

**ZENAIDA P. MAAMO AND JULIET O. SILOR, PETITIONERS, VS.
PEOPLE OF THE PHILIPPINES, RESPONDENTS.***G.R. No. 201917. December 01, 2016*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-201917/>**CAGUIOA, J:**

The constitutional right to be presumed innocent until proven guilty can only be overthrown by proof beyond reasonable doubt, that is, that degree of proof that produces conviction in an unprejudiced mind. Hence, where the court entertains a reasonable doubt as to the guilt of the accused, it is not only the right of the accused to be freed; it is the court's constitutional duty to acquit them.[1]

The Case

Before the Court is an Appeal by Certiorari[2] under Rule 45 of the Rules of Court (Petition) of the Decision dated June 16, 2011[3] (questioned Decision) rendered by the Sandiganbayan-Second Division (SB). The questioned Decision stems from nine (9) criminal cases initiated by the Office of the Ombudsman (OMB) against petitioner Zenaida P. Maamo (Maamo), former Mayor of the Municipality of Lilo-an, Southern Leyte and petitioner Juliet O. Silor (Silor), then Assistant Municipal Treasurer (collectively, Petitioners) for "Malversation thru Falsification of Public/Official Document" under Article 217, in relation to Article 171 of the Revised Penal Code.[4]

The common issue in the consolidated cases is the alleged falsification of public documents consisting of Time Books and Payrolls representing different time periods. Allegedly, fictitious laborers were made to appear as laborers in the said documents, which enabled the Petitioners to collect sums of money and misappropriate them for their personal use.

The Facts

Petitioners herein were accused of Malversation through Falsification of Public Documents in a Letter-Complaint dated April 10, 2001[5] (Complaint) filed with the OMB detailing a series of acts allegedly committed by them. Petitioner Maamo filed a Counter-Affidavit dated July 9, 2001,[6] denying the allegations contained in the Complaint for being "false, imaginary, capricious, baseless, and politically motivated".[7] Petitioner Maamo claimed that based on the evidence presented, her alleged involvement in the disputed transactions was not sufficiently proven.[8] Petitioner Silor likewise denied the accusations in the Complaint on the ground that the questioned disbursements were done regularly and that the payees actually received their wages for services rendered.[9]

Proceedings before the OMB

In its Resolution dated September 26, 2001,[10] the OMB found probable cause against the Petitioners for Malversation through Falsification of Public Documents and recommended the filing of the necessary informations against them with the SB. The OMB disposed in the following wise:

Appreciating all the documentary evidences (sic) presented by both parties[,] this Investigator finds sufficient

legal basis to hold respondents liable for Malversation through Falsification of Public Documents.

As shown by the record, there were names of contracted laborers appearing on the payroll(s) purportedly working on the Ring Weeding of the Tree Park and Orchard Project of the municipality. However, two of these persons were found to have been dead on January 29, 1997 and on January 1, 1998. While, a certain Monico Marqueda, Jr. claiming to be the son of Monico Marqueda, who died on January 29, 1997, executed an affidavit on July 9, 2001 that it was he and not his father who had worked on the project, as after the death of his father, he applied as a municipal worker and was fortunately hired sometime in the middle of 1997 until the later part of 1998, and claiming further that he called the attention of the payroll maker regarding the correction of his name which should have been Monico Marqueda, Jr., however, this inadvertence was never acted upon maybe because the payroll maker thought that the mistake was only a minor thing[.] [T]his, however, could not be given credence as a comparison of the signatures appearing on the payroll(s) and the signature on the affidavit disclosed remarkable difference. With regards (sic) to the other questioned name appearing on the payroll, of Agaton Pastira Goltia who allegedly died on January 1, 1998, respondent Zenaida Pil Maamo defended herself by claiming that she had no knowledge about his death and that she trusted and relied so much of the people working for her as it would be impractical and impossible to keep tract (sic) of their lives as long as the papers were in order, and besides all the supporting documents were already prepared when presented to her for signature. This defense could not erase the fact that she certified that this person worked in their project and received payment. This Investigator took notice of the evidence of complainant denominated as Exh. "F" "Claim for Insurance Benefit of Agaton Pastira Goltia" (p. 15, record).

Anent respondent Maamo's defense that her signature appearing above the printed word "Foreman or Timekeeper" was within her capacity as the Mayor since the funds used for the projects were municipal funds allotted for barangay projects, this Investigator finds it unusual for respondent to act as one. Why of all people, will she act as foreman? A timekeeper or a foreman is supposedly in the field supervising the workers. For respondent, to act as such and, not perform its job is indeed a (sic) gross negligence.

Lastly, and the most important thing is that, this Investigator is fully convinced that there never was any Municipal Tree Park Project. The pictures presented by respondent Mayor clearly showed that it was a reforestation project or a mini forest in the municipality. Convincingly, the Certifications issued by the CENR Officer of San Juan, Southern Leyte and the DENR Officer in Maasin City, refuted the claim of respondent Mayor of any existing Mini-Forest or Tree Park registered in their respective offices in the municipality of Lilo-an, Southern Leyte. As between respondent Maamo's allegations and that of the CENR and DENR Officers, Certifications, the latter are given more credence.[11]

Accordingly, nine (9) separate informations were filed before the SB, which are summarized below:[12]

Criminal Case No.

Period Covered

Description

Person Paid

27117

July 1-15, 1997

P880.00 for labor, clearing, and vegetation control at highway

No name on the Time Book and Payroll but with signature

27118

September 16-30, 1997

P1,760.00 for labor, ring weeding of Municipal Tree Park & Orchard

Unnamed person and Monico Marqueda (alleged to have died on January 29, 1997) and reflected in Nos. 8 and 1 of the Time Book and Payroll

27119

November 17-28, 1997

P3,520.00 for labor for the maintenance of the Municipal Tree Park

No names on the Payroll but with signatures (several laborers as reflected in Nos. 1, 2, 3, & 4, of the Time Book and Payroll)

27120

January 2-15, 1998

P800.00 for labor for the maintenance of the Municipal Tree Park

Monico Marqueda (alleged to have died on January 29, 1997)

27121

January 16-31, 1998

P800.00 for labor for the maintenance of the Municipal Tree Park

Monico Marqueda (alleged to have died on January 29, 1997)

27122

February 1-15, 1998

P800.00 for labor, for the maintenance of the Municipal Tree Park

Monico Marqueda (alleged to have died on January 29, 1997)

27123

February 16-27, 1998

P800.00 for labor for the maintenance of Municipal Tree Park

Monico Marqueda (alleged to have died on January 29, 1997)

27124

February 16-28, 1998

P1,600.00 for labor for the maintenance of Gud-an to Cagbungalon Road and San Isidro to Gud-an

Agaton Pastira Goltea (alleged to have died on January 1, 1998)

27125

March 1-13, 1998

P800.00 for labor for maintenance of Municipal Tree Park

Monico Marqueda (alleged to have died on January 29, 1997)

Aggrieved, Petitioners filed an Urgent Motion for Leave to Pursue Motion for Reconsideration Before the Office of the Ombudsman and to Defer Arraignment of Accused dated March 11, 2002,[13] which was granted by the OMB in a Resolution dated June 25, 2002.[14]

After conducting a reinvestigation, the OMB merely reaffirmed its

Resolution dated September 26, 2001,[15] as follows:

CONCLUDING, the undersigned confirms the sufficiency of evidence to warrant the finding that herein accused are probably guilty of the crime of Malversation thru falsification of public documents.

WHEREFORE, finding no ground to reverse, modify or alter the previous resolution which found probable cause against herein accused for the commission of nine (9) counts of the crime of Malversation thru falsification of public document, it is recommended that all the instant nine (9) criminal cases be sustained, affirmed and prosecuted.[16]

Proceedings before the SB

The prosecution of the nine (9) criminal cases thereafter ensued. The evidence for both parties, as summarized by the SB in the questioned Decision,[17] are as follows:

I. EVIDENCE FOR THE PROSECUTION

The first witness to testify for the Prosecution was Oscar D. Balompo. His testimony is offered as proof that the Municipal Tree Park claimed to be maintained by the Municipality of Lilo-an does not exist. He avowed that:

He was still the Senior Management Officer of the Department of Environment and Natural Resources DENR, Provincial Office based in Maasin, Southern Leyte.

x x x x

After a reforestation project is completed, the supervision over the area is turned over to the DENR, at which point the DENR assesses the survival rate of the trees planted. The rate of survival should be at 80% minimum.

Technically, the Local Government Unit has no more participation after the turn over.

Based on record the Project in the Municipality of Lilo-an was completed in June 1993. He remembers that during the turn over the trees were at an average height of 2.27 meters with an 84% survival rate. The conclusion therefore is it would not be necessary to call for the maintenance of the area.

He last visited the area in 1993 and he had not seen this Municipal Tree Park alleged to have been converted from a reforestation project.

On 25 May 2001, he was designated as Officer-in-Charge of the Community Environment and Natural Resources (CENRO) under the DENR. In such capacity he issued a Certification to the effect that there exists no Municipal Tree Park or Mini-Park on record with their office, in the Municipality of Lilo-an.

During his cross-examination he clarified that after the completion of a reforestation project the DENR takes over and the Local Government surrenders all its functions on the area, that all contracts of any sort of activity concerning the area should be recorded with the DENR.

He denied having any knowledge of the existence of any contract on record that would support the claim that the DENR has shared the maintenance of the area allegedly converted by the Municipality of Lilo-an into a Municipal Tree Park or Mini Orchard. However, he confirms the possibility that the Municipality may have

coordinated with some officers of the DENR regarding the maintenance of the area.

The second witness of the Prosecution was Rodolfo M. Jaca who testified on the procedure necessary to establish a Municipal Tree Park and to validate that no Municipal Tree Park exists in the Municipality of Lilo-an. He professed that:

In 1994 he began to serve as the Provincial Environment and Natural Resources Officer of the DENR stationed at Maasin, Southern Leyte, having jurisdiction over the Municipality of Lilo-an. As such he is tasked to administer, supervise and manage the effective implementation of the projects, plans and programs of the DENR.

x x x x

On cross-examination, he confirmed that the Municipality of Lilo-an undertook a reforestation project. That after its completion in 1993 it was turned over to the DENR for its maintenance and protection. At the time of turn over, the trees were approximately 7 feet with a survival rate of 84%.

Hence, he declares that the maintenance of the project was under the responsibility of the DENR alone. However, at present, the DENR has contracted the services of a certain fellow named Cagayunan to maintain the area. Although, this is the case, there is no law that prohibits the Local Government from exerting any effort to maintain the area.

He is not aware of any Certification issued by an evaluation team called the "Kagawad Pangulo Kapitaligiran" of which his Community Development Officer, Servando Acedo is a member. The team has certified that they have seen a Municipal Tree Park in Lilo-an.

During re-direct examination, he verified that he has seen the area of the reforestation project in Lilo-an which, according to "them" is called the Municipal Tree Park.

The third witness was Conrado E. Encio. A resident of Barangay Gud-an Lilo-an, Sothem (sic) Leyte since the year 1985. His testimony will serve to prove that there exists no "Barangay Road" between Barangay Gud-an and Barangay San Isidro. He testified that:

He was elected Barangay Captain of Gud-an in 1998 (and was still Barangay Captain when he testified on 6 November 2003).

Barangay Gud-an is bounded by Barangay Calian on the north, Barangay San Isidro on the East, Barangay Cabungalon on the South and the sea on the West as borne out on a sketch that he presented.

There is no existing road directly connecting Barangay Gud-an and Barangay San Isidro. In order for one to reach San Isidro from Gud-an, one must pass through Barangay Calian which covers the shortest distance of approximately three kilometers, or the longer route, through Barangay Cabungalon which covers the distance of approximately four kilometers.

As Barangay Captain, he passed Resolution No. 26 to seek financial assistance for the construction of a road directly linking Barangay Gud-an to Barangay San Isidro, from the District's Representative, Congressman Aniceto G. Saludo, Jr.

According to procedure, whenever an infrastructure project is implemented by the government, Barangay Captains are informed and oriented of it. Since, there is no road that exists between Gud-an and San Isidro, he resultantly did not receive any information or orientation about it.

On cross-examination, he confirmed that there exists a feeder road between Barangay Calian and San Isidro.

The fourth witness of the Prosecution was Terencio V. Dipay. He was the Agriculture Technologist of the

National Government since the year 1978 to 1998, and was designated Municipal Agriculturist since September 2001. He attested that:

x x x x

The fifth witness of the Prosecution was Engineer Alberto S. Causing. He is a resident and the Municipal Engineer of Lilo-an. His testimony was offered to prove that there exists no road directly linking Barangay Gud-an and Barangay San Isidro. He testified that:

He assumed the position of Municipal Engineer of Lilo-an in July of 1996. Amongst his functions as engineer are the supervision of infrastructure projects and the maintenance of municipal facilities. When he supervises an infrastructure project he monitors its implementation and maintenance.

There is no existing road directly linking Barangay Gud-an and San Isidro and the way to get to San Isidro is by passing through Barangay Calian or Cadbungalon. If there exists such a road his office would have been informed and he would have known about it because the maintenance of a barangay road is the responsibility of either the Municipal (sic) Engineer or the Barangay Captain.

On cross-examination, he agreed that there exists a barangay road from San Isidro to Barangay Calian and it may be maintained with financial help from the municipality.

The sixth witness of the Prosecution was Ma. Theresa M. Timhang. She is the Municipal Budget Officer of Lilo-an and a resident of Barangay Anilao. Her testimony was offered as proof of the disbursement of public funds concerning the allegations in the Informations and the authentication of various public documents. She declared that:

As the designated Municipal Accountant from the year 1997 to 1998, she was responsible for making sure that a project or program is actually being implemented and the supporting documents for the disbursement of funds are all in order and complete. She keeps financial records of deposits and journals of checks issued and all cash disbursements.

A typical accounting process concerning cash advances for labor expenses in a municipal project would require the following steps: First, a Request is submitted by the Mayor to the Municipal Treasurer's Office with the Time Sheets and Emergency Employment Contracts as supporting documents; Second, the Payroll Clerk prepares a Payroll, listing the workers enumerated on the Time Sheets; Third, the Municipal Budget Officer will certify the availability of funds; Fourth, the Municipal Accountant will review the supporting documents, whether it is all complete and in order with respect to computations and the signatories; Fifth, the Municipal treasurer will prepare the cash advance on the basis of the verifications made by the Municipal Accountant; Sixth, the Municipal Accountant will certify if there is available cash advance with the Disbursing Officer; and Lastly, the Municipal Treasurer will issue checks for encashment. After the payroll has been paid out, the original is filed in the Municipal Accounting Office for recording and a photocopy is sent to the COA.

With respect to this case she has verified that the signature of accused Maamo on the Time Book and Payrolls as Time Keeper is in order because she believed that accused had the capacity to enter as such and she attested that the Emergency Employment Contracts of the laborers were on file in the LGU.

On cross-examination, she declared that the Time Book and Payrolls corresponded to projects of the municipality, which according to her verification existed.

On re-direct, she mentioned that she has seen the Municipality's Tree Park.

The seventh witness of the Prosecution was Ricardo T. Anahao whose name appeared as a laborer in one of the Payrolls for the maintenance of the disputed Municipal Tree Park of Lilo-an. He enunciated that:

The person referred to as Ricardo Anahao on the Payroll for the maintenance of the Municipal Tree Park dated 1 March 1998, who worked for a period of 10 days, earning P8.00 a day is not him because he was never hired nor did he work for the Municipality.

On cross-examination, he maintained that he did not work as a laborer for the maintenance of Lilo-an's Municipal Tree Park although he knew some of the persons named on the Payroll. In particular, he knew a certain Monico Marqueda. He confirmed that this Marqueda died in the year 1997.

The last witness of the Prosecution was Engineer Raul Marqueda. His testimony was offered to prove that he is not the same person appearing on the Payrolls and to disclaim that the signatures appearing on it are his. He stated that:

He is the Raul Marqueda pertained to in two Payrolls covering the dates of January 16-31, 1998 (Exhibit "F") and February 1-15, 1998 (Exhibit "G") wherein it was reflected that he worked as laborer for a total of 21 days, earning a total of P1,680.00.

However, he never worked as a laborer because he is an engineer by profession. He does not know of any person in the Municipality having the same name as his therefore, he concludes that there is no other person referred to as Raul Marqueda other than him. He lived in the Municipality of Lilo-an since birth and only transferred to Cebu City in 1993 when he got married.

On cross-examination, he explained that after leaving Lilo-an to transfer residency, he would visit the place on holidays or other occasions to see his parents and he is absolutely sure that there is no other person with the same name as his in the municipality.

x x x x

II. EVIDENCE FOR THE DEFENSE

The first witness for the defense was the Municipal Accountant of Lilo-an, Geraldine A. Juaton who assumed office on 1 February 2000. Her testimony is offered to attest on Exhibits "A" to "J" of the Prosecution which consists of various Time Book and Payrolls. She narrated that:

As the Municipal Accountant she is also an Internal Auditor charged with the verification of the completeness and regularity of supporting documents of requisitions, and she is the custodian of records in the Municipal Treasury.

She is familiar with the Payrolls (Exhibits "A" to "J" for the Prosecution) presented to her. There were Certificates of Settlement and Balances (Exhibits "13" to "18" for the Defense) filed with the Office coming from the Provincial Auditor's Office reflecting no findings of irregularity as regards the Payrolls.

On cross-examination she maintained that the various Payrolls presented by the Prosecution are officially under her custody and she has examined all of it. She is aware that accused Maamo has signed these Payrolls as Mayor, Time Keeper or Foreman and finds nothing wrong with it as it only suggests that the Mayor is "knowledgeable" of all persons working in the project.

On re-direct examination, she declared that there is no law prohibiting a Mayor from personally supervising all Municipal Projects financed by it.

On re-cross examination, she confirmed that it is common practice that a Mayor acts as Time Keeper or Foreman in municipal projects, acting as supervisor in the field.

The second witness of the Defense was Lilo-an's Municipal Local Government Operations Officer of the Department of Interior and Local Government Danilo A. Bacus. He professed that:

His function as Municipal Local Government Operations Officer entailed being the representative of the DILG in making sure that all memoranda, circulars, orders and issuances are implemented.

In this particular case, the issuances affected the operations of the "Gawad Pangulo sa Kap[a]lig[i]ran" of the municipality in connection with its program on clean and green. He was one of the judges and he attests to the fact that the municipality was ranked No. 2 in an award given by them, recognizing Lilo-an as the second cleanest and greenest municipality in the province of Southern Leyte.

He issued a Certification on 18 January 2002 as regards a reforestation project contracted by the DENR with the municipality of Lilo-an. He declared that in 1995 when he visited the municipality he, together with the other judges evaluated an area considered as the "Municipal Tree Park", as an entry in the program on clean and green.

Pablo C. Ugario was the third witness to take the witness stand. He was the Municipal Planning and Development Coordinator of Lilo-an from 1999 to 2002. He stated that:

He was tasked to prepare the development plan for the municipality and he issued a Ce[r]tification on 15 January 2002 to the effect that after the completion of the reforestation project the municipality undertook its maintenance.

On cross-examination he said that he participated in the development plans of the Municipality even before assuming his position as Municipal Planning and Development Coordinator of Lilo-an.

The fourth witness called by the defense to occupy the witness box was Gaudencio P. Goltea the Barangay Captain of San Isidro, Lilo-an, Southern Leyte from the year 1986 until the year 1992. His testimony serves to prove that the Municipality of Lilo-an undertook the cementing of barangay roads and during the project he hired laborers and worked as laborer himself. He testified that:

In the year 1997, he asked for the assistance of then Mayor, accused Maamo to help in the cementing of the barangay road. When the project began in February 1998 he recommended laborers amongst whom are: Leon Onsoy, Felix Dipa, Teodoro Dipa, Dominador Nolleora, Erwin Nolleora, Julie Tinogan and Agaton Goltea.

However, Agaton Golte[a] was not able to work on the project because of his demise sometime in January of 1998 so he was replaced by Arturo Goltea.

On cross-examination he stated that Barangay San Isidro has set aside money for the maintenance of the barangay road.

He agreed that Time Sheets or Time Books are records made by a Timekeeper listing the name of workers on a project, the number of hours worked and the number of days worked. These were in turn submitted to the Treasurer who, will make the Payroll and pay the laborers.

He admitted that he was the Timekeeper of the project while admitting that it was accused Maamo's signature that appeared on the Payroll dated February 16-28, 1998 as Timekeeper.

On redirect, he confirmed that the Prosecution's Exhibits "B", "E", "F", "G", "H", and "J" (which are Time Sheets) are the same Time Sheets which have been submitted to the Treasurer as bases for Payrolls.

The fifth witness of the defense was in the person of Monico J. Marqueda, Jr.

He has been a resident of Barangay Cagbungalon, Lilo-an, Southern Leyte since birth. His father is the deceased Monico Marqueda. He admitted executing two affidavits in connection with this case.

He works as a farmer-laborer for the municipality, assigned to the "Municipal Tree Park" to cut, trim and protect the trees. He received his salary as reflected on the Payrolls[.]

He knows two persons by the same name of Raul Marqueda. He stated that one is his cousin who is an engineer based in Cebu and the other is a farmer based in Davao was the person who worked with him as laborer for the municipality.

On cross-examination he admitted that it was his signature appearing on the affidavits and the payrolls signifying that he received payment for the work he rendered.

He confirmed that accused Maamo was the Timekeeper and most of the time did not show up in the field and that there was no Foreman overseeing their progress.

He worked for a total of 62 days within the period of September 1997 until March 1, 1998.

The sixth witness for the defense, Remedios S. Magalona, State Auditor II at the Office of the Provincial Auditor in Southern Leyte assigned to audit the funds of the Municipality of Lilo-an. Her testimony was elicited to substantiate the findings she made during her audit investigation in the years of 1997 and 1998 particularly, the Time Book and Payrolls offered as Exhibits "A", "B", "D" to "J" by the Prosecution. She declared that:

She denies knowledge of having audited the Time Book and Payrolls presented to her however she could recall that the vouchers referring to the Payrolls lacked supporting documents, more specifically, the Emergency Employment Contracts which are proofs of the legality of hiring the laborers named in the payrolls. Therefore, she informed the Municipal Accountant regarding the missing documents who in turn, supplied the same and so, the Time Book and Payrolls were passed in audit.

On cross-examination, she admitted that the vouchers on the bases of the Time Books and Payrolls were paid out despite the absence of the Emergency Employment Contracts. However, she categorically stated that this irregularity is legalized by the subsequent submission of the contracts.

Moreover, she confirmed that it was common practice to see a Mayor signing as Timekeeper and Foreman on Time Books or Time Sheets though, the same may be improper it is however, not illegal.

Further, she explained that the word "by" (and then signed by a different person) representing the signatories on the payroll on the column which would signify receipt of salary by the corresponding laborer was not allowed but as accused Silor has explained, she was verbally informed to act as representative of the concerned laborer to collect their salaries on their behalf. However, supposedly there must be a written authority.

On re-direct examination, she reiterated that the subsequent submission of supporting documents legalizes the approval of vouchers even if at that time these papers were missing.

On re-cross examination, she mentioned that she included in her audit report her finding that vouchers were approved without complete supporting documents.

The testimony of the seventh witness of the defense Felipe Anajao was offered to show that: x x x

He worked as laborer for the Municipality and earned Eighty Pesos (P80.00) daily wage. He worked with Monico Marqueda, Raul Marqueda, Alfie Anajao, Alfred Anajao and Erlinda Florino.

On cross-examination, he narrated that he signed Payrolls but most of the time it was his wife Neria, whom he authorized to receive his wages, who signed the Payroll for him.

He denied being familiar with his wife's signature despite stating that the signature appearing on the Payrolls is the signature of his wife Neria.

He mentioned that their Timekeeper was accused Maamo who would arrive at around ten in the morning to record their time in and who would come back after five in the afternoon to record their time out

On re-direct, he declared that no one was present to oversee their work whenever accused Maamo was not

around.

The eighth to take the witness stand, Dominador B. Cadayuna, Sr. the incumbent Barangay Captain of Anilao, Lilo-an, Southern Leyte from the year 1994 to 1997 and later on became a Kagawad testified to prove that there was a Reforestation Project in Barangay Anilao and the Municipality of Lilo-an undertook its maintenance after its completion. He avowed that:

The laborers who worked in maintaining the Municipal Tree Park were Felipe Anajao, Monico Marqueda, Jr., Alpie Anajao, Alfred Anajao and Erlinda Floreno.

On cross-examination, he affirmed that he knew the laborers who worked on the maintenance of the tree park because he was then, Barangay Captain and that he has seen accused Maamo on site, recording the comings and goings of the laborers. He knew her (Maamo) to be the Timekeeper and the Foreman of the Project.

The last witness presented by the Defense was [petitioner] Juliet O. Silor. She was the Municipal Assistant Treasurer and designated Disbursing Officer between the years 1997 and 1998 in Lilo-an Southern Leyte. She attested that:

She was the one who paid out the wages to the laborers named in the Payrolls. And, she allowed persons for and on behalf of the laborer to sign the payroll when she is familiar with the person.

On cross-examination she stated that she signed the questioned Payrolls to signify that she disbursed the money in connection with it That she knows the wife of Felipe Anajao, Neria. That in some instances Mayor Maamo claimed the salaries of laborer for them because these people have no time to go to her office and Mayor Maamo delivered the same to them. She did not ask for Special Powers of Attorneys because they are costly and the amount in consideration is measly.

As regards Payrolls that reflect no names of the laborers, she explained that what were presented are third original carbon copies on which the carbon paper did not work to copy those names listed on the first page.[18]

In addition to the foregoing testimonies, both parties adduced various documentary exhibits, which included, among others, the disputed Time Books and Payrolls.[19]

Weighing the evidence presented by the adverse parties, the SB ruled in the following manner:

I. Criminal Case No. 27117

x x x x

According to the Information the two (2) accused worked in conspiracy when they falsified the Time Book and Payroll dated July 1-15, 1997 by: (1) Making false statements in a narration of facts; (2) Making alteration in a genuine document which changed its meaning; and (3) Counterfeiting and feigning signature.

x x x x

Firstly, Counterfeiting and Feigning signature. To counterfeit means to copy an original handwriting or signature that would pass for that of the original. Perceptibly, counterfeiting is not possible in this instance because accused are alleged to have listed a fictitious person on the assailed Time Book and Payroll which means that there was no attempt to copy another person's signature. More likely, accused conspired to feign a signature.

Feigning in this regard is the simulation of a signature, which does not in fact exist. A simple examination of the Time Book and Payroll would yield the only logical conclusion that the signature appearing on column 8, row 6 representing receipt by a non-existent person of the wages earned for eleven days of work is the result of imagination. The only explanation offered by the defense to rebut this is the testimony of accused Silor that the

copy presented to Us was the third original carbon copy, on which the carbon used did not imprint the name of the worker, she declared:

x x x x

The payroll was prepared by my staff in three (3) copies. The second copy and the third copy are in carbon, but the payroll that I signed "paid", were all with names. That's why all the findings of the COA, there is no such that there was a payroll being paid with no names.

x x x x

When We scrutinized the Payroll We discerned the oddness that all other particulars on it were clearly reproduced with the only exception of the name of the laborer on number 6 of the Time Book and Payroll. In fact, the names, signatures, Resident Certificate particulars appears to have been consciously written on it in ink unlike the time roll, number of days worked, rate per day and total amounts which were an obvious imprint from carbon paper.

x x x x

With the foregoing inferences We are led to the fact that there has been a scheme between the accused to perpetrate the crime of Malversation through Falsification of a document.

On the Payroll both accused either certified that the laborers listed on the roll have rendered work, have worked on a certain date and time, or that they have been paid in person. It is next to impossible for them not to see the obvious before they affixed their signatures.

x x x x

By taking advantage of their positions they have managed to manipulate the accounting procedures, each condoning very important steps before signing the certifications on the Time Books and Payroll. Clearly there was falsification by feigning the signature of a non-existent laborer.

Importantly, the amount of Eight Hundred Eighty Pesos could not have been paid out to someone who did not exist. And, in the crime of Malversation there is a presumption that public funds have been embezzled if upon demand the public officer cannot account for it in the absence of evidence to the contrary. x x x

x x x x

II. Criminal Case Numbers 27118, 27119, 27120, 27121, 27122, 27123, 27125

x x x x

The acts imputed against accused are the falsification of the Payrolls by making it appear that a certain Monico Marqueda, confirmed to have died on January 27, 1998, worked on the Municipal Tree Park of Lilo-an, and by certifying the Payrolls where non-existent laborers are paid their wages. x x x

x x x x

It was explained by the defense that it was Monico Marqueda, Jr. who worked as laborer and he has acknowledge (sic) such fact. Hence, We cannot say that there is falsification by counterfeiting because there is obviously no attempt to copy Monico Marqueda, Jr.'s handwriting.

On the other hand, as We have discussed earlier feigning a handwriting is the simulation of a handwriting that does not exist.

The signatures appearing along side no. 8 and nos. 1, 2, 3, 4 of Exhibits "B" and "D" which are the Time Books and Payrolls in Crim[i]nal Case Numbers 27118 and 27119 covering the periods September 16-30, 1997 and

November 17-28, 1997, respectively, appear to belong to no body. There were no names specified in these numbers yet, there were signatures corresponding to each column signifying that the wages earned by unidentified laborers were received by somebody.

Similarly, as with Criminal Case No. 27117 the only contradictory evidence presented by the defense is the testimony of accused Silor that the copy presented to Us was the third original carbon copies on which the carbon used did not imprint the name of the worker, she declared:

x x x x

But, what makes this defense rather unconvincing is the fact that some of the names on these copies were written with ballpoint ink. The only logical explanation is that the signatures on the Payrolls were falsified.

As corollary, there is no justification for the release of the wages corresponding to laborer no. 1 in Criminal Case No. 27118 amounting to P880.00, and to laborers no. 1, 2, 3 and 4 in Criminal Case No. 27119 in the total amount of P3,200.00.

x x x x

II. Criminal Case No. 27124

According to the Prosecution the acts of accused which spell out the crime of Malversation through Falsification is that they made it appear on the Time Book and Payroll that: (1) The Municipality of Lilo-an is maintaining a Barangay Road existing between Barangays San Isidro and Gud-an but there really is no Barangay Road which exist (sic); and (2) Arturo Goltea, one of the laborers who supposedly worked to help maintain the Barangay Road is a ghost employee because he died on January 1, 1998 or more than a month before work on the road began.

x x x x

Further, We agree with the Prosecution's averment that there was no Barangay Road, which exists, directly linking Barangays San Isidro and Gud-an. We subscribe to the Testimony of Gud-an's Barangay Captain Conrado E. Encio, who attested to such fact and that in his capacity as Barangay Captain he sought the help of the District's Representative, Han. Aniceto G. Saluda for the construction of a road, which would directly link Gud-an to San Isidro, to wit:

x x x x

Moreover, a scrutiny of the evidence presented by the Defense would yield that there really exists no such Bar[a]ngay Road, the only Exhibits that it presented in this connection are Exhibits "16" to "16-D" which is a sketch of the Barangay Roads of San Isidro and nothing on it shows a road directly connecting Gud-an and San Isidro. In fact, the Sketch confirms that to get to San Isidro from Gud-an or vice versa one must pass through Barangay Cagbungalon or Barangay Calian.

Having been established by the People's evidence that there is no Barangay Road to maintain, it necessarily follows that the entire payroll is a sham, which cannot be justified by the fact that it has passed in audit the first time. Another examination should be put in order. This calls for an explanation on the part of [the] accused about the whereabouts of the amounts expended as payment for the wages of the laborers. Hence, the issue about the existence of Arturo Goltea has become moot, because in the first place no payroll should have been in existence at all[.]

By falsifying the Payroll, they were able to malverse sums of money. x x x[20]

In the questioned Decision, the SB convicted the Petitioners for the crime of Malversation through Falsification of

Public/Official Document under Criminal Case Nos. 27117, 27118, 27119 and 27124, and at the same time acquitted the Petitioners in Criminal Case Nos. 27120, 27121, 27122, 27123 and 27125 for failure of the Prosecution to establish the culpability of the Petitioners. The dispositive portion of the questioned Decision stated:

WHEREFORE, accused ZENAIDA P. MAAMO and JULIET O. SILOR are hereby found guilty of Malversation through Falsification, and applying the Indeterminate Sentence law, are hereby meted the prison term of six (6) years and one (1) month as Minimum to twelve (12) years as Maximum with all the accessory penalties, and to pay a Fine of Five Thousand Pesos (P5,000.00).

They are also directed to reimburse the Government the amount of Four Thousand Two Hundred Twenty Pesos (P4,220.00) with the legal rate of interest from the filing of the Information up to the date of payment.

Criminal Case Nos. 27118, 27119, 27120, 27121, 27122, 27123, 27124 and 27125 are hereby ordered dismissed.

SO ORDERED.[21]

Notably, the SB also concluded that only one (1) crime was technically committed by the Petitioners under the principle of *delito continuado*, there being a plurality of acts performed during a period of time and unity of intent and penal provision violated.[22]

Petitioners thereafter filed a Motion for Reconsideration dated June 29, 2011[23] arguing that, *inter alia*, the absence of a name did not conclusively prove beyond reasonable doubt that there was a ghost employee in the roll and that since the Time Books and Payrolls passed audit, it followed that they were in order. The said Motion was denied by the SB in a Resolution dated May 4, 2012.[24]

Thus, on July 5, 2012,[25] Petitioners filed the instant Petition.[26]

On March 8, 2013, after a series of extensions,[27] the Office of the Special Prosecutor filed its Comment dated January 17, 2013.[28] Thereafter, on November 28, 2013, Petitioners filed their Reply dated November 27, 2013.[29] Subsequently, a Supplemental Reply was filed by petitioner Maamo alone on November 21, 2014.[30]

Issue

Whether or not the SB erred in finding Petitioners guilty of the crime of Malversation through Falsification by feigning a signature.

The Court's Ruling

This Court has repeatedly adhered to the policy that when the guilt of the accused is not proven with moral certainty, the presumption of innocence must be favored, and exoneration must be granted as a matter of right.[31]

In the Petition before us, Petitioners argue that the evidence adduced against them do not conclusively prove the crime of Malversation through Falsification. Simply put, the central issue for our resolution therefore is whether the prosecution was able to prove the culpability of the Petitioners beyond reasonable doubt.

We grant the Petition.

In previous occasions, we have held that criminal cases elevated to this Court by public officials from the Sandiganbayan deserve the same thorough treatment as criminal cases brought up by ordinary citizens, simply because the constitutional presumption of innocence must be overcome by proof beyond reasonable doubt in both instances:[32]

The principle has been dinned into the ears of the bench and the bar that in this jurisdiction, accusation is not synonymous with guilt. The accused is protected by the constitutional presumption of innocence which the prosecution must overcome with contrary proof beyond reasonable doubt. This Court has repeatedly declared that even if the defense is weak, the case against the accused must fail if the prosecution is even weaker, for the conviction of the accused must rest not on the weakness of the defense but on the strength of the prosecution. Indeed, if the prosecution has not sufficiently established the guilt of the accused, he has a right to be acquitted and released even if he presents naught a shred of evidence.[33] x x x (*Italics omitted; emphasis supplied*)

As a rule, findings of fact by the OMB, being an administrative agency, are deemed conclusive and binding when supported by the records and based on substantial evidence.[34] In the same manner, findings of fact of the SB as trial court are accorded great weight and respect.[35] However, in cases where there is a misappreciation of facts, the Court will not hesitate to reverse the conclusions reached by the trial court.[36] At all times, the Court must be satisfied that in convicting the accused, the factual findings and conclusions of the trial court meet the exacting standard of proof beyond reasonable doubt.[37]

Thus, proceeding now from the factual findings of the OMB and the SB, we are left with the question of whether such facts tend to prove the guilt of the Petitioners with the required quantum of evidence. Stated differently - do the facts conclusively point toward the commission of the crime of Malversation through Falsification with moral certainty?[38]

After judicious examination of the records and the submissions of the parties, the Court rules in the negative.

The crime of Malversation of Public Funds is punished under Article 217 of the Revised Penal Code:

Article 217. Malversation of public funds or property- Presumption of malversation. - Any public officer who, by reason of the duties of his office, is accountable for public funds or property, shall appropriate the same, or shall take or misappropriate or shall consent, or through abandonment or negligence, shall permit any other person to take such public funds, or property, wholly or partially, or shall otherwise be guilty of the misappropriation or malversation of such funds or property, shall suffer:

x x x x

The failure of a public officer to have duly forthcoming any public funds or property with which he is chargeable, upon demand by any duly authorized officer, shall be prima facie evidence that he has put such missing funds or property to personal uses. (*Emphasis supplied*)

Meanwhile, Falsification by a public officer is punished under Article 171 of the same law:

Article 171. Falsification by public officer, employee or notary or ecclesiastic minister. - The penalty of prision mayor and a fine not to exceed 5,000 pesos shall be imposed upon any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts:

1. Counterfeiting or imitating any handwriting, signature or rubric;

x x x x (*Emphasis supplied*)

Thus, to be found guilty of Malversation, the Prosecution has the burden to prove the following essential elements:

(a)

The offender is a public officer;

(b)

The offender has custody or control of funds or property by reason of the duties of his office;

(c)

The funds or property involved are public funds or property for which the offender is accountable; and

(d)

The offender has appropriated, taken or misappropriated, or has consented to, or through abandonment or negligence, permitted the taking by another person of, such funds or property.[39]

In sum, what is necessary for conviction is sufficient proof that the accountable officer had received public funds, that he did not have them in his possession when demand therefor was made, and that he could not satisfactorily explain his failure to do so.[40]

Notably, Article 217 of the RPC provides that the failure of a public officer to have duly forthcoming any public funds with which he is chargeable upon demand by any duly authorized officer gives rise to the presumption that he has put such missing funds to personal use. As this Court clarified in *Estino v. People*,[41] while demand is not an element of Malversation, it is a requisite for the application of the presumption. Hence, absent such presumption, the accused may still be proven guilty, albeit based on direct evidence of Malversation.[42] Otherwise stated, to support a conviction for the crime, the Prosecution must nonetheless present evidence clearly evincing misappropriation of public funds.

Here, while the records support the presence of the first three (3) elements, we find that the Prosecution was unable to satisfactorily prove the fourth element.

The Court explains.

In criminal cases, it is the duty of the Prosecution to discharge the heavy burden of overcoming the presumption of innocence of the accused and that the weakness of the defense put up by the accused is inconsequential in the proceedings. As succinctly held by this Court in *People v. Mendoza*: [43]

x x x in all criminal prosecutions, the Prosecution bears the burden to establish the guilt of the accused beyond reasonable doubt. In discharging this burden, the Prosecution's duty is to prove each and every element of the crime charged in the information to warrant a finding of guilt for that crime or for any other crime necessarily included therein. The Prosecution must further prove the participation of the accused in the commission of the offense. In doing all these, the Prosecution must rely on the strength of its own evidence, and not anchor its success upon the weakness of the evidence of the accused. The burden of proof placed on the Prosecution arises from the presumption of innocence in favor of the accused that no less than the Constitution has guaranteed. Conversely, as to his innocence, the accused has no burden of proof, that he must then be acquitted and set free should the Prosecution not overcome the presumption of innocence in his favor. In other words, the weakness of the defense put up by the accused is inconsequential in the proceedings for as long as the Prosecution has not discharged its burden of proof in establishing the commission of the crime charged and in identifying the accused as the malefactor responsible for it.[44]

To recall, the SB already acquitted the Petitioners under Criminal Case Nos. 27120, 27121, 27122, 27123 and 27125 "for failure of the Prosecution to establish the culpability of the accused".[45] Hence, we dispense with any further discussion on the evidence and findings of the SB in connection with the said cases. Accordingly, as a result of their acquittal, Petitioners were found liable only in the following cases:[46]

Criminal Case No.

Period Covered

Description

Person Paid

27117

July 1-15, 1997

P880.00 for labor, clearing, and vegetation control at highway

No name on the Time Book and Payroll but with signature

27118

September 16-30, 1997

P1,760.00 for labor, ring weeding of Municipal Tree Park & Orchard

Unnamed person and Monico Marqueda (alleged to have died on January 29, 1997) and reflected in Nos. 8 and 1 of the Time Book and Payroll

27119

November 17-28, 1997

P3,520.00 for labor for the maintenance of the Municipal Tree Park

No names on the Payroll but with signatures (several laborers as reflected in Nos. 1, 2, 3, & 4, of the Time Book and Payroll)

27124

February 16-28, 1998

P1,600.00 for labor for the maintenance of Gud-an to Cagbungalon Road and San Isidro to Gud-an

Agaton Pastira Goltea (alleged to have died on January 1, 1998)

Evidently, the common denominator between the above cases is the mere absence of the name of a payee-laborer, as shown by the blanks in the Time Book and Payroll corresponding to the signatures, with the exception of Criminal Case No. 27124, wherein the SB relied on the purported non- existence of a barangay road to support its finding of falsification.[47] The SB, in the questioned Decision, convicted the Petitioners in the following wise:

I. Criminal Case No. 27117

x x x x

x x x A simple examination of the Time Book and Payroll would yield the only logical conclusion that the signature appearing on column 8, row 6 representing receipt by a non-existent person of the wages earned for eleven days of work is the result of imagination. The only explanation offered by the defense to rebut this is the testimony of accused Silor that the copy presented to Us was the third original carbon copy, on which the carbon used did not imprint the name of the worker, she declared:

x x x x

- The payroll was prepared by my staff in three (3) copies. The second copy and the third copy are in carbon, but the payroll I signed "paid", were all with names. That's why all the findings of the COA, there is no such that there was a payroll being paid with no names.

x x x x

When We scrutinized the Payroll We discerned the oddness that all other particulars on it were clearly reproduced with the only exception of the name of the laborer on number 6 of the Time Book and Payroll. In fact, the names, signatures, Resident Certificate particulars appears to have been consciously written on it in ink unlike the time roll, number of days worked, rate per day and total amounts which were an obvious imprint from carbon paper.

x x x x

With the foregoing inferences We are led to the fact that there has been a scheme between the accused to perpetrate the crime of Malversation through Falsification of a document.

On the Payroll both accused either certified that the laborers listed on the roll have rendered work, have worked on a certain date and time, or that they have been paid in person. It is next to impossible for them not to see the obvious before they affixed their signatures.

x x x x

II. Criminal Case Numbers 27118, 27119, 27120, 27121, 27122, 27123, 27125

x x x x

The signatures appearing along side no. 8 and nos. 1, 2, 3, 4 of Exhibits "B" and "D" which are the Time Books and Payrolls in Crim[i]nal Case Numbers 27118 and 27119 covering the periods September 16-30, 1997 and November 17-28, 1997, respectively, appear to belong to no body. There were no names specified in these numbers yet, there were signatures corresponding to each column signifying that the wages earned by unidentified laborers were received by somebody.

Similarly, as with Criminal Case No. 27117 the only contradictory evidence presented by the defense is the testimony of accused Silor that the copy presented to Us was the third original carbon copies on which the carbon used did not imprint the name of the worker, she declared:

x x x x

But, what makes this defense rather unconvincing is the fact that some of the names on these copies were written with ballpoint ink. The only logical explanation is that the signatures on the Payrolls were falsified.

x x x x

II. Criminal Case No. 27124

x x x x

x x x We agree with the Prosecution's averment that there was no Barangay Road, which exists, directly linking Barangays San Isidro and Gud-an. We subscribe to the Testimony of Gud-an's Barangay Captain Conrado E. Encio, who attested to such fact and that in his capacity as Barangay Captain he sought the help of the District's Representative, Hon. Aniceto G. Saludo for the construction of a road, which would directly link Gud-an to San Isidro, to wit:

x x x x

Moreover, a scrutiny of the evidence presented by the Defense would yield that there really exists no such Bar[a]ngay Road, the only Exhibits that it presented in this connection are Exhibits "16" to "16-D" which is a sketch of the Barangay Roads of San Isidro and nothing on it shows a road directly connecting Gud-an and San Isidro. In fact, the Sketch confirms that to get to San Isidro from Gud-an or vice versa one must pass through Barangay Cagbungalón or Barangay Calian.

Having been established by the People's evidence that there is no Barangay Road to maintain, it necessarily follows that the entire payroll is a sham, which cannot be justified by the fact that it has passed in audit the first time. x x x[48] (Emphasis supplied)

Meanwhile, with respect to the workers alleged to have been deceased during the implementation of the projects, the SB made the following remarks:

II. Criminal Case Numbers 27118, 27119, 27120, 27121, 27122, 27123, 27125

x x x x

We cannot consider the act of accused as one which translates to the making of untruthful statements in a narration of facts when they certified that Monico Marqueda was one of the laborers who worked on the Municipal Tree Park for the reason that Monico Marqueda, Jr., son of the deceased Monico Marqueda has acknowledged that it was he who was being referred to in the Payrolls, x x x[.]

x x x x

Adding to that, Exhibit "2" of the Defense which is the Affidavit of Monico Marqueda, Jr. would tell us that he was the one who received the wages on the Payroll as his signature on it appears to be similar with the signatures on the Payrolls.

x x x x

II. Criminal Case No. 27124

x x x x

x x x the issue about the existence of Arturo Goltea has become moot, because in the first place no payroll should have been in existence at all.[49]

Notably, with respect to the existence of Arturo Goltea, the Petitioners were able to present supporting evidence through the testimony of Gaudencio P. Goltea, one of the laborers employed in the road project, who testified that Arturo Goltea replaced Agaton Goltea after the latter's demise sometime in January of 1998.[50]

Thus, based on the foregoing disquisitions, it appears that the Prosecution relied only on the following facts to hold the Petitioners liable: (i) that there were blanks next to the signatures in the Time Books and Payrolls, and (ii) that there was no road directly connecting Barangay San Isidro and Barangay Gud-an.

To the Court, the evidence is severely insufficient and inconclusive to establish the guilt of the Petitioners beyond reasonable doubt for the crime charged. Outside of the foregoing facts, the SB resorted to only surmises to arrive at its conclusions.

In the first place, as correctly argued by the Petitioners,[51] nowhere was the fact of demand shown in any of the documentary exhibits[52] or testimonies of the witnesses of the Prosecution.[53] Such failure is underscored by the fact that the Prosecution itself admitted in its Comment dated January 17, 2013 that no demand for the alleged malversed funds had been made:

Petitioners argue that no demand was made in relation to the funds disbursed by the Municipality of Lilo-an, Southern, Leyte in connection with the July 1-15, 1997 Time Book and Payroll. Indeed, there was no demand made by the Commission on Audit because the Vegetation Control at Highways was not audited by the Commission on Audit. Hence, there being no audit, no Notice of Suspension was issued, much less disallowance.[54] (Emphasis supplied)

Thus, considering that the Prosecution never established such material fact, the burden of evidence was never

shifted to the Petitioners to prove their innocence, there being no prima facie presumption of misappropriation under the facts obtaining. Thus, following Estino, the Prosecution had the additional burden to prove Malversation by direct evidence, which, as stated at the outset, it had failed to do.

Moreover, as argued by the Petitioners,[55] the mere absence of a name in the Time Book and Payroll does not automatically translate to the non-existence of the alleged worker. Contrary to the conclusions of the SB, there are other "logical explanation[s]" for such omission, one of which is the explanation proffered by the Petitioners, i.e., that what was presented during trial were the third original carbon copies on which the carbon paper did not work to copy those names listed on the first page. Indeed, it is also entirely possible that the person responsible simply forgot to write down the name of the payee-laborer even as he secured their signatures.

Certainly, the allegation that Petitioners hired "ghost employees" must be weighed against the fact that Time Book and Payrolls were found to be in order. In the testimony of Ma. Theresa M. Timbang, a witness for the Prosecution, the SB noted:

As the designated Municipal Accountant from the year 1997 to 1998, she was responsible for making sure that a project or program is actually being implemented and the supporting documents for the disbursement of funds are all in order and complete. She keeps financial records of deposits and journals of checks issued and all cash disbursements.

x x x x

With respect to this case she has verified that the signature of accused Maamo on the Time Book and Payrolls as Time Keeper is in order because she believed that the accused had the capacity to enter as such and she attested that the Emergency Employment Contracts of the laborers were on file in the LGU.

On cross-examination, she declared that the Time Book and Payrolls corresponded to projects of the municipality, which according to her verification existed.[56] (Emphasis supplied)

Meanwhile, defense witness Geraldine A. Juaton, who was also charged with the verification of the completeness and regularity of the Payrolls, testified that there were no findings of irregularity regarding the same:

As the Municipal Accountant she is also an Internal Auditor charged with the verification of the completeness and regularity of supporting documents of requisitions, and she is the custodian of records in the Municipal Treasury.

She is familiar with the Payrolls (Exhibit "A" to "J" for the Prosecution) presented to her. There were Certificates of Settlement and Balances (Exhibits "13" to "18" for the Defense) filed with the Office coming from the Provincial Auditor's Office reflecting no findings of irregularity as regards the Payrolls.

On cross-examination she maintained that the various Payrolls presented by the Prosecution are officially under her custody and she has examined all of it. She is aware that accused Maamo has signed these Payrolls as Mayor, Time Keeper or Foreman and finds nothing wrong with it as it only suggests that the Mayor is "knowledgeable" of all the persons working in the project.[57] (Emphasis supplied)

In addition, the fact that the July 1-15, 1997 Time Book and Payroll was able to pass audit[58] and that no Notice of Suspension was issued by the Commission on Audit (COA)[59] was an indication that said documents were in order. Indeed, if it were true that there were blanks next to the signatures of the unnamed employees, such glaring deficiency surely would not have gone unnoticed by the COA.

As to the finding on the non-existence of a road directly connecting Barangay San Isidro and Barangay Gud-an, the Court notes the following explanation supplied by petitioner Maamo in her Supplemental Reply dated November 21, 2014:

The Prosecution again endeavored to further paint a bad image of petitioner Maamo by misleading the Honorable Sandiganbayan that the road referred to in the road maintenance project from Barangay Guid-an (sic) to Barangay San Isidro is non-existent because there is no road directly connecting Barangay San Isidro and Barangay Gud-an. It then made a conclusion that such is a ghost project. In truth the highway or road under road maintenance project was the whole stretch of the existing highway or road from Barangay San Isidro to Barangay Gud-an passing thru Barangay Calian, as shown by the sketch (Exhibits "16" to "16-D"). The road traversing Barangay Gud-an to Barangay San Isidro passing thru Barangay Calian was under the road maintenance project and the same is not a ghost project. In fact, this project passed audit.[60]

Notably, the fact that the road from Barangay Gud-an to Barangay San Isidro traverses through Barangay Calian was confirmed by Conrado E. Encio[61] and Engr. Alberto S. Causing,[62] both witnesses for the Prosecution. Moreover, the Petitioners presented Gaudencio P. Goltea, the Barangay Captain, who testified that the Municipality of Lilo-an indeed undertook the maintenance of barangay roads.[63]

In any case, assuming without conceding that the defenses raised by the Petitioners were not credible, such fact did not lessen the burden of the Prosecution to prove Malversation through Falsification through competent and conclusive evidence. As already discussed above, the conviction of the Petitioners must not rest on the weakness of the defense but on the strength of the prosecution.[64] Mere speculations and probabilities cannot substitute for proof required to establish the guilt of an accused.[65]

All told, we cannot subscribe to the conclusion of the SB that the blanks next to the signatures are, by themselves alone, enough to prove that Petitioners committed Malversation through Falsification by feigning the said signatures. This Court is not prepared to deprive Petitioners of their liberty with finality simply on the basis of a superficial deficiency in Time Books and Payrolls.

Further, we hold that the Prosecution miserably failed to prove the existence of conspiracy between the Petitioners.

In countless decided cases, this Court has consistently held that conspiracy must be established not by conjectures, but by positive and conclusive evidence and that the same degree of proof necessary to establish the crime is required to support a finding of the presence of a criminal conspiracy,[66] that is, proof beyond reasonable doubt. In *Sabiniano v. Court of Appeals*,[67] it was ruled that a mere signature appearing on a voucher or check is not enough to sustain a finding of conspiracy among public officials charged with defraudation of the government:

Apart from petitioner's signature on the treasury warrant, nothing else of real substance was submitted to show petitioner's alleged complicity in the crime. A mere signature or approval appearing on a voucher, check or warrant is not enough to sustain a finding of conspiracy among public officials and employees charged with defraudation. Proof, not mere conjectures or assumptions, should be proffered to indicate that the accused had taken part in, to use this Court's words in *Arias vs. Sandiganbayan*, the "planning, preparation and perpetration of the alleged conspiracy to defraud the government" for, otherwise, any "careless use of the conspiracy theory (can) sweep into jail even innocent persons who may have (only) been made unwitting tools by the criminal minds" really responsible for that irregularity. In the recent case of *Magsuci v. Sandiganbayan*, involving an accusation for estafa through falsification of public documents, where the accused not only co- signed a check but also noted an accomplishment report and signed the disbursement voucher with the usual certification on the lawful incurrence of the expenses to be paid, the Court held:

Fairly evident, however, is the fact that the actions taken by Magsuci involved the very functions he had to discharge in the performance of his official duties. There has been no intimation at all that he had foreknowledge of any irregularity committed by either or both Engr. Enriquez and Ancla. Petitioner might have indeed been lax and administratively remiss in placing too much reliance on the official reports submitted by his subordinate (Engineer Enriquez), but for conspiracy to exist, it is essential that there must be a conscious design to commit an offense. Conspiracy is not the product of negligence but of intentionality on the part of

cohorts. x x x[68] (*Italics omitted; emphasis supplied*)

Applying the foregoing to the instant case, the Court notes the testimony given by Ma. Theresa M. Timbang, one of the witnesses of the Prosecution, concerning the procedure involved in the disbursement of funds:

A typical accounting process concerning cash advances for labor expenses in a municipal project would require the following steps: First, a Request is submitted by the Mayor to the Municipal Treasurer's Office with the Time Sheets and Emergency Employment Contracts as supporting documents; Second, the Payroll Clerk prepares a Payroll, listing the workers enumerated on the Time Sheets; Third, the Municipal Budget Officer will certify the availability of funds; Fourth, the Municipal Accountant will review the supporting documents, whether it is all complete and in order with respect to computations and the signatories; Fifth, the Municipal treasurer will prepare the cash advance on the basis of the verifications made by the Municipal Accountant; Sixth, the Municipal Accountant will certify if there is available cash advance with the Disbursing Officer; and lastly, the Municipal Treasurer will issue checks for encashment. After the payroll has been paid out, the original is filed in the Municipal Accounting Office for recording and a photocopy is sent to the COA. (*Emphasis supplied*)

It can readily be seen that the disbursement of funds at the municipal level involves a successive process of review and clearing that requires the participation of different public officers, each with different roles and duties. Hence, in order to establish conspiracy between the Petitioners, the Prosecution must present evidence other than the mere fact that the Petitioners are at the opposite ends of the chain in the disbursement process. To sustain a conviction based on such fact alone would necessarily require the aid of conjecture and assumptions in order to establish conspiracy. From the evidence adduced by the Prosecution, no clear nexus exists to prove a unity of action and purpose between the Petitioners to falsify the Time Books and Payrolls in order to commit Malversation against the government.

As a final note, the Court takes this occasion to reiterate that the overriding consideration in criminal cases is not whether the court doubts the innocence of the accused but whether it entertains a reasonable doubt as to his guilt - if there exists even one iota of doubt, this Court is "under a long standing legal injunction" to resolve the doubt in favor of the accused.[69]

Hence, if the evidence is susceptible of two interpretations, one consistent with the innocence of the accused and the other consistent with his guilt, the accused must be acquitted.[70]

For the reasons above-stated, the instant Petition should be granted.

WHEREFORE, premises considered, finding the evidence insufficient to establish guilt beyond reasonable doubt, Petitioners are hereby ACQUITTED. The Decision dated June 16, 2011 of the Sandiganbayan in Criminal Case Nos. 27117, 27118, 27119 and 27124, and the Resolution dated May 4, 2012, finding Petitioners guilty of "Malversation thru Falsification of Public/Official Document" under Article 217 in relation to Article 171 of the Revised Penal Code, is hereby REVERSED and SET ASIDE.

SO ORDERED.

Sereno, C. J., (Chairperson), Leonardo-De Castro, Bersamin, and Perlas-Bernabe, JJ., concur.

[1] *People v. Baulite*, 419 Phil. 191, 198-199 (2001).

[2] *Rollo*, pp. 74-105.

[3] *Id.* at 9-62. Penned by Presiding Justice Edilberto G. Sandoval, with Associate Justices Teresita V.

Diaz-Baldos and Samuel R. Martires, concurring.

[4] Id. at 204-208; 230-246.

[5] Id. at 195-197.

[6] Id. at 198-203.

[7] Id. at 198.

[8] Id. at 202-203.

[9] Id. at 206.

[10] Id. at 204-208.

[11] Id. at 206-207.

[12] Id. at 9-15.

[13] Id. at 209-221.

[14] Id. at 227.

[15] Id. at 204-208.

[16] Id. at 245.

[17] Supra note 3.

[18] Id. at 21-28, 35-40.

[19] Id. at 28-34; 40-42.

[20] Id. at 43-58.

[21] Id. at 61.

[22] Id. at 58-61.

[23] Id. at 170-187.

[24] Id. at 64-71.

[25] On May 24, 2012, Petitioners, through counsel, received the Resolution dated May 3, 2012 denying their Motion for Reconsideration dated June 29, 2011. Petitioners therefore had until June 8, 2012 to seek a review with the Court under Rule 45 of the Rules of Court. On June 6, 2012, Petitioners filed a Motion for Extension of Time to File Petition For Review, praying for an extension of thirty (30) days from June 8, 2012 or until July 8, 2012, within which to file their Petition for Review on Certiorari, which was granted by the Court in a Resolution dated August 13, 2012.

[26] Supra note 2.

[27] Id. at 260-263; 264-266; 268-270; 276-278; 279-281; 282-284.

[28] Id. at 286-294.

[29] Id. at 304-306.

- [30] Id. at 310-321.
- [31] *Arriola v. Sandiganbayan*, 526 Phil. 822, 835-836 (2006).
- [32] *Monteverde v. People*, 435 Phil. 906, 922 (2002).
- [33] *Sps. Balmadrid v. Sandiganbayan*, 285 Phil. 520, 529 (1992).
- [34] See *Barcelona v. Lim*, 734 Phil. 766, 792-793 (2014).
- [35] Id. at 790; See also *Mangahas v. Court of Appeals*, 588 Phil. 61, 77 (2008).
- [36] *Bahilidad v. People*, 629 Phil. 567, 573 (2010).
- [37] Id. at 574.
- [38] RULES OF COURT, Rule 133, Sec. 2.
- [39] *People v. Ochoa*, 511 Phil. 682, 690-691 (2005).
- [40] *Zoleta v. Sandiganbayan* (Fourth Division), G.R. No. 185224, July 29, 2015, 764 SCRA 110, 129.
- [41] 602 Phil. 671, 698 (2009).
- [42] Id. at 698-699.
- [43] 736 Phil. 749 (2014).
- [44] Id. at 768-769.
- [45] *Rollo*, p. 55.
- [46] Id. at 61.
- [47] Id. at 58.
- [48] Id. at 44-58.
- [49] Id. at 48-58.
- [50] Id. at 36-37.
- [51] Id. at 89-91.
- [52] Id. at 126-132.
- [53] Id. at 119-126.
- [54] Id. at 290.
- [55] Id. at 304.
- [56] Id. at 27.
- [57] Id. at 35.
- [58] Id. at 305.
- [59] Id. at 88-89.
- [60] Id. at 316.

[61] Id. at 25.

[62] Id. at 26.

[63] Id. at 36-37.

[64] See Sps. Balmadrid v. Sandiganbayan, supra note 33.

[65] Fajardo v. People, 654 Phil. 184, 204 (2011); Rait v. People, 582 Phil. 747, 754 (2008).

[66] Balmadrid v. Sandiganbayan, supra note 33, at 527.

[67] 319 Phil. 92 (1995).

[68] Id. at 98-99.

[69] Yadao v. People, 534 Phil. 619, 640 (2006).

[70] Id.

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