT OF THE ACCUSED BEYOND REASONABLE DOUBT. IN EITHER CASE, THE JUDGMENT SHALL DETERMINE IF THE ACT OR OMISSION FROM WHICH THE CIVIL LIABILITY MIGHT ARISE DID NOT EXIST. OTHERWISE STATED, WHETHER THE QUESTIONED CONSOLIDATED DECISION MADE NO PRONOUNCEMENT AS TO THE ACT OR OMISSION FROM WHICH THE CIVIL LIABILITY OF THE ACCUSED MIGHT ARISE DID OR DID NOT EXIST.

- WHETHER OR NOT THE LOWER COURT GRAVELY ERRED AS IT SHOULD HAVE INCLUDED IN THE QUESTIONED DECISION THE DETERMINATION OF THE CIVIL LIABILITY OF THE ACCUSED AND SHOULD HAVE ORDERED THE ACCUSED TO RETURN THE MONIES OF THE PRIVATE COMPLAINANT BECAUSE THE PREPONDERANCE OF EVIDENCE TILTS IN FAVOR OF THE PRIVATE COMPLAINANT WHICH IS OF GREATER WEIGHT OR MORE CONVINCING THAN THE EVIDENCE OF THE ACCUSED OFFERED IN OPPOSITION TO IT.[22]

The appellant argues that since the lower court merely acquitted the appellee on mere failure of the prosecution to establish his guilt beyond reasonable doubt, and considering that the evidence presented by both parties preponderates in favor of the appellant and against the appellee, it should have awarded civil indemnities in favor of the appellant and ordered the appellee to return the monies he misappropriated.

The appellee countered that the Consolidated Decision expressly stated that he did not commit the offenses charged against him, hence, the lower court correctly ruled when it acquitted him without pronouncement as to the civil liability.

In sum, the core issue in this appeal is whether the dismissal of the criminal cases against appellee likewise includes the dismissal of their civil aspect.

The appeal is meritorious.

Acquittal in a criminal case does not bar continuation of the civil case connected therewith where: (1) the acquittal is based on reasonable doubt; (2) the decision contains a declaration that the liability of the accused is not criminal but only civil; or (3) the civil liability is not derived from or based on the criminal act of which the accused is acquitted.[23]

This is in line with Article 29 of the Civil Code which provides:

> "Art. 29. When the accused in a criminal prosecution is acquitted on the ground that his guilt has not been proved beyond reasonable doubt, a civil action for damages for the same act or omission may be instituted. Such action requires only a preponderance of evidence. xxx.
>
> If in a criminal case the judgment of acquittal is based upon reasonable doubt, the court shall so declare. In the absence of any declaration to that effect, it may be inferred from the text of the decision whether or not the acquittal is due to that ground."

The Code Commission explained the rationale why it is imperative to award civil indemnity even if there is a judgment of acquittal when the evidence is sufficient to sustain the award. Thus:

> "The old rule that the acquittal of the accused in a criminal case also releases him from civil liability is one of the most serious flaws in the Philippine legal system. It has given rise to numberless instances of miscarriage of justice, where the acquittal was due to a reasonable doubt in the mind of the court as to the guilt of the accused. The reasoning followed is that inasmuch as the civil responsibility is derived from the criminal offense, when the latter is not proved, civil liability cannot be demanded.
>
> This is one of those cases where confused thinking leads to unfortunate and deplorable consequences. Such reasoning fails to draw a clear line of demarcation between criminal liability and civil responsibility, and to determine the logical result of the distinction. The two liabilities are separate and distinct from each other. One affects the social order and the other private rights. One is for punishment or correction of the offender while the other is for reparation of damages suffered by the aggrieved party x x x x It is just and proper that for the purposes of imprisonment of or fine upon the accused, the offense should be proved beyond reasonable doubt. But for the purpose of indemnifying the complaining party, why should the offense also be proved beyond reasonable doubt? Is not the invasion or violation of every private right to be proved only by preponderance of evidence? Is the right of the aggrieved person any less private because the wrongful act is also punishable by the criminal law?"[24]

A perusal of the Consolidated Decision shows that the acquittal of the appellee was based on reasonable doubt. This can be gleaned not only from the dispositive portion thereof but from its body as well. Thus:

> "Settled is the rule that the conviction should rest on the strength of the evidence of the prosecution and not on

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> the weakness of the defense. Albeit, the Court cannot discount the possibility that Pilongo was telling the truth, the evidence he presented nonetheless fell short of the quantum sufficient to establish the guilt of the accused beyond reasonable doubt. xxx.
>
> xxx
>
> WHEREFORE, for failure of the prosecution to establish the guilt of the accused beyond reasonable doubt, RODERICK GAMIT is hereby ACQUITTED of the offense (sic) charged.
>
> SO ORDERED."[25]

Based on the above findings of the trial court, the exoneration of the appellee of the charges of qualified theft was based on the failure of the prosecution to present sufficient evidence showing his guilt beyond reasonable doubt. Thus, there is a need to examine and evaluate the evidence on record to determine whether the appellee is civilly liable under the instant cases.

In the civil aspect of the instant actions, the quantum of evidence is preponderance of evidence,[26] which is defined as the weight, credit, and value of the aggregate evidence on either side and is usually considered to be synonymous with the term 'greater weight of the evidence' or 'greater weight of the credible evidence'. It is evidence which is more convincing to the court as worthy of belief than that which is offered in opposition thereto.[27]

In Criminal Case No. 1733-M-2006, the prosecution, by preponderance of evidence, was able to prove that the appellee misappropriated a part of the money which the appellant gave him for the purpose of purchasing construction materials. An examination of the receipts[28] retained by the hardware store as well as the customer's copies[29] shows that the appellee caused the padding of the prices of the construction materials in the customer's copies to make it appear that the purchased construction materials have higher prices. As a result thereof, the appellee was able to convert to his own use and benefit appellant's money amounting to P54,081.00 from 28 April 2004 up to 10 December 2005.

In addition, Mario Lamud, a former employee of Iral Hardware Store, identified the appellee in court as the one who ordered him to write in the customer's copies of the receipts a larger amount than what the latter actually paid to the hardware store. In his Sinumpaang Salaysay[30] dated 13 January 2006, he categorically identified the appellee as the one who perpetrated the misappropriation. Thus:

> "1. Na ako po ay taga-resibo ng Iral Hardware & Auto Supply na matatagpuan sa Mac Arthur Hi-way, Saog, Marilao, Bulacan, na siyang binibilhan at tumatanggap ng 'Order' ng construction materials ni Father Benedicto O. Pilongo sa pamamagitan ni RODERICK B. GAMIT a.k.a. "ODEK";
>
> - Lingid sa kaalaman ng pari, si ODEK ay nagpapadagdag at tinataasan ng presyo at dami ng materyales ang kopya ng resibo ng binibigay niya sa pari bawat order nila, katulad ng mga sumusunod:

xxx xxx xxx xx

> 2.2. Yun pong mga kopya ng resibo na naiiwan sa Iral Hardware ay naglalaman ng tamang presyo at tamang dami ng materyales na nabili at binayaran ng pari, samantalang yun naman pong kopya ng mga resibo na napupunta sa pari ang siyang pinapabago ni ODEK sa akin sa pamamagitan ng pag-over price at pagdadagdag ng mga materyales na hindi naman talaga nabili sa amin.
>
> 2.3. Ang diperensya ng mataas na halaga ng pera sa resibo na binigay ni ODEK sa pari kumpara sa mababang halaga na tunay na binayaran niya sa Iral ay siyang pinagkakakitaan ni ODEK at ng mga kasabwat niya sa bahay ng pari."[31]

In his testimony, the appellee could only offer the defense of denial against the direct, positive, and categorical assertions of the prosecution's witnesses. It is well-settled that denial is a weak defense, which cannot prevail against positive identification. People v. Caisip,[32] thus held:

> Positive identification where categorical and consistent and without any showing of ill motive on the part of the eyewitness testifying on the matter prevails over a denial which, if not substantiated by clear and convincing evidence is negative and self-serving evidence undeserving of weight in law. They cannot be given greater evidentiary value over the testimony of credible witnesses who testify on affirmative matters.

The lower court's non-appreciation of witness Mario Lamud's testimony purportedly because of the prosecution's failure to prove prior conspiracy pursuant to the provision of Section 30, Rule 130 of the Rules of Court is erroneous. The said provision states:

> "The act or declaration of a conspirator relating to the conspiracy and during its existence, may be given in evidence against the conspirator after the conspiracy is shown by evidence other than such act or declaration."

This rule has a well-settled meaning in jurisprudence. It is one of the exceptions to the "res inter alios" rule. It refers to an extrajudicial declaration of a conspirator – not to his testimony by way of direct evidence.[33] The evidence adduced in court by the conspirators as witnesses are not declarations of conspirators, but direct testimony to the facts to which they testify.[34] There is no rule requiring the prosecution to establish a conspiracy in order to permit a witness to testify what one or all of several accused persons did.[35] In this case, Mario Lamud's testimony was presented by the prosecution as a direct evidence and definitely not an extrajudicial declaration by a co-conspirator. Hence, Section 30, Rule 130 of the Rules of Court is not applicable.

Anent Criminal Case No. 1734-M-2006, after examining the records of this case, We rule that the prosecution likewise sufficiently proved, by preponderance of evidence, that the appellee misappropriated the appellant's money amounting to P19,950.00 intended to be used to purchase dog food cereals from October 11, 2005 to December 3, 2005.

Marites Duran, an employee of Pamela Aireen Enterprises, testified that on several occasions, the appellee requested her to falsify the delivery receipts[36] to make it appear that he purchased a larger quantity of dog food than what he actually purchased. In her Sinumpaang Salaysay[37] dated 5 January 2006, she stated:

> 1). Noong buwan ng Octobre, pangatlong order po ni Father, nagtext sa akin si Sir Odeck, driver ni Father, na pipick-up daw siya ng 12 bags Beef Pro Adult at 4 na bags ng Lamb Pro Adult. Inihanda na po naming yung orders niya. Pagdating po niya dito sa tindahan, 10 bags Beef Pro Adult at 3 bags Lamb Pro Adult lang ang pinakarga niya. Tapos pinalagay po niya sa resibo, 12 bags Beef Pro Adult at 4 bags Lamb Pro Adult, di tinanong ko po sya kung bakit ganon. Ang sabi niya ok lang daw po iyon, hindi daw malalaman ni Father.
>
> 2). Oct. 23, 2005. Binayaran niya yung balance, sabi niya text nalang daw siya kung ilan ang order. Kinabukasan, October 24, nagtext siya na pipick-up daw po siya ng 14 bags Beef Pro Adult, 2 Bags Lamb Pro Adult, 1 bag Eukanuba Puppy Large Breed. October 25, inihanda po namin yung order niya, pagdating po dito sa tindahan, 12 bags Beef Pro Adult, 1 bag Eukanuba Puppy Large Breed lang ang kinuha niya at pinalagay na naman niya sa resibo ang 14 bags Beef Pro Adult, 2 bags Lamb Pro Adult, 1 bag Eukanuba Puppy Large Breed. Tinanong ko siya kung bakit niya ginagawa ito kay Father, ok lang daw yun, siya daw ang bahala.
>
> 3). Noong November, nagtext na naman siya na pipick-up daw siya ng 12 bags Beef Pro Adult, 4 bags Lamb Pro Adult at 1 bag Eukanuba Puppy Large Breed. Pagdating sa tindahan, 9 bags Beef Pro Adult, 1 bag Eukanuba Puppy Large Breed at 3 bags Lamb Pro Adult lang ang kinuha at pinakarga niya. Sinabi ko sa kaniya na baka madamay kami sa ginagawa niya, sabi niya ako ang bahala, kakampi ko lahat sila sa Farm.
>
> 4). Nitong buwan ng December nagtext na naman siya na pipick-up ng 15 bags Beef Pro Adult, 1 bag Lamb

> Pro Adult at 1 bag Eukanuba Puppy Large Breed, pero pagdating po sa tindahan, 11 bags Beef Pro Adult at 1 Eukanuba Puppy Large Breed lang po ang pinakarga niya at pinapeke na naman niya ang resibo at pinalagay niya sa resibo ang 15 bags Beef Pro Adult, 1 bag Lamb Pro Adult at 1 bag Eukanuba Puppy Large Breed at sinabi ko na naman na baka madamay kami sa pinapagawa niya, sabi niya ok lang!!! Di naman malalaman ni Father kasi kakampi daw niya yung mga kasama niya sa farm.[38]

Indeed, the delivery receipts issued by Pamela Aireen Enterprises to the appellant state larger quantities of dog food than what were actually purchased by the appellee as recorded by Maritess Duran in the order slips[39] kept by the pet shop.

Absent any showing of ill motive on the part of Maritess Duran, her positive assertions against the appellee, together with the documentary evidence presented by the prosecution, bears greater weight than the appellee's defense of denial which is invariably viewed by the courts with disfavor.[40]

As to Criminal Case Nos. 1735-M-2006 and 1736-M-2006, We uphold the ruling of the lower court that there is no sufficient proof that the appellee pocketed the money purportedly intended to be used as payment of the appellant's water bills. We agree with the lower court when it ruled that the customer ledger card[41] and the official receipt[42] issued by Marilao Water District do not demonstrate any irregularity. What the customer ledger card merely shows is a summary of the account of the appellant with Marilao Water District while the official receipt merely states the payment made on 29 December 2005. Hence, the prosecution failed to overcome the burden of proof in Criminal Case Nos. 1735-M-2006 and 1736-M-2006.

WHEREFORE, premises considered, the instant appeal is GRANTED. The 4 November 2011 Consolidated Decision is MODIFIED in that the appellee is declared to be civilly liable as follows:

- In Criminal Case No. 1733-2006, the sum of P54,081.00 plus interest thereon at the rate of 6% per annum from date of filing of the complaint up to the time it is actually paid; and

- In Criminal Case No.1734-2006, the sum of 19,950.00 plus interest thereon at the rate of 6% per annum from date of filing of the complaint up to the time it is actually paid.

SO ORDERED.

C E R T I F I C A T I O N

Pursuant to Article VIII, Section 13 of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Gonzales-Sison and Sorongon, JJ., concur.

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[1]Attached to the Private Complainant-Appellant's Compliance dated 2 December 2013.

[2] Lower court's Consolidated Decision, p. 4. Rollo, p. 140.

[3]Id, p. 140.

[4] Id., p. 140.

[5] Exhibits C, E, G ,I, K, M, O, Q, S, U, W, Y, AA, CC, EE, GG, and II. (Criminal Case No. 1733-M-2006)

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[6] Exhibits B, D, F, H, J, L, N, P, R, T, V, X, Z, BB, DD, FF, HH. (Criminal Case No. 1733-M-2006)

[7] Id., p. 141.

[8] Id., pp. 142-143.

[9] Exhibits B,B-1, to B-4. (Criminal Case No. 1734-M-2006)

[10] Id., p. 141.

[11] Exhibits B-5 to B-8. (Criminal Case No. 1734-M-2006)

[12] Id., p. 142.

[13] TSN, March 25, 2009, pp. 174-177; Sinumpaang Salaysay. Id., at 29;

[14] Id. p. 141-142.

[15] TSN, 29 October 2008, p. 19.

[16] TSN, 29 October 2008, p. 19.

[17] TSN, 19 April 2010, p. 7.

[18] Id., p. 144.

[19] "The act or declaration of a conspirator relating to the conspiracy and during its existence, may be given in evidence against the conspirator after the conspiracy is shown by evidence other than such act or declaration."

[20] Id., p. 145.

[21] Id. pp. 145-146.

[22] Id., p. 46.

[23] Sadio vs. Hon. RTC of Antique, G.R. No. 94143, 24 September 1991.

[24] Cited in Padilla v. Court of Appeals, 129 SCRA 558.

[25] Id., p. 146.

[26] Anamer Salazar vs. People of the Philippines, et al., G.R. No. 151931. September 23, 2003.

[27] Peñalber v. Ramos, G.R. No. 178645, January 30, 2009, 577 SCRA 509, 526-527.

[28] Exhibits C, E, G, I, K, M, O, Q, S, U, W, Y, AA, CC, EE, GG, and II. (Criminal Case No. 1733-M-2006).

[29] Exhibits B, D, F, H, J, L, N, P, R, T, V, X, Z, BB, DD, FF, HH. (Criminal Case No. 1733-M-2006).

[30] Exhibit JJ. (Criminal Case No. 1733-M-2006)

[31] Id., at 46.

[32] People vs. Arnold Agcanas, G.R. No. 174476, 11 October 2011.

[33] Herrera, Oscar M., Remedial Law, Volume V, 1999 Edition, p. 409.

[34] People vs. Magsalin, 115 SCRA 747.

[35] Supra, Footnote No. 32, citing Gardiner vs. Magsalin, 73 Phil 115.

[36] Exhibits B, B-2, B-3, and B-4. (Criminal Case No. 1734-M-2006)

[37] Exhibit E. (Criminal Case No. 1734-M-2006)

[38] Id., p. 63.

[39] Exhibits B-5, B-6, B-7, and B-8. (Criminal Case No. 1734-M-2006)

[40] " People vs. Gregg C. Buenaventura, G.R. No. 184807 , 23 November 2011.

[41] Exhibit B. (Criminal Case Nos. 1735-M-2006 and 1736-M-2006)

[42]Exhibit C. (Criminal Case Nos. 1735-M-2006 and 1736-M-2006)

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