# SECOND DIVISION

# [ G.R. No. 271698. December 01, 2025 ]

## ELIZALDE G. GABALEÑO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

## D E C I S I O N

**LAZARO-JAVIER, J.:**

### The Case

This Petition for Review on *Certiorari*[1] assails the Decision[2] dated November 23, 2023 and Resolution[3] dated January 29, 2024 of the Sandiganbayan in Criminal Case Nos. SB-23-A/R-0021.

### Antecedents

On September 15, 2008, petitioner Elizalde B. Gabaleño (Gabaleño), assistant municipal treasurer designated as officer-in-charge (OIC) of the Office of the Treasurer of the Municipality of Pagsanjan, Laguna, was charged with malversation of public funds defined and penalized under Article 217 of the Revised Penal Code, viz.:[4]

> That on June 15, 2005 and for sometime prior or subsequent thereto, in Pagsanjan, Laguna, Philippines, and within the jurisdiction of this Honorable Court, the said accused, an employee of the Municipal Government of Pagsanjan, Laguna, and acting as Officer-in-Charge of the Municipal Treasury of Pagsanjan, Laguna, and as such accountable for the public funds collected, received and entrusted to him by reason of his position, with grave abuse of confidence and taking advantage of his position as such, did then and there willfully, unlawfully[,] and feloniously misappropriate, embezzle and convert to his own personal use and benefit from said public funds, the total amount of Four Hundred Eighty Three Thousand Five Hundred Twenty Nine Pesos and 31/100 (P483,529.31) and despite repeated demands for the return of said amount, accused failed to do so, to the damage and prejudice of the government in the aforestated amount.[5]

On arraignment, Gabaleño pleaded not guilty.[6] Trial ensued. The prosecution presented two witnesses: Commission on Audit (COA) State Auditors Rebecca Ciriaco

(Ciriaco) and Nora Federizo (Federizo); while the sole witness for the defense was Gabaleño.[7]

***Version of the Prosecution***

Pursuant to Audit Assignment Order No. 2004-029 dated August 18, 2004, a COA auditing team consisting of State Auditors Ciriaco, Federizo, and Lorna Paraiso (Paraiso) was created to audit four municipalities, including Pagsanjan, Laguna. On June 15, 2005, they conducted a cash and account examination of Gabaleño covering the period from November 23, 2004 to June 15, 2005. After applying all the necessary audit procedure and making use of all available financial records in the office, they found Gabaleño short of cash from various accounts in the total amount of PHP 483,529.31.[8]

On June 21, 2005, State Auditor Ciriaco sent a demand letter to Gabaleño to restitute the amount of shortage and to explain how the shortage occurred, but no restitution was made. Instead, Gabaleño explained through his letter that the vouchers were in process and the *vales* (cash advances) would be deducted in the payroll to cover the shortages, which will be deposited as soon as possible. The COA audit team responded in its letter that Gabaleño's explanation was not acceptable and he should settle the shortage to avoid possible filing of a malversation case.[9]

There being no restitution made of the cash shortage, the team submitted a Final Report to the COA Regional Office, which was later forwarded, together with the Joint Affidavit and supporting documents, to the Office of the Ombudsman for Luzon, recommending the filing of administrative and criminal charges against Gabaleño.[10]

***Version of the Defense***

While Gabaleño denied that he failed to return PHP 483,529.31, he admitted, however, that he only failed to return PHP 290,000.00, more or less, and that he did not steal or use the money of the municipality for his own benefit.[11]

Gabaleño alleged that on March 5, 2005, he failed to deposit the amount at Landbank of the Philippines (LBP) Santa Cruz, Laguna branch, because while he was riding a jeepney, two men embarked and threatened him with a gun. They brought him to an unidentified place where they hit him and took the money from him.[12]

Gabaleño did not report the incident to the police out of fear of retaliation nor report the matter to his office because he suspected that the men behind the incident had cohorts in his office. He only informed his officemates only after a month from the incident. Thereafter, he resigned from his work to replace the lost money with his separation benefits. Considering that the separation benefits were not released, he was not able to return the cash shortage.[13]

Gabaleño admitted that he has no documentary proof of the robbery incident as it was never recorded in any blotter book on any police station.[14]

**Ruling of the Regional Trial Court**

By its assailed Judgment[15] dated December 16, 2021, Gabaleño was found guilty beyond reasonable doubt of the crime as charged, viz.:

> **WHEREFORE**, premises considered, judgment is hereby rendered finding the accused **ELIZALDE G. GABALEÑO GUILTY BEYOND REASONABLE DOUBT OF MALVERSATION** defined and penalized under Article 217 of the Revised Penal Code, as amended, and he is hereby sentenced to suffer the indeterminate penalty of imprisonment ranging from four (4) years, nine (9) months[,] and eleven (11) days of *prision correccional*, as minimum, to seven (7) years, four (4) months and one (1) day of prision mayor, as maximum. In addition, Gabale[ñ]o is hereby ordered to pay a fine of [PHP] 483,529.31, with legal interest of six percent (6%) per annum, reckoned from the finality of this Judgment until full satisfaction. Gabale[ñ]o shall also suffer the penalty of perpetual special disqualification from holding any public office.
>
> SO ORDERED.[16] (Emphasis in the original)

**Proceedings before the Sandiganbayan**

Pleading for his acquittal, Gabaleño argued that the trial court erred in convicting him of malversation of public funds despite the lack of evidence that: (1) the amount involved are public funds; and (2) he received the funds subject of this case. In fact, there was insufficient evidence to prove his guilt beyond reasonable doubt. He asserted that the prosecution failed to prove that there were indeed such amounts existing under the General Fund, Special Education Fund, and Trust Fund in the total amount of PHP 483,529.31, thus putting in doubt the veracity of the COA audit reports.[17]

The People, represented by the Office of the Ombudsman through the Office of the Special Prosecutor, argued that it was not disputed that Gabaleño was a public officer at the time material to this case. As OIC of the Municipal Treasurer's Office, he was accountable for his collections, including the cash shortage in the amount of PHP 483,529.31 which he failed to return upon demand and without justifiable reason when asked to explain. For such failure, the *prima facie* presumption that public funds were put to his personal use applies, which he failed to rebut and overturn.[18]

**Ruling of the Sandiganbayan**

By its Decision[19] dated November 23, 2023, the Sandiganbayan affirmed in full the Decision of the trial court that all the elements of malversation of public funds are present.

As OIC of the Municipal Treasurer's Office, Gabaleño cannot escape public accountability by invoking such flimsy argument that the missing funds are not public funds. Records show that the shortage was based on official receipts which were recorded in the cash book, and his remittance in LBP were verified.[20]

Too, Gabaleño's explanation that the cash shortage was due to the *vales* of the employees and the incident that he was allegedly held-up by two men on his way to LBP does not overcome the presumption that he has put the audited cash shortage to personal use. Aside from being self-serving, no evidence was presented to substantiate his explanation. As an accountable public officer, prudence dictates that he should have reported the matter immediately to the Municipal Treasurer's Office and to the COA state auditors on the date of examination of his cash and accounts, or during the time he was asked to explain the audited cash shortage, which he failed to do.[21]

Further, Gabaleño's commitment to gradually pay the remainder of the missing funds is a clear offer of compromise which must be treated as an implied admission of his guilt that he converted the missing funds to his personal use.[22]

By its Resolution[23] dated January 29, 2024, the Sandiganbayan denied Gabaleño's Motion for Reconsideration.

**The Present Petition**

Gabaleño filed the present Petition, claiming that: (1) the mere reports of the state auditors alleging the existence of shortage in such amount in the General Fund, Special Education Fund, and Trust Fund of the municipality did not establish his guilt for failure of the state auditors to present all the official receipts, cashbook, and remittance records from LBP; (2) the total amounts for General Fund, Special Education Fund, and Trust Fund were not accurately reported such that it cannot be determined whether there had been shortages incurred; (3) there was no shortage as to his cash accountability; (4) the computation was haphazardly conducted only on a single day. This left the audit examination much to be desired in terms of thoroughness, completeness, and reliability. Even granting that there was a shortage of funds, the conversion must still be proved; (5) there was no direct evidence or proof that he put public funds to personal use.[24]

The People failed to file their comment on the Petition despite its receipt of the Resolution[25] dated July 16, 2025 directing them to do so within a non-extendible period of 10 days from notice. Hence, it is deemed to have waived its filing.

**Our Ruling**

Notably, a petition for review on *certiorari* is narrowly confined to any of these two grounds, i.e., (1) when the court a *quo* has decided a question of substance, not theretofore determined by the Supreme Court, or has decided it in a way probably not in accord with law or with the applicable decisions of the Supreme Court; or (2) when the court a *quo* has so far departed from the accepted and usual course of judicial

proceedings, or so far sanctioned such departure by a lower court, as to call for an exercise of the power of supervision.[26] Absent any of these grounds cited or shown in the petition, there is no special reason to warrant the exercise of the Court's discretionary appellate jurisdiction as here.

Additionally, the Petition raises pure factual issues which the Court, not being a trier of facts, will not take cognizance of under Rule 45 petitions.

In any case, the Court finds that there is no reversible error on the part of the Sandiganbayan in affirming the conviction by the trial court.

To convict an accused of the crime of malversation, the prosecution must prove the following elements beyond reasonable doubt: (1) that the offender is a public officer; (2) that the offender had custody or control of funds or property by reason of the duties of his/her office; (3) that those funds or property were public funds or property for which the offender was accountable; and (4) that the offender appropriated, took, misappropriated or consented or, through abandonment or negligence, permitted another person to take them.[27]

In the crime of malversation, all that is necessary for conviction is proof that the accountable officer had received the public funds and that such officer failed to account for the said funds upon demand without offering a justifiable explanation for the shortage. Direct evidence of personal misappropriation by the accused is hardly necessary as long as the accused cannot explain satisfactorily the shortage in their accounts.[28]

Here, the prosecution was able to establish all the foregoing elements. *First*, it was not disputed that Gabaleño was a public officer. He was the assistant municipal treasurer designated as OIC of the Office of the Treasurer of the Municipality of Pagsanjan, Laguna. *Second*, as OIC of the Municipal Treasurer's Office, he had custody and control of the funds that he received and is thus an accountable officer. *Third*, the funds that he was made accountable by reason of his duties were public in nature considering such were funds of the Municipality of Pagsanjan, Laguna. *Fourth*, when directed to explain the shortages shown by the audit results conducted by the COA, he failed to provide sufficient explanation.

**ACCORDINGLY**, the Petition for Review on *Certiorari* is **DISMISSED**. The Decision dated November 23, 2023 and Resolution dated January 29, 2024 of the Sandiganbayan in Criminal Case Nos. SB-23-A/R-0021 are **AFFIRMED in full**.

Elizalde G. Gabaleño is hereby found **GUILTY** beyond reasonable doubt of malversation defined and penalized under Article 217 of the Revised Penal Code, as amended; and he is hereby sentenced to suffer the indeterminate penalty of imprisonment ranging from four years, nine months, and 11 days of *prision correccional*, as minimum, to seven years, four months and one day of *prision mayor*, as maximum. In addition, Elizalde G. Gabaleño is hereby ordered to **PAY** a fine of PHP 483,529.31, with legal interest of 6% per annum, reckoned from the finality of this

Decision until full satisfaction. Elizalde G. Gabaleño shall also suffer the penalty of perpetual special disqualification from holding any public office.

**SO ORDERED.**

*Leonen, SAJ. (Chairperson), Lopez*, and *Villanueva, JJ.*, concur.
*Kho, Jr.,*[*] *J.*, on official business.

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[*] On official business.

[1] *Rollo*, pp. 11-35.

[2] *Id.* at 40-56. Penned by Associate Justice Rafael R. Lagos and concurred in by Associate Justices Maria Theresa V. Mendoza-Arcega and Mary Ann C. Corpus-Mañalac as certified by Presiding Justice Amparo M. Cabotaje-Tang, Fifth Division, Sandiganbayan, Quezon City.

[3] *Id.* at 59-64. Penned by Associate Justice Rafael R. Lagos and concurred in by Associate Justices Maria Theresa V. Mendoza-Arcega and Mary Ann E. Corpus-Mañalac, Fifth Division, Sandiganbayan, Quezon City.

[4] *Id.* at 86.

[5] *Id.*

[6] *Id.* at 42.

[7] *Id.*

[8] *Id.* at 87.

[9] *Id.* at 43.

[10] *Id.* at 43-44.

[11] *Id.* at 47.

[12] *Id.*

[13] *Id.*

[14] *Id.*

[15] *Id.* at 86-93. Penned by Presiding Judge Iluminado M. Dela Peña, Branch 28, Regional Trial Court, Santa Cruz, Laguna.

[16] *Id.* at 92-93.

[17] *Id.* at 48-49.

[18] *Id.* at 49.

[19] *Id.* at 40-56.

[20] *Id.* at 53.

[21] *Id.* at 54.

[22] *Id.* at 55.

[23] *Id.* at 59-64.

[24] *Id.* at 13-16.

[25] *Id.* at 242.

[26] RULES OF COURT, Rule 45, sec. 6.

[27] **Tioxon v. People, G.R. No. 260087**, March 6, 2023 [Notice, Second Division].

[28] *Id.*

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