

JOSEPH CEDRICK O. RUIZ, PETITIONER, VS. PEOPLE OF THE PHILIPPINES AND THE HONORABLE SANDIGANBAYAN, RESPONDENTS.

G.R. Nos. 209073-74, January 27, 2025

Ponente: HERNANDO, J.

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HERNANDO, J.:

Challenged in this Petition for Review on Certiorari[1] is the April 29, 2013 Decision[2] of the Sandiganbayan in Criminal Case Nos. 27467-27468 finding petitioner Joseph Cedrick O. Ruiz (petitioner) guilty beyond reasonable doubt of violation of Section 3(e) of Republic Act No. 3019,[3] otherwise known as the "Anti-Graft and Corrupt Practices Act," and Malversation under Article 217 of the Revised Penal Code. Petitioner likewise sought to annul the August 28, 2013 Resolution[4] of the Sandiganbayan denying his motion for reconsideration.

Factual Antecedents

Petitioner was charged with a violation of Section 3(e) of Republic Act No. 3019 and Malversation as defined and penalized under Article 217 of the Revised Penal Code in two separate Re-Amended Informations dated October 14, 2003, the accusatory portions of which state:

Criminal Case No. 27467[5]

(violation of Section 3(e) of RA 3019)

That on or about May 16 to June 30, 2001, or sometime prior or subsequent thereto, in the City of Dapitan, Philippines, and within the jurisdiction of this Honorable Court, the said accused public officers, namely: Joseph Cederick (sic) O. Ruiz, being the City Mayor of Dapitan City for the period June 30, 1998 to June 30, 2001, while in the performance of his official functions and taking advantage thereof, committing the offense in relation to his office, conspired and confederated with Pepe E. Nortal, Police Inspector, x x x Dapitan City, acting with evident bad faith and/or gross inexcusable negligence, did then and there willfully, unlawfully, and criminally caused damage and undue injury to the city government of Dapitan City, by allowing Pepe E. Nortal to request, for and in his behalf, the withdrawal as cash advance the amount of One Million Pesos ([PHP] 1,000,000.00) from the Confidential and Intelligence Fund appropriated under the Office of the City Mayor for Fiscal Year 2001, and after having received the said amount, the said accused used the said amount for their personal use to the damage and prejudice of the City Government of Dapitan in the above-mentioned amount.

CONTRARY TO LAW.[6] (Emphasis supplied)

Criminal Case No. 27468[7]

(Malversation under Article 217 of RPC)

That on or about May 16 to June 30, 2001, or sometime prior or subsequent thereto, in the City of Dapitan, Philippines, and within the jurisdiction of this Honorable Court, the said accused public officers, namely: Joseph Cederick (sic) O. Ruiz, being the City Mayor of Dapitan City for the period June 30, 1998 to June 30, 2001, while in the performance of his official functions and taking advantage thereof, committing the offense in relation to his office, conspired, and confederated with Pepe E. Nortal, Police Inspector, then assigned at

Philippine National Police, Dapitan City, with grave abuse of confidence and authority, did then and there, willfully, unlawfully, and criminally, caused damage and undue injury to the city government of Dapitan City, by allowing Pepe E. Nortal to request, for and in his behalf, the withdrawal as cash advance the amount of One Million Pesos ([PHP] 1,000,000.00) from the Confidential and Intelligence Fund appropriated under the Office of the City Mayor for Fiscal Year 2001, a fund under his administration and/or was placed under his custody and control, and for which he was accountable, and after having received the money, they appropriated, misappropriated and converted to their personal use and benefit the said amount, and to date, had remained unaccounted and/or unliquidated, to the damage and prejudice of the City Government of Dapitan in aforementioned amount.

CONTRARY TO LAW.[8] (Emphasis supplied)

When arraigned, petitioner refused to enter a plea for the offenses charged.[9] Thus, a plea of not guilty was entered for him for both offenses.[10]

Trial thereafter ensued.

Pending resolution of the instant case, petitioner was appointed as Presiding Judge of the Regional Trial Court (RTC) of Iloilo City in February 2004. In 2007, he was designated as Presiding Judge of Branch 61, RTC of Makati City.[11]

In a Resolution[12] dated July 22, 2019, the Sandiganbayan discharged Pepe E. Nortal (Nortal), the Deputy Chief of the Philippine National Police (PNP)- Dapitan City, as a state witness. Petitioner sought reconsideration,[13] but it was denied by the Sandiganbayan in its Resolution[14] dated October 23, 2009.

Version of the Prosecution

The prosecution presented the following witnesses: (a) Nortal, the state witness; (b) Jose R. Torres (Torres), the Officer-in-Charge (OIC) Treasurer; (c) Fatima V. Ruda (Ruda), OIC Budget Officer; (d) Ma. Glendora T. Deloria (Deloria), City Accountant; and (e) Leonilo A. Morales (Morales), State Auditor IV of the City Auditor's Office.[15]

Petitioner was mayor of Dapitan City, Zamboanga del Norte from 1998 to 2001. He ran for re-election during the May 11, 2001 elections but lost to Rodolfo H. Carreon, Jr.[16]

Nortal testified that on May 16, 2001, a member of the Citizens Reaction Team Against Crime (CRAC) brought him to Dapitan City Resort Hotel to meet petitioner. During the meeting, petitioner instructed Nortal to make a cash advance from the city's Confidential and Intelligence Fund (CIF) in the amount of PHP 1,000,000.00 for and in his behalf. Nortal initially refused to accede to petitioner's request since the latter had lost in the 2001 elections, and considering the possibility that petitioner could not liquidate the said amount. He then suggested to petitioner to instruct instead the Chief of Police, Major Amado Tumapon (Tumapon), to make the request since he was a mere Deputy Chief. However, petitioner insisted that Nortal make the request as he did not trust Tumapon. He assured Nortal that his staff, Jonas Solon (Solon), would help him liquidate the cash advance.[17]

When Nortal eventually acceded to the request, petitioner directed him to go to the City Budget Officer to sign a Request for Obligation of Allotment (ROA)[18] which bore the signatures of Nortal and petitioner as requesting officers, and a Disbursement Voucher (DV).[19]

A few days later, or on May 30, 2001, Nortal, together with petitioner's private secretary, Elmer Carreon (Carreon), received PNB Check No. 0001097358[20] at the City Treasurer's Office, and encashed the same at the Philippine National Bank-Dipolog City. Afterwards, Nortal and Carreon remitted the amount to petitioner who then removed from the bundle the amount of PHP 50,000.00 and gave it to Nortal to defray the expenses for the

drug operation. Petitioner also drew PHP 5,000.00 from his own pocket which he also handed to Nortal as payment for the Police Officers Basic Course expenses.[21]

Nortal informed Tumapon about the money given by petitioner but Tumapon refused to receive the same averring that petitioner did not trust him. Nonetheless, they used the money for their operation.[22]

A few weeks after the new mayor assumed his post, the Sangguniang Panglungsod, in aid of legislation, inquired from Nortal about petitioner's unliquidated cash advances. He informed them that he was unable to liquidate the CIF because Solon did not see him after petitioner's receipt of the amount. This prompted Nortal to file a complaint against petitioner before the Office of the Deputy Ombudsman for Mindanao (OMB-Mindanao).[23]

The prosecution likewise presented the testimony of Torres who confirmed that he received ROA No. 101-1011-05-0204-01 and DV No. 101-0105-3888 for the cash advance of PHP 1,000,000.00 payable to Nortal to defray the CIF. Upon receipt, he wrote to petitioner informing him that he cannot accommodate the request because it covered the entire CIF's budget for 2001 as stated in the Annual Budget, which was approved by Ordinance No. 2001-001 dated March 13, 2001. The most that he could do was to allot the appropriation for two quarters of the year on the condition that Nortal was properly bonded.[24]

On the same day, petitioner returned the letter to Torres with a note stating "OIC Jose Torres, please reconsider in view of the prevailing post-election tense situation. T.Y." [25] Torres, as a result, signed the ROA certifying the availability of funds, but wrote therein "provided that Police Inspector Nortal is duly bonded." [26] He then forwarded the ROA and the DV to the Accounting Office, which, in turn, submitted the same to the Office of the City Mayor for petitioner's approval. [27]

Torres then received the DV which was already processed by the Accounting Office and approved by petitioner. As such, he had no choice but to prepare the corresponding check payable to Nortal. Torres put a blank on the Bond Risk number and wrote his objection stating "[n]ote: [t]his is to put my objection to the payment of this claim." [28] He then signed the check and forwarded it and the DV to petitioner for approval. [29]

Ruda, on the other hand, testified that petitioner called her to release the appropriation allotted for the CIF. She was hesitant at first to accede to the request because petitioner was asking for the release of the entire annual budget despite his term ending on June 30, 2001. However, petitioner assured Ruda that he remained accountable and still had the power to release the fund as he was still the mayor. Also, the request for release was justified. Hence, Ruda signed the ROA and the DV, and forwarded them to the Office of the City Treasurer through the liaison officer of the Office of the City Mayor. [30]

Deloria, upon receipt of the ROA and the DV, also called petitioner reminding him that the requested amount covered the entire 2001 CIF. However, petitioner reasoned that the amount was badly needed for post-election situation. Deloria also averred that she could only process the request if Nortal would post a fidelity bond to which petitioner replied that it was already being processed. She then noticed that petitioner signed Box "A" of the ROA certifying that the cash advance was indeed necessary, lawful, and incurred under his direct supervision. Petitioner and Nortal also affixed their signatures in the "Requesting Official" portion thereof affirming the need to release the fund from the City Mayor's Maintenance and Operating Expense under the CIF. As a result, Deloria certified the voucher as necessary, processed and stated it in the books, and forwarded the same to the mayor's office. [31]

Morales, on the other hand, averred that he discovered that petitioner obtained cash advances of the CIF on September 30, 1998, April 22, 1999, July 9, 1999, and September 9, 1999. These cash advances were prohibited under Commission on Audit (COA) Circular No. 97-002, which proscribed local chief executives to avail of cash

advances except for travel expenses. Moreover, auditing rules mandated that only permanent and designated accountable officers were allowed to make cash advances. Despite furnishing petitioner with circulars relative to the prohibition, as well as a Notice of Suspension and Audit Observation Memo, petitioner still persisted in obtaining cash advances. Morales also demanded petitioner to liquidate the cash advances but to no avail. The records showed the unliquidated cash advance of PHP 1,000,000.00 from the CIF was made by Nortal under petitioner's authority.[32]

After the prosecution rested its case, petitioner filed a demurrer to evidence which was denied by the Sandiganbayan in its February 5, 2010 Resolution.[33] Petitioner then moved for reconsideration but the Sandiganbayan denied the same in its May 12, 2010 Resolution.[34]

Version of the Defense

Petitioner had a different story of what transpired. He claimed that a few weeks after the 2001 elections, Nortal went to his office requesting for a cash advance to curb post-election violence and criminalities prevalent in the city. Petitioner informed Nortal that the city still had PHP 1,000,000.00 which may be used in police's operations. He thus told the latter to process the disbursement and facilitated its release.[35]

Petitioner averred that he signed the ROA as a co-requesting officer since the appropriation was under the Office of the City Mayor. The amount of cash advances was subject to the sole discretion of the mayor depending on the exigency of the services to be funded. The funds may be advanced on a quarterly basis or even all at once.[36]

Petitioner was aware of the requirement in the ROA that Nortal must be properly bonded before the requested amount may be released. He presumed that Nortal was already bonded since the amount was approved and withdrawn by the latter.[37]

Petitioner also confirmed that Torres initially denied the request for cash advance, and that he sought reconsideration upon the latter's advice and consultation with the OIC Budget Officer. Furthermore, it was a standard operating procedure during his term that in case of objection in the disbursement of funds, the auditor would make a suggestion; in turn, petitioner would seek reconsideration and eventually, the auditor would accept his reconsideration on post audit.[38]

A week before the end of petitioner's term, Nortal asked petitioner for a certification stating that the PHP 1,000,000.00 had already been spent. However, petitioner refused to issue a certification because Nortal was unable to present receipts or a detailed summary of how the money was spent. Since it was Nortal who made the request for cash advance, it was his obligation to make a liquidation report before a certification of the same can be issued. Petitioner was later surprised when he learned that Nortal filed a complaint against him.[39]

Petitioner further denied meeting Nortal at the Dapitan Resort Hotel and giving him instruction to request for a cash advance of the CIF. He also did not meet Nortal on May 30, 2001 during which Nortal allegedly remitted the amount to him. He claimed that he went home early that day as he was indisposed.[40]

To support his defense, petitioner presented (a) Bonita A. Cardenas (Cardenas), State Auditor IV of Dapitan City; (b) Estarlita C. Suasito (Suasito), State Auditor III; and Frannie Antivo (Antivo), a casual employee assigned at the Office of the City Mayor.[41]

Antivo corroborated petitioner's testimony that he went home early on May 30, 2001 because he was not feeling well. Petitioner instructed Antivo and petitioner's close-in security, Jose Darry Sagario (Sagario), to look for a masseuse. Petitioner had a massage and fell asleep until 5:00 p.m. Nobody, especially not Nortal, visited petitioner's house that day.[42]

Cardenas, on the other hand, testified that she has custody of Dapitan City's audit reports from 2002 to 2008, and that she prepared the audit report for 2009. Based on her report, there were accumulated cash advances from December 2008 until December 2009 which were reflected as account receivables. Cardenas explained that the cash advances, once granted, must be liquidated by the accountable officer. The CIF are to be liquidated in the COA's central office, which will notify the local auditors of the same. An accountable officer who failed to liquidate the cash advances may be held liable for malversation. Moreover, failure to liquidate was a violation of accounting and auditing rules.[43]

Ruling of the Sandiganbayan

On April 29, 2013, the Sandiganbayan found petitioner guilty of violation of Section 3(e) of Republic Act No. 3019 and Malversation under Article 217 of Revised Penal Code. The decretal portion of Decision[44] of the Sandiganbayan reads:

WHEREFORE, IN LIGHT OF ALL THE FOREGOING, judgment is hereby rendered as follows:

1. In Criminal Case No. 27467, accused JOSEPH CEDRICK O. RUIZ is found GUILTY beyond reasonable doubt of violation of Section 3(e) of Republic Act 3019, and is hereby sentenced to suffer the penalty of imprisonment of six (6) years and one (1) month to eight (8) years;
2. (a) In Criminal Case No. 27468, accused JOSEPH CEDRICK O. RUIZ is found GUILTY beyond reasonable doubt of the crime of Malversation, defined and penalized under Article 217 of the Revised Penal Code, and is hereby sentenced to suffer the penalty of imprisonment of twelve (12) years and one (1) day of reclusion temporal minimum, as the minimum penalty, to eighteen (18) years and one (1) day of reclusion temporal maximum, as the maximum penalty, there being no mitigating or aggravating circumstance attendant to the commission of the crime; and
(b) Accused JOSEPH CEDRICK O. RUIZ is further sentenced to suffer the penalty of perpetual special disqualification and is likewise ordered to pay a fine equivalent to the amount malversed or the amount of [PHP] 950,000.00, and to indemnify the City of Dapitan the amount of [PHP] 950,000.00, plus interest.

SO ORDERED.[45] (Emphasis in the original)

The Sandiganbayan ruled that the prosecution sufficiently established the presence of all the elements of violation Section 3(e) of Republic Act No. 3019. Nortal categorically narrated that it was petitioner who instigated him to request for the release of the PHP 1,000,000.00 CIF, which the latter could not personally request due to his several previous unliquidated cash advances. In fact, petitioner actively facilitated the approval of the request by calling and writing the people in charge of the processing and releasing of the CIF. Petitioner then personally received the entire amount, less the amount of PHP 50,000.00 which he gave to Nortal for police operations, thereby causing undue injury to the government.[46]

The Sandiganbayan further held that the request for cash advance was tainted with evident bad faith, and for a patently fraudulent and dishonest purpose. The Sandiganbayan emphasized both the timing and the amount of the request.[47] It was made just a few weeks after the 2001 elections, and immediately before the end of petitioner's term as mayor of Dapitan City. The said request also covered the entire 2001 CIF. Further, if the request for the release of the intelligence fund would indeed be used to curb the rampant disturbance brought about by the election, then petitioner should have requested for its release even before the election. Thus, the hasty request to release the CIF was solely for petitioner's personal gain whose term was about to end.[48]

The Sandiganbayan also held that petitioner blatantly disregarded the procedure on the avilment of cash advances of intelligence funds when he personally made the request instead of a designated officer. In fact, prior

to the 2001 request, petitioner had personally drawn cash advances from the CIF during his term.[49]

On the charge of Malversation under Article 217 of the Revised Penal Code, the Sandiganbayan found that it was also duly proven that petitioner misappropriated for his own personal use the 2001 CIF, which he had custody and control as the mayor of Dapitan City.[50]

Lastly, petitioner's defenses of denial and alibi were undeserving of merit. The alleged inconsistencies between the affidavits of Nortal were inconsequential, as these referred to minor and insignificant details. They did not affect the straightforward and categorical assertion of Nortal, which was duly supported by the evidence on record.[51]

Likewise, petitioner's claim that Nortal's accusation was politically motivated, the latter being an ally of his nemesis, former Representative Romeo Jalosjos, failed to impress. Petitioner and Nortal were in good terms until the former failed to fulfill his promise to help the latter liquidate the cash advance. There was also no evidence that Nortal was indebted to Jalosjos or would personally benefit from the latter in the filing of the complaint against petitioner.[52]

Aggrieved, petitioner filed a Motion for Reconsideration[53] insisting on his innocence. He claimed that the findings of the Sandiganbayan were merely based on assumptions and perceptions and not on concrete evidence and prevailing jurisprudence.[54]

On May 29, 2013, petitioner filed a Supplemental Motion for Reconsideration and/or Motion for New Trial with Request for Correction of Some Errors in the Motion for Reconsideration.[55] He argued that he cannot be convicted of Malversation as there was no prior demand from Dapitan City to account the PHP 1,000,000.00 intelligence fund. He also presented the following purported newly-discovered documents to support his motion for new trial: (a) Demand letter dated March 25, 2013 from the Office of the City Mayor of Dapitan City addressed to Nortal;[56] (b) Auditor's Order dated May 9, 2013 from COA, Team IV-Audit Group B, Province of Zamboanga del Norte;[57] and (c) General Fund Advances for Officers and Employees for the month ending January 31, 2013 from the Office of the Audit Team Leader.[58] Petitioner also sought the correction of the typographical errors in the assailed Sandiganbayan Decision.

In its August 28, 2013 Resolution,[59] the Sandiganbayan denied petitioner's motions for reconsideration and new trial for lack of merit. It held that the lack of demand to account the PHP 1,000,000.00 CIF cannot absolve him from criminal liability for Malversation of public funds under Article 217 of the Revised Penal Code. Demand is not an element of the crime. It only gives rise to a prima facie presumption that the missing funds were used for personal gain. Nonetheless, the Sandiganbayan granted petitioner's request to correct the typographical errors in the assailed decision.

Issues

Undeterred, petitioner filed the instant petition raising the following grounds:

A – THE HONORABLE SANDIGANBAYAN, IN CONVICTING THE ACCUSED OF THE CRIMES FOR WHICH HE WAS CHARGED, DID SO IN A MANNER NOT IN ACCORD WITH LAW, THE EVIDENCE AND APPLICABLE DECISIONS OF THIS HONORABLE SUPREME COURT.

B – THE HONORABLE SANDIGANBAYAN HAS DEPARTED FROM THE ACCEPTED AND USUAL COURSE OF JUDICIAL PROCEEDINGS WHEN IT DENIED ACCUSED'S "MOTION FOR RECONSIDERATION" AND "SUPPLEMENTAL MOTION FOR RECONSIDERATION AND/OR NEW TRIAL, ETC." NECESSITATING THE EXERCISE OF ITS POWER OF SUPERVISION BY THIS HONORABLE COURT.[60]

Meanwhile, in *Office of the Court Administrator v. Ruiz*,^[61] petitioner who was then the Presiding Judge of Branch 61 of RTC, Makati City was dismissed from the service in view of the assailed Sandiganbayan's Decision. The Court held that violation of Section 3(e) of Republic Act No. 3019 and Malversation under Article 217 of the Revised Penal Code were crimes involving moral turpitude. Thus, the Court found it proper to impose upon petitioner the most severe penalty of disbarment, and to order his name be stricken off from the roll of attorneys.

Petitioner's Arguments

Petitioner imputes error on the part of the Sandiganbayan in finding that he "instigated" Nortal to request the cash advance in his behalf as it is purely based on speculations. If he did intend to disburse the entire intelligence fund allotted for 2001, he could have done it himself albeit his remaining unliquidated cash advances. There was also no solid evidence showing that he received the amount from Nortal. On the contrary, the Office of the City Mayor even demanded Nortal to liquidate the said fund in 2013 thereby belying his receipt thereof or that he personally used the same. Lastly, the accusations against him were merely fabricated by his political enemies and that Nortal was an avid supporter of his political rival.^[62]

In fine, petitioner essentially argues that the prosecution failed to establish his guilt beyond reasonable doubt, and should therefore be acquitted.

Respondent's Arguments

Respondent, represented by the Office of the Ombudsman, asserts for the denial of the petition for raising issues that are factual in nature and beyond the ambit of a Rule 45 petition. Moreover, the prosecution has sufficiently established the guilt of petitioner for the crimes charged. Petitioner, acting in bad faith, indeed instigated Nortal to request the disbursement of the entire 2001 CIF. He ensured that the request would be granted as can be shown not only from the testimonies of the prosecution witnesses but the evidence on record. Moreover, it was duly proven that petitioner received the CIF and misappropriated the same.

Issues

The issues for resolution of the Court are as follows:

1)

Whether the denial of petitioner's motion for new trial was in order; and

2)

Whether petitioner is indeed guilty of the crimes charged.

Our Ruling

The Petition fails. The Court affirms the conviction of petitioner for violation of Section 3(e) of Republic Act No. 3019 and Malversation under the Revised Penal Code.

Only pure questions of law must be raised in a Rule 45 petition

It is settled that only questions of law may be raised in an appeal by certiorari under Rule 45 of the Rules of Court.^[63]

In *Far Eastern Surety and Insurance Co., Inc. v. People*,^[64] the Court explained the difference between a question of law and a question of fact in this wise:

A question of law arises when there is doubt as to what the law is on a certain state of facts, while there is a question of fact when the doubt arises as to the truth or falsity of the alleged facts. For a question to be one of law, its resolution must not involve an examination of the probative value of the evidence presented by the litigants, but must rely solely on what the law provides on the given set of facts. If the facts are disputed or if the issues require an examination of the evidence, the question posed is one of fact. The test, therefore, is not the appellation given to a question by the party raising it, but whether the appellate court can resolve the issue without examining or evaluating the evidence, in which case, it is a question of law; otherwise, it is a question of fact.[65]

The Sandiganbayan is the special anti-graft appellate collegial court which has jurisdiction over criminal and civil cases involving graft and corrupt practices and other offenses committed by public officers and employees, including those in government-owned or government-controlled corporations.[66] Corollarily, under Republic Act No. 8249[67] or the law that governs the jurisdiction of Sandiganbayan, decisions and final orders of the said court shall be appealable to this Court by petition for review on certiorari raising pure questions of law, in accordance with Rule 45 of the Rules of Court.[68]

The arguments raised by petitioner mainly hinge on the purported incredibility of Nortal as a prosecution witness, and insufficiency of evidence presented by the prosecution to convict him of the crimes charged. He also contends that he cannot be held criminally liable for Malversation because of the lack of demand from the City of Dapitan to liquidate the disbursed CIF. These arguments are mixed questions of fact and law which are evidently beyond the ambit of the Court's power to review in an appeal by certiorari. Indeed, to determine if demand is an element of Malversation is a question of law. However, the issues on the credibility of a witness and insufficiency of evidence are factual in nature. These will require the recalibration and reassessment of the evidence presented by the parties which have been duly passed upon by the Sandiganbayan.

Furthermore, the factual findings of the Sandiganbayan are binding upon the Court.[69] Considering that the anti-graft court has already evaluated the evidence presented in light of the charges posed, its factual findings in the disposition of graft cases are conclusive upon this Court.[70]

The Court will only review its findings if any of the following circumstances is present: (1) when the conclusion is a finding grounded entirely on speculation, surmise and conjectures; (2) the inference made is manifestly mistaken; (3) there is a grave abuse of discretion; (4) the judgment is based on misapprehension of facts; (5) said findings of facts are conclusions without citation of specific evidence on which they are based; and (6) the findings of fact of the Sandiganbayan are premised on the absence of evidence on record.[71]

None of these circumstances is attendant in this case.

Testimony of Nortal, the state witness, is credible

Petitioner seeks to discredit the credibility of Nortal as a prosecution witness, alleging that Nortal's testimony is tainted with inconsistencies and impelled by ill motive. He further asserts that the findings of the Sandiganbayan that he instigated Nortal to request for the cash advance of the CIF fund, and that he used the proceeds thereof for personal gain, are not supported by evidence on record.

We disagree.

The Court gives great weight and credit on the Sandiganbayan's assessment of the credibility of witnesses in the absence of arbitrariness, abuse of discretion or palpable error.[72] This is because it has the opportunity to

observe first-hand the deportment and demeanor of a prosecution witness during the trial.[73] As such, We will not disturb the same in the absence of facts and circumstances of weight and value which have been overlooked, misinterpreted or misapplied by the Sandiganbayan.

In *Cabaron v. People*,^[74] the Court thus held:

As the tribunal with the full opportunity to observe firsthand the demeanor and deportment of the witnesses, the Sandiganbayan's findings that the witnesses for the prosecution are to be believed as against those of the defense are entitled to great weight. It may not be amiss to reiterate that on the issue of credibility of witnesses, appellate courts will not disturb the findings arrived at by the trial courts – the tribunals in a better position to rate the credibility of witnesses after hearing them and observing their deportment and manner of testifying during the trial; it is not for this Court to review again the evidence already considered in the proceedings below. This rule stands absent any showing that facts and circumstances of weight and value have been overlooked, misinterpreted or misapplied by the lower court that, if considered, would affect the result or outcome of the case. The Sandiganbayan rulings in this case suffer no such infirmities, notwithstanding the efforts of the petitioners to create a contrary impression.^[75]

As we explained in *Tayaban v. People*:

[T]he assessment of the credibility of a witness is primarily the function of a trial court, which had the benefit of observing firsthand the demeanor or deportment of the witness. It is well-settled that this Court will not reverse the trial court's assessment of the credibility of witnesses in the absence of arbitrariness, abuse of discretion or palpable error. It is within the discretion of the Sandiganbayan to weigh the evidence presented by the parties, as well as to accord full faith to those it regards as credible and reject those it considers perjurious or fabricated. Moreover, the settled rule is that absent any evidence showing a reason or motive for prosecution witnesses to perjure their testimonies, the logical conclusion is that no improper motive exists, and that their testimonies are worthy of full faith and credit.^[76] (Citation omitted)

Here, the Court agrees with the Sandiganbayan that Nortal is a credible state witness.

Nortal categorically narrated that petitioner ordered him to request the cash advance of the CIF. In a clear and spontaneous manner, Nortal testified that he was fetched by a member of CRAC to meet petitioner. Due to his outstanding unliquidated cash advances, petitioner had no option but to command Nortal to request for the cash advance of the CIF.^[77] Although hesitant at first, Nortal subsequently acceded to the demand of his superior especially since petitioner assured him that he would take care of the liquidation.^[78] Upon encashment of the check for the PHP 1,000,000.00 cash advance, Nortal gave the money to petitioner. In turn, the latter gave him PHP 50,000.00 from the proceeds thereof.

Notably, the testimony of Nortal is consistent with the evidence and testimonies of the other prosecution witnesses. Besides, as aptly noted by the Sandiganbayan, petitioner did not refute that he had such conversations with these city officers.^[79] These, taken collectively, strongly establish how petitioner facilitated and ensured that the cash advance of the 2001 CIF will be granted and released.

We visit the relevant laws and rules on cash advances.

Section 339 of Republic Act No. 7160,^[80] also known as the "Local Government Code of 1991," (Local Government Code) states that "(n)o cash advance shall be granted to any local official or employee, elective or appointive, unless made in accordance with the rules and regulations as the [COA] may prescribe."

On the other hand, Section 89 of Presidential Decree No. 1445,^[81] otherwise known as the "Government Auditing Code of the Philippines," (Auditing Code) expressly prohibits the grant of additional cash advance to any official or employee unless his or her previous cash advance has been settled or a proper accounting has been

made, thus:

Section 89. Limitations on cash advance. No cash advance shall be given unless for a legally authorized specific purpose. A cash advance shall be reported on and liquidated as soon as the purpose for which it was given has been served. No additional cash advance shall be allowed to any official or employee unless the previous cash advance given to him is first settled or a proper accounting thereof is made.

COA Circular No. 97-002[82] dated February 10, 1997 further laid down the general guidelines in the grant and utilization of cash advances, stating:

4.1 General Guidelines

4.1.1 No Cash advance shall be given unless for a legally specific purpose.

4.1.2 No additional cash advances shall be allowed to any official or employee unless the previous cash advance given to him is first settled or a proper accounting thereof is made.

4.1.3 A cash advance shall be reported on as soon as the purpose for which it was given has been served.

4.1.4 Only permanently appointed officials shall be designated as disbursing officers. Elected officials may be granted a cash advance only for their official traveling expenses.

4.1.5 Only duly appointed or designated disbursing officers may perform disbursing functions. Officers and employees who are given cash advances for official travel need not be designated as Disbursing Officers.

4.1.6 Transfer of cash advance from one Accountable Officer (AO) to another shall not be allowed.

4.1.7 The cash advance shall be used solely for the specific legal purpose for which it was granted. Under no circumstance shall it be used for encashment of checks or for liquidation of a previous cash advance.

4.1.8 The Accountant shall obligate all cash advances granted. He shall see that cash advances for a particular year are not used to pay expenses of other years. (Emphasis supplied)

Corollarily, COA Circular No. 92-385[83] dated October 1, 1992 which governs the rules on auditing the intelligence and/or confidential fund, mandates that "the disbursement from the confidential and/or intelligence fund shall be accounted for solely on the certification of the head of the agency, or by the officer-in-charge of the intelligence, confidential or national security mission." [84]

In order to debunk Nortal's testimony, petitioner contends that he does not need to direct Nortal to request for the cash advance as he can do this himself.

We are not persuaded.

Based on the foregoing rule, it is clear that petitioner had outstanding unliquidated cash advances thus disqualifying or preventing him from personally making the request for cash advance of the 2001 CIF. Evidence on record shows that petitioner had several unliquidated cash advances from September 3, 1998 until March 29, 2001.[85] It was only on September 27, 2005 that petitioner liquidated all the cash advances he made, when he was no longer the mayor and during the pendency of this case before the Sandiganbayan.[86]

What is even more interesting is that during his term as mayor of Dapitan City, petitioner requested and was granted cash advances of the CIF from 1998 until March 2001.[87] The only time that someone, other than him, made a request thereof was in 2001 when Nortal sought for the release of the CIF. This is not a mere coincidence that can easily be ignored.

The records strikingly reveal that both petitioner and Nortal were the signatories and requesting officials in the

request for obligation allotment. Petitioner's active participation in facilitating the request for cash advance is further bolstered by the testimonies of Torres, Ruda, and Deloria, the officers who were in charge with the approval and release thereof. Petitioner immediately sought reconsideration upon learning of Torres's denial of the request, as evidenced by his handwritten note in the May 16, 2001 letter of denial. Despite Torres's proposal to release the CIF funds allotted for two quarters as allowed by law, he remained adamant on the release of the entire fund allocated for the said year. Petitioner even called Ruda directing her to release the whole 2001 CIF. Delora, on the other hand, called petitioner expressing her dissent on the request since Nortal was not properly bonded, and that the request covered the entire year's CIF. However, petitioner insisted on its release and even misrepresented that Nortal's bond was already being processed and also insisted that he could still use the CIF fund as he was still the mayor at the time the request was made.

Interestingly, the request for the cash advance of the CIF was made only after the 2001 elections, and barely a few weeks before his term as mayor would end. As correctly observed by the Sandiganbayan, the timing of the request raises doubt on the real motive of petitioner to release the entire 2001 CIF. If the reason he proffered was genuinely to curb the post-election violence and criminalities, then he should have not requested, much less assented, to the release of the entire intelligence fund allotted for 2001.

Petitioner also attempted to discredit Nortal by claiming that the latter is closely affiliated to his political opponent and only filed a complaint and testified against him to tarnish his political image.

We are not swayed.

No scintilla of evidence was presented by petitioner which would have proved that his political adversaries instigated the filing of the instant case. There was even no proof of Nortal's close association with petitioner's political nemesis as to give some semblance of truth to the allegation that Nortal purposely filed the criminal complaint against petitioner. Besides, petitioner would not have approached Nortal to request for the cash advance intended to curb election violence and criminalities knowing that he (Nortal) is a supporter of his political rival. Thus, the Court concludes that no such improper motive exists absent any substantial evidence to prove the same.[88]

Petitioner also points out inconsistencies in Nortal's two affidavits and in his testimony during the trial. He claims that Nortal failed to state in his affidavits that he directed him to request the cash advance so he can pay his debts. However, such inconsistency is minor and immaterial in nature; thus, it does not affect the credibility of Nortal as a witness.[89] As aptly held in *People v. Albarido*: [90]

It is elementary in the rule of evidence that inconsistencies in the testimonies of prosecution witnesses with respect to minor details and collateral matters do not affect the substance of their declaration nor the veracity or weight of their testimony. In fact, these minor inconsistencies enhance the credibility of the witnesses, for they remove any suspicion that their testimonies were contrived or rehearsed.[91]

Elements of Section 3(e) of Republic Act No. 3019 duly established

Section 3(e) of Republic Act No. 3019 states:

Section 3. Corrupt practices of public officers — In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

. . . .

(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official, administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence.

The elements of Section 3(e) of Republic Act No. 3019, which must be duly established by the prosecution, are:

(1)

the offender is a public officer;

(2)

the act was done in the discharge of the public officer's official, administrative or judicial functions;

(3)

the act was done through manifest partiality, evident bad faith, or gross inexcusable negligence; and

(4)

the public officer caused any undue injury to any party, including the Government, or gave any unwarranted benefits, advantage or preference.[92]

It is undisputed that petitioner was a public officer and was discharging his official function as mayor of Dapitan City at the time of the commission of the offense thus satisfying the first and second elements.

The third and fourth elements are likewise present as will be discussed below.

Petitioner acted in evident bad faith when he directed Nortal to request the cash advance

A violation of Section 3(e) of Republic Act No. 3019 may be committed through three modes, namely: (a) manifest partiality; (b) evident bad faith; or (c) gross inexcusable negligence.[93] "Proof of any of these three in connection with the prohibited acts mentioned in Section 3(e) is enough to convict." [94]

In *Fonacier v. Sandiganbayan*, [95] the Court explained these modes in this wise:

"Partiality" is synonymous with "bias" which "excites a disposition to see and report matters as they are wished for rather than as they are." "Bad faith does not simply connote bad judgment or negligence; it imputes a dishonest purpose or some moral obliquity and conscious doing of a wrong; a breach of sworn duty through some motive or intent or ill will; it partakes of the nature of fraud." "Gross negligence has been so defined as negligence characterized by the want of even slight care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but wilfully and intentionally with a conscious indifference to consequences in so far as other persons may be affected. It is the omission of that care which even inattentive and thoughtless men never fail to take on their own property." These definitions prove all too well that the three modes are distinct and different from each other. Proof of the existence of any of these modes in connection with the prohibited acts under Section 3(e) should suffice to warrant conviction.[96] (Citations omitted)

Petitioner acted in bad faith. The prosecution has sufficiently proved that petitioner indeed instigated Nortal to request for the cash advance of the entire 2001 CIF in his behalf with the promise that he would take care of its liquidation. The fact that he directed Nortal to make the request since he had numerous pending liquidations manifestly showed a scheming desire to procure the CIF. Not only did he sign the request as a co-requesting official, he also communicated with the officials in charge of the approval of the cash advance to ensure its

release. The cash advance was also for the entire 2001 budget of the CIF. More importantly, the request was made merely weeks before the end of his term as mayor of Dapitan City.

Petitioner could not feign ignorance of the rules and regulations with respect to cash advances. In fact, he failed to refute Morales's assertion that the latter furnished him with COA circulars apprising him of the violations he made with respect to cash advances.

Release of the 2001 CIF fund caused undue injury on the local government of Dapitan City

In *Garcia v. Sandiganbayan*,^[97] the Court held that "[p]roof of the extent of damage is not essential, it being sufficient that the injury suffered or the benefit received is perceived to be substantial enough and not merely negligible."^[98]

There is no doubt that the cash advance made against the CIF caused undue injury on the part of Dapitan City. The release of the entire budget allotted thereto for 2001 depleted the intelligence funds of the local government for the remaining months of the year. Surely, Dapitan City would have to make a re-alignment of its available funds, which it should not have done in the first place, had the entire 2001 CIF not been disbursed.

Thus, the Sandiganbayan correctly convicted petitioner for violating Section 3(e) of Republic Act No. 3019.

We now determine if petitioner is likewise guilty of the crime of Malversation under Article 217 of the Revised Penal Code.

Elements of Malversation as penalized under Article 217 of Revised Penal Code were also sufficiently proven

Article 217 of the Revised Penal Code, as amended by Republic Act No. 10951,^[99] defines and penalizes Malversation:

Art. 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, 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:

....

2. The penalty of prisión mayor in its minimum and medium periods, if the amount involved is more than Forty thousand pesos ([PHP] 40,000) but does not exceed One million two hundred thousand pesos ([PHP] 1,200,000).

....

In all cases, persons guilty of malversation shall also suffer the penalty of perpetual special disqualification and a fine equal to the amount of the funds malversed or equal to the total value of the property embezzled.

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.

Malversation may be committed by any of the following means: (a) by appropriating public funds or property; (b) by taking or misappropriating the same; (c) by consenting, or through abandonment or negligence, by permitting any other person to take such public funds or property; or (d) by being otherwise guilty of the misappropriation or malversation of such funds or property.[100]

The following elements must be present to sustain a conviction of Malversation of Public Funds:

1)

That the offender is a public officer;

2)

That he had custody or control of funds or property by reason of the duties of his office;

3)

That those funds or property were public funds or property for which he was accountable; and

4)

That he appropriated, took, misappropriated or consented or, through abandonment or negligence, permitted another person to take them.[101]

These elements are sufficiently established in the instant case.

Petitioner is a public officer

A public officer is "any person who, by direct provision of law, popular election, or appointment by competent authority, shall take part in the performance of public functions in the Government of the Philippine Islands, or shall perform in said Government or in any of its branches public duties as an employee, agent or subordinate official, of any rank or class." [102] Hence, petitioner is a public officer, being then the duly-elected mayor of Dapitan City at the time of the commission of the crime.

Petitioner had custody and control of the CIF pursuant to his duties as mayor

The DV relative to the cash advance of the CIF bore petitioner's signature as the approving authority. Pursuant to standard procedure, the voucher had to be forwarded to the mayor's office to secure his approval before disbursement of the said fund can be made. Without his corresponding signature on the disbursement voucher, no check would be prepared to effect payment of the amount requested.[103] Therefore, petitioner, as the mayor, had control and custody of the CIF, which is a public fund.[104]

Petitioner is accountable for the CIF, being a public fund

There is also no doubt that petitioner, as mayor, was accountable for the CIF, being a public fund.[105] It was his duty to keep and to disburse the said fund pursuant to the requested purpose, and for the benefit of the city. Petitioner's accountability stems from Section 340 of the Local Government Code, which states:

Section 340. Persons Accountable for Local Government Funds. — Any officer of the local government unit whose duty permits or requires the possession or custody of local government funds shall be accountable and responsible for the safekeeping thereof in conformity with the provisions of this Title. Other local officers who, though not accountable by the nature of their duties, may likewise be similarly held accountable and responsible for local government funds through their participation in the use or application thereof.

Furthermore, as the chief executive of Dapitan City, petitioner is immediately and primarily responsible for the government funds and property of the municipality as provided in Section 102 of the Auditing Code, thus:

Section 102. Primary and secondary responsibility. – (1) The head of any agency of the government is immediately and primarily responsible for all government funds and property pertaining to his agency.

Petitioner misappropriated for his personal use the 2001 CIF

The prosecution sufficiently established that petitioner received the proceeds of the disbursed 2001 CIF. To recall, Nortal remained consistent and spontaneous in his testimony that upon approval of the cash advance, he and petitioner's secretary received the check and facilitated its encashment. Afterwards, he met with petitioner and gave to him the entire PHP 1,000,000.00. Petitioner, in turn, gave him PHP 50,000.00 from the proceeds and another PHP 5,000.00 out of his own pocket; hence, amassing for his own benefit the remaining PHP 950,000.00.

Petitioner tried to absolve himself from culpability by denying receipt of the CIF from Nortal. He also denied meeting with him as he went home early from office because he was sick. Corroborating petitioner's version, his staff, Antivo, testified that petitioner indeed went home just before lunchtime on May 30, 2001 because he was not feeling well.

We are not convinced.

It is a time-honored principle that the defenses of alibi and denial are intrinsically weak and are always viewed with disfavor as they can be easily concocted.[106] They lack credibility and cannot overrule the positive identification of the accused by the prosecution witness.[107]

For alibi to prosper, the accused must duly prove that it was physically impossible for him to be at the crime scene at the time of its commission.[108] This circumstance is not obtaining in this case. Petitioner's home is located just a few meters away from his office. In fact, it only took him more or less three minutes to go home from office when he allegedly felt sick. Indubitably, given the short distance, it was not physically impossible for him to be at his office where Nortal gave him the disbursed CIF.

We also concur with the findings of the Sandiganbayan that the testimony of Antivo deserves scant consideration as he had no personal knowledge of the purported transaction between petitioner and Nortal relative to the cash advance made on the CIF. Further, his testimony is suspicious in nature and tainted with bias due to his relation with petitioner who was his immediate boss.[109]

Likewise, petitioner's defense of denial is a negative and self-serving evidence, which has no greater evidentiary value compared to the testimony of a credible witness on affirmative matters.[110] It lacks considerable weight absent any clear and convincing evidence to support the same.[111]

Lack of demand to return the malversed amount immaterial

There is no merit in petitioner's assertion that the lack of demand on the part of the local government of Dapitan City to return the CIF served to exonerate him from criminal liability.

The Court has repeatedly emphasized that demand itself is neither an element nor indispensable to constitute malversation.[112] It is not necessary in the commission of the offense and merely raises a prima facie presumption that the missing funds were put to personal use.[113] For "[m]alversation is committed from the very moment the accountable officer misappropriates public funds and fails to satisfactorily explain his inability to produce the public funds he received." [114] As such, petitioner remains criminally liable for Malversation when he misappropriated the CIF under his control and custody for personal use despite lack of demand against him to return the same.

Hence, the Court likewise sustains his guilt of Malversation of Public Funds in violation of Article 217 of the Revised Penal Code, as amended.

Denial of Motion for New Trial is warranted

Petitioner also argues that the Sandiganbayan should not have denied his motion for new trial as the documents attached thereto are newly discovered evidence which, if admitted, would materially affect the outcome of the case against him.

We disagree.

The court may, on motion of the accused or at its own instance but with the consent of the accused, grant a new trial at any time before a judgment of conviction becomes final.[115] Under Section 2, Rule 121 of the Rules of Court, a new trial shall be granted on any of the following grounds:

- (a) The errors of law or irregularities prejudicial to the substantial rights of the accused have been committed during the trial;
- (b) The new and material evidence has been discovered which the accused could not with reasonable diligence have discovered and produced at the trial and which if introduced and admitted would probably change the judgment.

Corollarily, the following requisites must exist for the grant of a motion for new trial based on a newly discovered evidence: (1) the evidence was discovered after trial; (2) such evidence could not have been discovered and produced at the trial even with the exercise of reasonable diligence; (3) it is material, not merely cumulative, corroborative, or impeaching; and (4) the evidence is of such weight that it would probably change the judgment if admitted.[116]

"Discovery" is "the act, process, or an instance of gaining knowledge of or ascertaining the existence of something previously unknown or unrecognized." [117] The newly discovered evidence should be a material evidence that would grant a second opportunity for a party to prove his/her claim.[118]

Petitioner in this case anchored his motion on the following documents which allegedly were issued and discovered only after the Sandiganbayan rendered the assailed decision:

a)

March 25, 2013 demand letter of the Office of the City Mayor of Dapitan City to Nortal indicating that he has an outstanding unliquidated cash advance in the amount of PHP1,028,093.18, which includes the 2001 CIF

among others;[119]

b)

Auditor's Order dated May 9, 2013 of the COA addressed to the City Mayor of Dapitan City demanding for the payment of unliquidated cash advances;[120] and

c)

General Fund Statement of Other Receivables for the month ending January 31, 2013 indicating the unliquidated cash advances made by Nortal in 2009.[121]

These documents, as correctly found by the Sandiganbayan, are already available during trial. Petitioner could therefore have obtained the same before the Sandiganbayan rendered the assailed judgment, as these were readily available in COA, as well as the local government office of Dapitan City. The documents are only offered to impeach the credibility of Nortal by showing that he had unliquidated cash advances. Indeed, the Office of the City Mayor of Dapitan City demanded Nortal to pay the 2001 CIF. Such demand is only logical since Nortal was indicated as the requesting officer, and the check issued was in his name. However, it still does not negate the duly established fact that it was petitioner who actually received and misappropriated the proceeds of the cash advance. Further, the documents offered lack evidentiary weight which, if admitted, would have reversed the Sandiganbayan's judgment of conviction against petitioner.

Penalties for the crimes charged

All told, the Court finds no reversible error on the part of the Sandiganbayan in finding petitioner guilty of violation of Section 3(e) of Republic Act No. 3019 and Malversation of Public Funds under Article 217 of the Revised Penal Code.

We now review the penalties imposed.

Section 9(a) of Republic Act No. 3019 provides:

Section 9. Penalties for violations. (a) Any public officer or private person committing any of the unlawful acts or omissions enumerated in Sections 3, 4, 5 and 6 of this Act shall be punished with imprisonment for not less than one year nor more than ten years, perpetual disqualification from public office, and confiscation or forfeiture in favor of the Government of any prohibited interest and unexplained wealth manifestly out of proportion to his salary and other lawful income.

Any complaining party at whose complaint the criminal prosecution was initiated shall, in case of conviction of the accused, be entitled to recover in the criminal action with priority over the forfeiture in favor of the Government, the amount of money or the thing he may have given to the accused, or the value of such thing.

Accordingly, the Sandiganbayan correctly imposed the penalty of imprisonment for an indeterminate period of six years and one day, as minimum, to eight years, as maximum, in the absence of any aggravating or mitigating circumstance. The penalty of perpetual disqualification from public office against petitioner is also in accordance with the law and prevailing jurisprudence.[122]

Anent the crime of Malversation, the Court deems it proper to modify the penalty of imprisonment imposed by the Sandiganbayan. Article 217, as amended by Republic Act No. 10951, prescribes the penalty of prision mayor in its minimum and medium periods, i.e., six years and one day to 10 years, if the amount involved is more than PHP 40,000.00 but does not exceed PHP 1,200,000.00. Hence, the Court sentences petitioner to suffer the indeterminate penalty of six years of prision correccional in its maximum period, as minimum, to eight years and eight months of prision mayor in its medium period, as maximum. Nonetheless, the Sandiganbayan correctly

imposed against petitioner the penalty of perpetual special disqualification to hold any position in public office, and a fine equal to the amount of the funds malversed, i.e., PHP 950,000.00. The amount shall also earn interest at the rate of 6% per annum from the date of finality of this Resolution until fully paid.[123]

Final note

On a final note, the Court thus takes this opportunity to emphatically remind all public officers, whether duly elected or appointed, or an officer or employee, of our constitutional mandate prescribed under Section 1, Article XI of the 1987 Constitution:

Section 1. Public office is a public trust. Public officers and employees must, at all times, be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency; act with patriotism and justice, and lead modest lives.

Indeed, it is the policy of the Philippine Government to repress certain acts of public officers which constitute graft or corrupt practices, or which may lead thereto.[124] A public official must therefore always remember one's oath "to support and defend the Constitution, bear true faith and allegiance to the same; obey the laws, legal orders and decrees promulgated by the duly constituted authorities; and faithfully discharge to the best of his [or her] ability the duties of the position he [or she] will hold." [125]

Sadly, the presence of corrupt public officials who continuously cling like a leech on their seats in public office is a complete and utter travesty. There are undeserving public servants who utterly defied their oath and violated their duty not only to the Constitution but also to the public. A person's desire to hold public office should not be based on selfish ambitions to enrich oneself at the expense of the government; worse, of the public. For a public post is not and should not be looked at as a lucrative business, where the primordial mission is to make oneself abundant and gain advantages for his or her own comfort and satisfaction. To be a public official is a privilege granted only to those who have met the required high standards of qualifications. "Only those who can live up to such exacting standard deserve the honor of continuing in public service." [126]

While corruption is deeply entrenched in our society as a harsh reality and unacceptable practice, which some may have already consciously or unconsciously accepted, the Court is confident that We, as a society, can eradicate this pervasive problem. Though it will be an arduous battle, where a long, tedious, and challenging path must be traversed and the probability of winning is low, the public must know this.

The Court, together with the other government agencies, will never yield to those dishonorable men and women who take pride in calling themselves public servants and yet have nothing to offer to the public but false hopes and promises. For the respect and confidence of the public in the government can only be regained if those in the public office serve the highest degree of responsibility, integrity, loyalty, and efficiency and act in accordance with the tenets of the Constitution.[127]

FOR THESE REASONS, the Petition for Review on Certiorari is DENIED. The Sandiganbayan's April 29, 2013 Decision and August 28, 2013 Resolution in Criminal Case Nos. 27467-27468 are AFFIRMED with MODIFICATIONS.

Petitioner Joseph Cedrick O. Ruiz is found GUILTY beyond reasonable doubt for violation of Section 3(e) of Republic Act No. 3019, and is sentenced to suffer the indeterminate penalty of six years and one day, as minimum, to eight years, as maximum, with perpetual disqualification to hold any position in public office.

Petitioner Joseph Cedrick O. Ruiz is also found GUILTY beyond reasonable doubt of Malversation of Public Funds under Article 217 of the Revised Penal Code and is sentenced to suffer the indeterminate penalty of six years of prision correccional in its maximum period, as minimum, to eight years and eight months of prision

mayor in its medium period, as maximum, and the accessory penalty of perpetual special disqualification to hold any position in public office. Petitioner is likewise ordered to pay a fine of PHP 950,000.00 which is equal to the amount of the misappropriated funds, which shall earn interest at the rate of 6% per annum from the date of finality of this Decision until fully paid.

SO ORDERED.

Lazaro, Javier,[*] Zalameda, Rosario, and Marquez, JJ., concur.

[*] Designated additional Member per Raffle dated June 22, 2022 vice Chief Justice Alexander G. Gesmundo who inhibited due to prior action in the Sandiganbayan.

[1] Rollo, pp. 15-115.

[2] Id. at 116-142. The April 29, 2013 Decision in Criminal Case Nos. 27467-27468 was penned by Associate Justice Efren N. De La Cruz, and concurred in by Associate Justices Rodolfo A. Ponferrada and Rafael R. Lagos of the First Division, Sandiganbayan, Quezon City.

[3] Anti-Graft and Corrupt Practices Act (1960).

[4] Rollo, pp. 143-151. The August 28, 2013 Resolution in Criminal Case Nos. 27467-27468 was penned by Associate Justice Efren N. De La Cruz, and concurred in by Associate Justices Rodolfo A. Ponferrada and Rafael R. Lagos of the First Division, Sandiganbayan, Quezon City.

[5] SBN records, vol. 1, pp. 271-273.

[6] Id. at 271-272.

[7] Id. at 274-276.

[8] Id. at 274-275.

[9] Rollo, p. 118.

[10] Id.

[11] Id. at 126.

[12] SBN records, vol. 2, pp. 309-315. The Resolution dated July 22, 2019 was penned by Chairperson Norberto Y. Geraldez, and concurred in by Associate Justice Rodolfo A. Ponferrada and now Supreme Court Chief Justice Alexander G. Gesmundo.

[13] Id. at 320-337.

[14] Id. at 378-380

[15] Rollo, pp. 119-125.

[16] Id. at 126.

[17] Id. at 122-123.

[18] SBN records, vol. 2, p. 210.

[19] Id. at 209.

- [20] Id. at 212.
- [21] Rollo, pp. 123-124.
- [22] Id. at 124.
- [23] Id.
- [24] Id. at 119-120.
- [25] SBN records, vol. 3, p. 211.
- [26] Id. at 210.
- [27] Rollo, p. 120.
- [28] Id. at 209.
- [29] Id. at 120.
- [30] Id. at 120-121.
- [31] Id. at 121-122.
- [32] Id. at 124-125.
- [33] SBN records, vol. 2, pp. 410-412.
- [34] Id. at 443-447.
- [35] Rollo, pp. 126-128.
- [36] Id. at 129.
- [37] Id.
- [38] Id.
- [39] Id. at 129-130.
- [40] Id. at 130.
- [41] Id. at 125-130.
- [42] Id. at 130-131.
- [43] Id. at 125-126.
- [44] Id. at 116-142.
- [45] Id. at 140-141.
- [46] Id. at 132-133.
- [47] Id. at 136.
- [48] Id. at 136-137.
- [49] Id. at 137.
- [50] Id. at 139-140.

[51] Id.

[52] Id. at 138-139.

[53] SBN records, vol. 3, pp. 262-299.

[54] Id.

[55] Id. at 306-313.

[56] Id. at 314.

[57] Id. at 316.

[58] Id. at 317-334.

[59] Rollo, pp. 143-151.

[60] Id. at 32.

[61] 780 Phil. 133 (2016) [Per Curiam, En Banc].

[62] Rollo, pp. 33-107.

[63] See *Jaca v. People*, 702 Phil. 210, 238 (2013) [Per J. Brion, Second Division].

[64] 721 Phil. 760 (2013) [Per J. Brion, Second Division].

[65] Id. at 767.

[66] CONST., art. XI, sect. 4; CONST. (1973), as amended, art. XIII, sec. 5. See also *Villanueva v. People*, G.R. No. 218652, February 23, 2022 [Per J. Hernando, Second Division].

[67] An Act Further Defining the Jurisdiction of the Sandiganbayan, Amending for the Purpose Presidential Decree No. 1606, As Amended, Providing Funds Therefor, and for Other Purposes. (1997).

[68] Id.

[69] *Revilla, Jr. v. Sandiganbayan* (First Division), 837 Phil. 17, 53 (2018) [Per J. Carpio, En Banc].

[70] *Villanueva v. People*, G.R. No. 218652, February 23, 2022 [Per J. Hernando, Second Division].

[71] *Revilla, Jr. v. Sandiganbayan* (First Division), 837 Phil. 17, 53-54 (2018) [Per J. Carpio, En Banc].

[72] *Tayaban v. People*, 546 Phil. 316, 337 (2007) [Per J. Austria-Martinez, Third Division].

[73] Id.

[74] 618 Phil. 1 (2009) [Per J. Brion, Second Division].

[75] Id. at 8-9.

[76] Id. at 9.

[77] TSN, Pepe E. Nortal, December 10, 2007, p. 9-10; TSN, Pepe E. Nortal, January 25, 2008, p. 9.

[78] TSN, Pepe E. Nortal, December 10, 2007, p. 9-10; TSN, Pepe E. Nortal, January 25, 2008, p. 10.

[79] Rollo, p. 135.

[80] LOCAL GOV'T. CODE.**[81] AUDIT CODE.**

[82] Restatement with amendments of the rules and regulations on the granting, utilization and liquidation of cash advances provided for under COA Circular No. 90-331 dated May 3, 1990.

[83] Restatement with Amendments of COA Issuances on the Audit of Intelligence and/or Confidential Funds.

[84] *Id.* at Item II, no. 6.

[85] SBN records, vol. 2, p. 262.

[86] *Id.*

[87] SBN records, vol. 2, p. 262; TSN, Leonilo A. Morales, October 15, 2008, p. 38.

[88] *Medina v. People*, 760 Phil. 729, 740 (2015) [Per J. Peralta, Third Division].

[89] *People v. Albarido*, 420 Phil. 235, 244 (2001) [Per J. Sandoval-Gutierrez, Third Division].

[90] *Id.*

[91] *Id.* at 244-245.

[92] *Sison v. People*, 628 Phil. 573, 583 (2010) [Per J. Corona, Third Division].

[93] *Fonacier v. Sandiganbayan*, 308 Phil. 660, 693 (1994) [Per J. Vitug, En Banc].

[94] *Id.* at 694. See also *People v. Bacaltos*, 878 Phil. 591, 612 (2020) [Per J. Lazaro-Javier, First Division].

[95] 308 Phil. 660, 693 (1994) [Per J. Vitug, En Banc].

[96] *Id.* at 693-694.

[97] 730 Phil. 521 (2014) [Per J. Carpio, Second Division].

[98] *Id.* at 542, citing *Reyes v. People*, 641 Phil. 91, 107 (2010) [Per J. Bersamin, Third Division], citing further *Fonacier v. Sandiganbayan*, 308 Phil. 660, 693 (1994) [Per J. Vitug, En Banc].

[99] An Act Adjusting the Amount or the Value of Property and Damage on Which a Penalty is Based and the Fines Imposed Under the Revised Penal Code, Amending for the Purpose Act No. 3815, Otherwise Known as The Revised Penal Code, as Amended (2017).

[100] *Corpuz v. People*, 873 Phil. 601, 612 (2020) [Per J. Reyes, J., Jr., First Division]; *Pondevida v. Sandiganbayan*, 504 Phil. 489, 507 (2005) [Per J. Callejo, Sr., Second Division].

[101] *Id.* See also *Manuel v. Sandiganbayan*, 681 Phil. 273, 292 (2012) [Per J. Mendoza, First Division].

[102] REV. PEN. CODE, Article 203; See *Corpuz v. People*, 873 Phil. 601, 613 (2020) [Per J. Reyes, J., Jr., First Division].

[103] *Zoleta v. Sandiganbayan*, 765 Phil. 39, 54 (2015) [Per J. Brion, Second Division].

[104] *People v. Pantaleon, Jr.*, 600 Phil. 186, 209 (2009) [Per J. Brion, Second Division].

[105] *Id.* at 210.

[106] See *People v. Quinto*, 873 Phil. 679, 690 (2020) [Per J. Reyes, J., Jr., First Division].

[107] *Id.*

[108] *People v. Barde*, 645 Phil. 434, 457 (2010) [Per J. Perez, First Division], citing *People v. Berdin*, 462 Phil. 290, 304 (2003) [Per J. Sandoval-Gutierrez, En Banc].

[109] See *People v. Dejillo*, 700 Phil. 643, 662 (2012) [Per J. Leonardo-De Castro, First Division].

[110] *Medina v. People*, 760 Phil. 729, 739 (2015) [Per J. Peralta, Third Division].

[111] *Id.* at 740.

[112] *Venezuela v. People*, 826 Phil. 11, 28 (2018) [Per J. Reyes, Jr., Second Division].

[113] *Id.*

[114] *Id.*

[115] RULES OF COURT, RULE 121, Sec. 1.

[116] *Baylosis, Sr. v. People*, 556 Phil. 684, 689 (2007) [Per J. Velasco, Jr., Second Division], citing *Custodio v. Sandiganbayan*, 493 Phil. 194, 203-204 (2005) [Per J. Puno, En Banc].

[117] *Id.* at 690.

[118] *Id.*

[119] SBN records, vol. 3, p. 314.

[120] *Id.* at 316.

[121] *Id.* at 317-334.

[122] *Fuentes v. People*, 808 Phil. 586, 597 (2017) [Per J. Perlas-Bernabe, First Division].

[123] See *Sarion v. People*, 899 Phil. 346 (2021) [Per J. Gaerlan, First Division]. See also *Corpuz v. People*, 873 Phil. 601, 620 (2020) [Per J. Reyes, J., Jr., First Division], citing *Venezuela v. People*, 826 Phil. 11, 32 (2018) [Per J. Reyes, Jr., Second Division].

[124] *Villanueva v. People*, G.R. No. 218652, February 23, 2022 [Per J. Hernando, Second Division].

[125] *City Mayor of Zamboanga v. Court of Appeals*, 261 Phil. 936, 938 (1990) [Per J. Gancayco, First Division].

[126] *Duque III v. Veloso*, 688 Phil. 318, 323 (2012) [Per J. Brion, En Banc], citing *Dumduma v. Civil Service Commission*, 674 Phil. 257, 271 (2011) [Per Curiam, En Banc].

[127] *City Mayor of Zamboanga v. Court of Appeals*, 261 Phil. 936, 938 (1990) [Per J. Gancayco, First Division].

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