



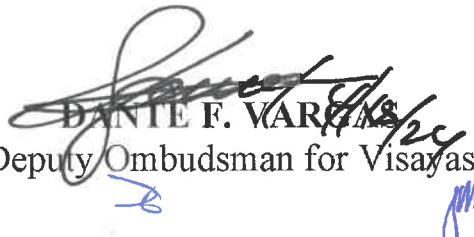
Republic of the Philippines
OFFICE OF THE OMBUDSMAN
Area Office for the Visayas
M. Velez Street, Guadalupe, Cebu City 6000

Item No.: 01
Date: 19 2024 JUN

INDORSEMENT
IC-OV-APR-24-0204
Cebu City

APR 16 2024

Respectfully forwarded to **HONORABLE LEONARDO M. JAVIER JR.**, Provincial Vice Governor/Presiding Officer, Office of the Sangguniang Panlalawigan, Province of Leyte, Tacloban City, **for appropriate action**, the attached complaint of **LEAH O. EMPLEO**, Barangay Tugbong, Kananga, Leyte, ET AL., against **MIGUEL JORGE P. TAN**, Municipal Vice Mayor, Municipality of Kananga, Leyte, ET AL., with the request that the Honorable Provincial Vice Governor/Presiding Officer or an authorized representative please acknowledge receipt hereof and promptly notify this Office and the concerned parties of the action taken on the matter.

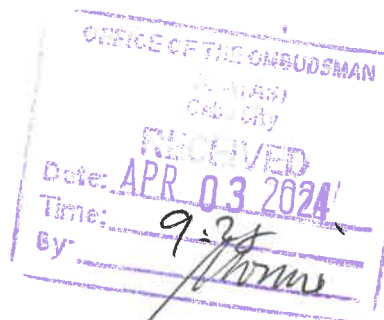

DANTE F. VARGAS
Deputy Ombudsman for Visayas

Cc:
LEAH O. EMPLEO, ET AL.
Barangay Tugbong, Kananga
6531 Leyte

IC-0V- App-24-0204



REPUBLIC OF THE PHILIPPINES
OFFICE OF THE OMBUDSMAN
VISAYAS
M. Velez St., Guadalupe
Cebu City



LEAH O. EMPLEO,
EMERITA P. LACNO and
JERRY P. EMPLEO,
Complainants,

OMB: _____

-versus-

For: Abuse of Authority
under Sec. 60, par. 1 (e)
of RA No. 7160

MIGUEL JORGE P. TAN,
in his capacity as Vice-
Mayor;
FERNANDO M. ASEO,
ALMA N. ORFANO,
RICHIE C. CRUZ,
BRENZON C.
CABINTOY, RUDY B.
COGAY, ALLAN C.
ESPINOSA, MARY
DANIELA L. CUBERO,
RESURRECCION C.
CAPANAS, MINERVA M.
BULAWIT and
VICTORIANO L. GLOBALA,
in their capacity as SB
Members;

Respondents.

X-----X

VERIFIED COMPLAINT

That complainant Leah O. Empleo is the incumbent Punong Barangay of Brgy. Tugbong, Kananga, Leyte; Emerita P. Lacno and Jerry P. Empleo are incumbent Sangguniang Barangay Members of Brgy. Tugbong, Kananga, Leyte. All of them are now under preventive suspension. Complainants may be served with summons and processes of this Honorable Office on the address abovementioned.

Respondent Miguel Jorge P. Tan is the incumbent Municipal Vice Mayor and Presiding Officer of the

Sangguniang Bayan of the Municipality of Kananga, Leyte and in which he may be served with summons and processes of this Honorable Office on the Office of the Municipal Vice Mayor, Kananga, Leyte.

Respondents Fernando M. Aseo, Alma N. Orfano, Richie C. Cruz, Brenzon C. Cabintoy, Rudy B. Cogay, Allan C. Espinosa, Resurreccion C. Capanas, Minerva M. Bulawit are incumbent Sangguniang Bayan Members of the Municipality of Kananga, Leyte; and Victoriano L. Globa (Liga ng mga Barangay President) and Mary Daniela L. Cubero (Pambayang Pederasyon Ng Sangguniang Kabataan President) are Ex-officio member of the Sangguniang Bayan of Kananga, Leyte. All the Sangguniang Members as well as the ex-officio members may be served with summons and processes of this Honorable Office on the Office of the Sangguniang bayan of Kananga, Leyte.

That both parties have the capacity to sue and be sued;

STATEMENT OF FACTS

That on December 7, 2023, a complaint was filed by Sabeniano Bignay (Mr. Bignay) before the Office of the Sangguniang Bayan of the Municipality of Kananga, Leyte against herein complainants Leah O. Empleo, Emerita P. Lacno and Jerry P. Empleo for Dishonesty, Oppression, Misconduct in Office, Gross Negligence, Dereliction of Duty, Abuse of Authority under Sec. 1, Rule IV of the 2021 Rules of Procedure of the Sangguniang Bayan of the Municipality of Kananga, Province of Leyte¹, Philippines; Violation of Republic Act No. 3019 (Anti-Graft and Corrupt Practices Act), and R.A. 6713 (Code of Conduct and Ethical Standards for Public Officials and Employees). The said administrative case is still pending before the Office of the Sangguniang Bayang of Kananga and docketed as case no. K-AMD-2023-002. Copy of the complaint is attached herein and marked as EXHIBIT "B".

On January 2, 2024, a formal entry of appearance as counsel for the respondents with attached verified answer was filed. Attached herein is a copy of the answer and marked as EXHIBIT "C".

¹ EXHIBIT "A"

Complainant in the case filed before the Sangguniang Bayan of Kananga, through his counsel orally filed a motion to place respondents under preventive suspension. Respondents then filed a Comment on the said oral motion. Copy of the said comment is herein attached as EXHIBIT "D".

Subsequently, Resolution No. 02 dated February 12, 2024, granting the oral motion filed by complainant to place respondents under preventive suspension was issued by the Sangguniang Bayan of Kananga. Moreover, members of the Sangguniang Bayan of Kananga adopted and approved Resolution no. 23R.24-552, series of 2024 thereby adopting Resolution No. 02 thereby recommending to the Honorable Mayor Maniel Vicente M. Torres to place respondents Leah O. Empleo, Emerita P. Lacno and Jerry P. Empleo under preventive suspension for a period of sixty (60) days, which shall take effect prior to the hearing on the reception of evidence on March 1, 2024. A copy of Resolution No. 02 and Resolution no. 23R.24-552, series of 2024 are herein attached and marked as EXHIBITS "E" and "F", respectively.

A Preventive Suspension Order was the issued on February 26, 2024 by Municipal Mayor Manuel Vicente M. Torres. Attached herein is a copy of the preventive suspension and marked as EXHIBIT "G".

Complainants in this case Leah O. Empleo, Emerita P. Lacno and Jerry P. Empleo filed an Appeal Memorandum before the Office of the Provincial Governor, Province of Leyte on March 8, 2024. Attached herein as EXHIBIT "H".

LIST OF DOCUMENTARY EXHIBITS

- A. Resolution no. 22R.21-576, series of 2021 or 2021 Rules of Procedure of the Sangguniang Bayan of the Municipality of Kananga, Province of Leyte
- B. Complaint filed by Sabeniano Bignay dated December 7, 2023
- C. Formal Entry of Appearance as counsel for the respondents with attached verified answer dated January 2, 2024
- D. Comment (to the oral motion of complainant to subject respondents to preventive suspension) dated January 30, 2024
- E. Resolution No. 02 dated February 12, 2024

- F. Resolution No. 23R.24-552 dated February 26, 2024
- G. Preventive Suspension Order dated February 26, 2024
- H. Appeal Memorandum before the Office of the Provincial Governor, Province of Leyte on March 8, 2024
- I. Review Resolution on the Motion for Reconsideration dated February 28, 2024

CAUSE OF ACTION

- **Abuse of Authority under Sec. 60, par. 1 (e) of RA no. 7160**

Sec. 60 of RA no. 7160 provides, to wit:

Section 60. Grounds for Disciplinary Actions. - An elective local official may be disciplined, suspended, or removed from office on any of the following grounds:

xxx

(e) Abuse of authority;

xxx

An elective local official may be removed from office on the grounds enumerated above by order of the proper court.

Moreover, Section 63 (a) (3) of RA 7160 also provides:

Section 63. Preventive Suspension.-

(a) Preventive suspension may be imposed:
xxx

(3) By the mayor, if the respondent is an elective official of the barangay.

Further, same section also provides, to wit:

xxx

- (b) Preventive suspension may be imposed at any time after the issues are joined, when the evidence of guilt is strong, and given the gravity of the offense, there is great probability that the continuance in office of the respondent could influence the witnesses or pose a threat to the safety and integrity of the records and other evidence: Provided, That, any single preventive suspension of local elective officials shall not extend beyond sixty (60) days: Provided, further, That in the event that several administrative cases are filed against an elective official, he cannot be preventively suspended for more than ninety (90) days within a single year on the same ground or grounds existing and known at the time of the first suspension.
- (c) xxx
- (d) **Any abuse of the exercise of the power of preventive suspension shall be penalized as abuse of authority.** (Emphasis ours)

In the case of *Espiritu vs. Melgar*², the Supreme Court held that:

“Clearly, the provincial governor of Oriental Mindoro is authorized by law to preventively suspend the municipal mayor of Naujan at anytime after the issues had been joined and any of the following grounds were shown to exist:

1. When there is reasonable ground to believe that the respondent has committed the act or acts complained of;
2. When the evidence of culpability is strong;
3. When the gravity of the offense so warrants; or
4. When the continuance in office of the

² G.R no. 100874, February 13, 1992

respondent could influence the witnesses or pose a threat to the safety and integrity of the records and other evidence."

In Resolution No. 23R.24-552, series of 2024 adopting Resolution no. 02 of the Ad Hoc Committee which is created for the sole purpose of hearing case no. K-ADM-2023-002, all members of the Ad Hoc Committee found out the existence of three (3) grounds, namely: 1. There is reasonable ground to believe that the respondent has committed the act or acts complained of, 2. The evidence of culpability is strong, and, 3. The continuance in office of the respondent could influence the witness or pose a threat to the safety and integrity of the records and other evidence.

In the instant case, the Office of the Sangguniang Barangay of barangay Tugbong clearly made a request for a Barangay Relocation Site and that the same was acted upon by the Sangguniang Bayan of Kananga under a valid ordinance, among others and such other documents relative to the valid purchase of the subject property up to the implementation of the same. Documents relative thereto are attached to the complaint and answer which are attached in this complaint.

Complainants in this case cannot be faulted upon and commit the acts complained of on the ground that their request to acquire the land subject of the deed of donation was for the intended purpose of barangay relocation site. Moreover, complainants relied in good faith that the acquisition up to the execution of the Deed of donation was regularly prepared, considering that it was prepared and notarized by a lawyer. Hence, there is no reasonable ground to believe that herein complainants had committed the acts complained of.

In addition, the evidences presented by the prosecution are not strong as to implicate herein complainants of the subject deed of donation entered into by then Mayor Rowena Codilla and Leah Empleo in behalf of BLGU-Tugbong, Kananga, Leyte, the latter merely relied on the regularity of the transaction as it was authorized by the LGU of Kananga and BLGU-Tugbong. Clearly, the deed of donation executed by LGU-Kananga through then Mayor Rowena Codilla clearly

provides that the said subject property is for Barangay relocation site. Considering that the language of the deed of donation was clear and made and prepared by the LGU-Kananga, the same was valid and bank upon by Leah O. Empleo. Moreover, complainants Emerita P. Lacno and Jerry P. Empleo were not parties to the deed of donation. Undoubtedly, evidence of culpability on the part of complainants is not strong. In fact, complainants did not commit any offense to begin with.

Lastly, complaints in this case' continuance in their office could not influence the witnesses or pose a threat to the safety and integrity of the records and other evidence. The witnesses of complainant are employees of the LGU-Kananga who are occupying high positions in the government and cannot be subject to any influence, either directly or indirectly by herein complainants who are mere officials of barangay Tugbong. Also, the records and other evidences of the instant case are actually in the possession of the Sangguniang Bayan and offices under the LGU-Kananga since the transactions were entered into by the LGU-Kananga themselves.

Although Section 2, Rule V of the Rules of Procedure in Administrative Cases of the Sangguniang Bayan of Kananga provides, to wit:

"It shall then be ministerial on the part of the mayor to issue an order to impose a preventive suspension of the respondent once recommended by the Sanggunian."

However, the same is not absolute especially in cases where it becomes imperative in the higher interest of justice especially when the facts of the case are clear. Like in the instant case, all the grounds for the imposition of preventive suspension are absent.

Given the foregoing, all the elements that would justify the preventive suspension of complainants are absent.

Also, complainants in this instant case are charged with illegal use of Public funds of Property (Violation of Article 220 of the Revised Penal Code filed by the Municipality of Kananga, Leyte represented by Mayor Vicente M. Torres.

The said case was dismissed for lack of probable cause before the Office of the Provincial Prosecutor, Province of Leyte. The Review Resolution on the Motion for Reconsideration³ provides, among others, to quote:

"xxx The undersigned thinks otherwise and is not convinced that herein respondents committed the crime they are accused of.

First and foremost, the Deed of Donation executed by respondent former Mayor Rowena Codilla states that the property is to be used exclusively for barangay relocation site/expansion of built-up area for its residents. Said statement is in accordance with the request of the Barangay LGU of Brgy. Tugbong as they clearly indicated in their resolution that they wanted the property as a Barangay relocation site. Likewise, Resolution No. 21R.18-523, series of 2018 passed by Sangguniang Bayan of Kananga, Leyte, granted authority to respondent former Mayor Rowena Codilla to purchase property intended for the Barangay Site of Barangay Tugbong, Kananga, Leyte. They likewise included in one of their "whereas" clauses that the reason for the purchase of the property is because of the increasing population of the locality of Brgy. Tugbong giving rise to an increase in the demand for delivery of basic services as well as bigger area for government facilities. Clearly, a Barangay Relocation Site is included in the basic necessities of the barangay and is also considered a government facility.

Respondents therefore simply used the property in accordance with the purpose for which the appropriation was made and requested and therefore cannot be faulted and made criminally liable as they never used or misused the property.

WHEREFORE, foregoing premised
condiered, the instant Motion for

³ EXHIBIT "I"

Reconsideration is granted and the cases against herein respondents are DISMISSED for lack of probable cause."

Clearly, the administrative case filed against herein complainants was motivated by partisan political considerations not favourable to them. The power to suspend preventively a local elective official could be prone to abuse, hence, frustrating the will of the electorate. The preventive suspension imposed by the Sangguniang Bayan and which is adopted and executed by the Municipal Mayor of Kananga, Leyte, despite the absence of any of the elements therein is clearly an abuse of authority under Sec. 60, par. 1 (e) of RA No. 7160.

PRAYER

WHEREFORE, premises considered, it is most respectfully prayed unto this Honorable Office that after due notice and hearing, respondents be adjudged administratively liable for Abuse of Authority under Sec. 60, par. 1 (e) of RA No. 7160.

Other reliefs and remedies consistent with law, justice and equity are likewise prayed for.

Ormoc, Leyte for Cebu City, Philippines, March, 22 2024.

Respectfully submitted.


LEAH O. EMPLEO
Complainant


EMERITA P. LACNO
Complainant


JERRY P. EMPLEO
Complainant

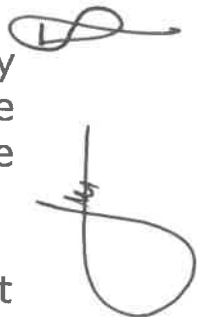
Republic of the Philippines)
City of Ormoc)S.S.
X -----//

VERIFICATION AND CERTIFICATION OF NON-FORUM SHOPPING


WE, **LEAH O. EMPLEO, EMERITA P. LACNO and JERRY P. EMPLEO**, all of legal age, Filipino citizens and residents of Brgy. Tugbong, Municipality of Kananga, Leyte, Philippines, after being sworn in accordance with law, hereby depose and say:


1. That we are the Complainants in the instant case;
2. That we have caused the preparation of the Verified Complaint and we have read the same and know the contents thereof;
3. That the allegations contained therein are true and correct of our own personal knowledge and based on authentic records and documents.
4. That this Complaint is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation;
5. That the factual allegations therein have evidentiary support or, if specifically so identified, will likewise have evidentiary support after a reasonable opportunity for discovery;
6. That we further certify that: (a) we have not theretofore commenced any other action or proceeding or filed any claim involving the same issues or matter in any court, tribunal, or quasi-judicial agency and, to the best of my knowledge, no such action or proceeding is pending therein; (b) if I should thereafter learn that the same or similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or any other tribunal or quasi-judicial agency, I undertake to report such fact within five (5) days therefrom to the court or agency wherein the original pleading and sworn certification contemplated herein have been filed;


Emerita P. Lacno



IN WITNESS WHEREOF, WE have hereunto set our hands this 22nd day of March 2024 in Ormoc City, Leyte, Philippines.



LEAH O. EMPLEO
Driver's License
H012-09-000103
K1066EPL20000


EMERITA P. LACNO
COMELEC I.D
3726-0136A-


JERRY P. EMPLEO
Driver's License
H03-91-014177

SUBSCRIBED AND SWORN TO before me this 22nd day of March 2024 in Ormoc City, Philippines, affiants personally appeared before me and exhibited to me their competent evidence of identities as indicated above.

Doc. No. 56 ;
Page No. 92 ;
Book No. 01 ;
Series of 2024.


ATTY. MA. KRISKA ANGELA H. TUMAMAK
Notary Public for the City of Ormoc
Municipalities of Kananga, Matag-ob, Merida and Isabel, Leyte
Commission No. ORM-22-09-018-NC Until December 31, 2024
Roll of Attorney's No. 82440
IBP No. 329704/ 12/17/2023/ Leyte Chapter
PTR No. 7872599/ 01/02/2024/ Ormoc City
MCLIE (Newly Admitted to the Bar May 30, 2022)
Unit 4, 2/F J.E. Tan Bldg. corner Rizal and Aviles Streets
Email: kriskatumamak@yahoo.com
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Sangguniang Bayan of Kananga

22nd SANGGUNIANG BAYAN

RESOLUTION NO. 22R.21-576
Series of 2021

EXHIBIT " A "

A RESOLUTION ADOPTING THE SUBSTANTIVE AND PROCEDURAL RULES TO BE OBSERVED IN ADMINISTRATIVE CASES FILED AGAINST ELECTIVE BARANGAY OFFICIALS BEFORE THE SANGGUNIANG BAYAN OF THE MUNICIPALITY OF KANANGA, PROVINCE OF LEYTE IN ITS CAPACITY AS A QUASI-JUDICIAL BODY PURSUANT TO SECTIONS 60-68 OF THE LOCAL GOVERNMENT CODE OF 1991 AND THE ESTABLISHED ISSUANCES AND JURISPRUDENCE ON THE MATTER.

WHEREAS, jurisdiction to hear and decide administrative cases against elective barangay officials has been vested by Section 61 of the Local Government Code of 1991 in the sanggunian of cities and municipalities;

WHEREAS, Section 50 (c) of RA 7160 authorizes the Sangguniang the performance of its functions;

WHEREAS, there is a need to adopt a set of rules, both substantive and procedural, with the inclusion, among others, of the provisions of R.A. 7160, it's implementing Rules and Regulations as well as judicial decisions (jurisprudence) and legal opinions of the Department of Interior and Local Government an administrative cases as a matter of due process, in order to inform and guide the parties as to the manner and conduct of proceedings in their respective cases;

WHEREFORE, on motion of SB Member Alma N. Orfano, duly seconded *en masse*,

BE IT RESOLVED, AS IT IS HEREBY RESOLVED, by the Sangguniang Bayan to ADOPT, as it is hereby ADOPTS, the following substantive and procedural rules to be observed in administrative cases file against elective barangay officials before the Sangguniang Bayan in its capacity as a quasi-judicial body pursuant to Sections 60-68 of the Local Government Code of 1991; and the established issuances and jurisprudence on the matter.

**RULE I
TITLE AND CONSTRUCTION**

SECTION 1. Title- These rules shall be known as the 2021 Rules of Procedures of the Sangguniang Bayan of the Municipality of Kananga, Province of Leyte in the conduct of administrative proceedings in the exercise of its quasi-judicial functions.

SECTION 2. Construction- These rules shall be liberally constructed in order to promote public interest and to assist parties in obtaining just speedy and inexpensive determination of their pending administrative case(s) filed before the Sangguniang Bayan of Kananga, Leyte.

SECTION 3. Nature of Proceedings- Proceedings before the Sangguniang Bayan of Kananga, Leyte in the exercise of its quasi- judicial function shall be summary in nature without adhering to legal technicalities obtaining in the courts of law.

SECTION 4. Engagement of Counsels- Appearance by counsel is at the discretion of the parties who may or may not hire a lawyer for the prosecution or defense of their respective cases. Considering the time frame by which the Sanggunian is mandated to dispose of the cases before it, the appearance or non-appearance of a lawyer during the hearing shall not in any manner interrupt the flow or schedule of a pending case which shall not in any manner interrupt the flow or schedule of a pending case which fact shall be stated in open session in each initial hearing and contained in every notice or invitation to the parties for the next hearing of the case. Strict observance shall be required of this rule.

ATTY. MA. KRISKA ANGELA H. TUMAMAK

Notary Public for the City of Ormoc
Municipalities of Kananga, Matag-ob, Merida and Isabel, Leyte
Commission No. JRM-22-09-018-NC Until December 31, 2024
Roll of Attorney's No. 82440
IBP No. 29704/ 12/17/2023/ Leyte Chapter
PTR No. 2873599/ 01/02/2024/ Ormoc City
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**RULE II
JURISDICTION**

CERTIFIED TRUE AND
FAITHFUL COPY OF THE
ORIGINAL WHEN
PRESENTED

Orfano *[Signature]* *[Signature]*

[Signature]

[Signature]

[Signature]

[Signature]

Section 1. Jurisdiction over administrative cases against elective barangay officials is vested with the Sangguniang Bayan without prejudice however to the concurrent jurisdiction of the Office of the Ombudsman. Any complaint therefore, against an appointive barangay official shall not be entertained by the Sanggunian. (Section 61 RA7160) (DILG Opinion No. 19, June 24, 2002).

RULE III THE PARTIES

Section 1. Parties of the Case- In any complaint filed with the Sanggunian, the person filling the same shall be called Respondent. In cases of married persons, a complaint or answer by a spouse need not be signed or counter- signed by the other spouse.

RULE IV COMMENCEMENT OF ACTION

Section 1. When Action Deemed Commenced- An action deemed commenced upon filing of a verified complainant with the Sangguniang Bayan against any elected barangay official in the Municipality of Kananga, Leyte consisting of two (2) copies accompanied by sworn statements of witnesses and supporting documents, if any. The complainant shall specify any of the following grounds which may be relied upon, wit;

- a) Disloyalty to the Republic of the Philippines;
- b) Culpable violation of the Constitution;
- c) Dishonesty, oppression, misconduct in office, gross negligence or dereliction of duty;
- d) Commission of any offense involving moral turpitude or an offense punishable by at least prison mayor. The offense involving moral turpitude must be linked to the performance of official duties of respondent and conviction by final judgment shall be a condition precedent for the filing of any administrative case involving this ground. (Palma vs. Fortich, 147 SCRA 397, Mondavo vs. Silvosa, 97 Phil. 144-145, DILG Opinion No. 11, s. 2006, Feb. 20, 2006);
- e) Abuse of Authority;
- f) Unauthorized absence for fifteen (15) consecutive working days, except in the case of members of the Sangguniang Barangay;
- g) Application for, or acquisition of, foreign citizenship or residence or the status of an immigrant of another country; and
- h) Such other grounds as may be provided in the Local Government Code of 1991;

Pendency of a case in any court of law involving any of the foregoing grounds shall not constitute as a bar to the action or proceedings before the Sanggunian.

Section 1 (a) Definition of Terms/ Offenses:

- a) Disloyalty to the Republic of the Philippines- Any act of omission which may be considered as a crime against Public Order defined under Chapter I, Title III of the Revised Penal Code or other acts affecting qualifications to hold public office related to renunciation of Philippine citizenship. Under the Local Government Code conviction by final judgment for violating the oath of allegiance to the Republic (Sec. 40 (c) and permanent residency in a foreign country or acquiring the right to reside abroad and continue to avail of the same (Sec. 40 (f) disqualifies one from running for elective positions in local government units.
- b) Culpable violation of the Constitution - If implies or covers acts with deliberate intent and to a certain degree of perversity so as to defy knowingly what the Constitution provides. It includes a violation serious enough to warrant betrayal of public trust such as a violation of a constitutional oath of office.
- c) Dishonesty - The concealment or distortion of truth in a matter of fact relevant to one's office or connected with the performance of his duty. (Alfonso vs. Office of the President, 520 SCRA 64, 87) It implies a disposition to lie, cheat, deceive, or defraud; untrustworthiness, lack of integrity, lack of honesty, probity, or integrity in principle; lack of fairness and straight forwardness. (Concerned Citizen vs. Gabral, Jr. 54 Phil. 209)

CERTIFIED TRUE AND
FAITHFUL COPY OF THE
ORIGINAL WHEN
PRESENTED

ATTY. MA. KRISKA ANGEL H. TUMAMAK

Notary Public for the City of Ormoc
Municipalities of Kananga, Matag-ob, Merida and Isabel, Leyte
Commission No. ORM-22-09-018-NC Until December 31, 2024

Roll of Attorney's No. 82440

IBP No. 329704/ 12/17/2023/ Leyte Chapter

PTR No. 7822599/ 01/02/2024/ Ormoc City

MCLIE (Newly Admitted to the Bar May 30, 2022)

Unit 4, 2/F J.E. Tan Bldg. corner Rizal and Aviles Streets

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Contact No. 0967-324-6663

- d) **Oppression** - An act of cruelty, severity, unlawful exaction, domination or excessive use of authority. (Ochate vs. Deing, 105 Phil 390)
- e) **Misconduct in Office** - One that affects the performance of duties as a public officer, and not such as affects character as a private individual. (Lacson vs. Roque, 92 Phil 465)
- f) **Gross Negligence** - The want of even slight care and diligence. Such entire want of care as to raise a presumption that the person at fault is conscious of the probable consequence of his carelessness, and is indifferent, or worse, to the danger of injury to persons or property of others. Such negligence as amounts to a reckless disregard of the safety of persons or properties. (Amedo vs. Rio y Olabarrieta Inc., 95 Phil 37)
- g) **Dereliction of Duty** - It generally refers to a failure to conform to rules of one's job, which will vary by tasks involved, it is a failure or refusal to perform an assigned duty.
- h) **Abuse of Authority** - it is a denial of justice when discretion, by virtue of one's position has not been justly exercised. It signifies the use of that discretion in such a way as to deprive a person of his right or of the remedy to protect or enforce such right. (DILG Opinion No. 1, s. 2206, Feb. 20, 2006)
- i) **Unauthorized absence for fifteen (15) consecutive working days**, except in the case of members of the Sangguniang Panlalawigan, Sangguniang Panlungsod, Sangguniang Bayan, and Sangguniang Barangay. This ground can only be availed against a punong barangay, a mayor or governor. However, any prolonged absence of an elective local official not justified by law or regulations such as travel abroad without due notice to the council may constitute unauthorized absence. (DILG Opinion No. 24-1993)
- j) **Application for, or acquisition of foreign citizenship or residence or the status of an immigration of another country**. This ground for disqualification from running for any elective local position under Sec. 40 of LGC.

SECTION 2. Within seven (7) days after the administrative complainant is filed, the

Sangguniang Bayan shall require the respondent to submit his verified answer within fifteen (15) days from receipt thereof. (Section 62 of RA 7160)

SECTION 2 (a) Verification - Verification as required in the complaint and answer shall not be considered as a jurisdictional requirement. It may be waived by the Sanggunian if it acts on the complaint or answer. (Josen vs. Torres, G.R. No. 131255, May 20, 1998)

SECTION 3. Venue - Venue of the investigation or hearing, unless otherwise specified by resolution, shall be at the Session Hall of the Sangguniang Bayan. (Section 62 of RA 7160)

SECTION 4. Motion to Dismiss. A motion to dismiss an administrative complaint in lieu of an answer is an improper pleading considering that the Sanggunian is entrusted the duty of determining whether the offense is proper for investigation. All possible grounds for dismissal of the complaint shall be considered a matter of defense which will be subject to consideration by the Sanggunian in rendering a decision. (Section 62 (d) of RA 7160, DILG Opinion No. 11, s. 2006, Feb. 20, 2006)

RULE V PREVENTIVE SUSPENSION

SECTION 1. Preventive suspension may be imposed at any time after the issues are joined, when the evidence of guilt is strong, and given the gravity of the respondent could influence the witnesses or pose a threat to the safety and integrity of the records and other evidence. Provided, that, any single preventive suspension of local elective officials shall not extend beyond sixty (60) days: Provided, further, that in the event that several administrative cases are filed against an elective official, he cannot be preventively suspended for more than ninety (90) days within a single year on the same

IBP No. 329704/ 12/17/2024
PTR No. 282599/ 01/02/2024
Notary Public for the City of Zamboanga
Commission No. 2309-018-2017
Date of Admission: 01/02/2024
Newly Admitted to the Bar May 30, 2022
2/F, 2/F, EDC Pan Bldg. corner Rizal and Aviles Streets
Email: kriska@makai.com.ph
Contact No. 0967-324-6663

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EXHIBIT
ORIGINAL WHEN
PRESENTED

ground or grounds existing and known at the time of the first suspension. (Section 63(a) (3) of RA 7160)

SECTION 1 (a) Suspension Without Hearing- A respondent may be suspended once issues are joined and before charges against him are heard as the circumstances may warrant even before giving him an opportunity to prove his innocence (Espiritu vs. Melgar, 206 SCRA 256)

SECTION 2. After determining by way of resolution that all the elements for a preventive suspension are present, the Sangguniang Bayan shall then recommended to the Mayor that the respondent elective barangay officials be placed under preventive suspension. It shall then be ministerial on the part of the mayor to issue an order to impose the preventive suspension of the respondent once recommended by the Sanggunian. The resolution for preventive suspension need only state that the Sanggunian has determined that all the elements under Section 63 of RA 7160 are presented for the Mayor to implement the preventive suspension (Section 63 of RA 7160) (DILG Opinion No. 61, series of 2002), citing the case of Matugas vs. Navarro, CA- G.R. SP No. 62038, November 19, 2001)

SECTION 3. Expiration of the Preventive Suspension- Upon the expiration of the preventive suspension, the suspended elective barangay official shall be reinstated in office without prejudice to the continuation of the proceedings against him which shall be terminated within One Hundred Twenty (120) days from the time he was formally notified of the case against him. However, neglect or request, other than the appeal duly filed, the duration of such delay shall not be counted in computing the time of termination of the case. (Section 63 of RA 7160)

SECTION 4. Salary During Suspension- The respondent official preventively suspended from office shall receive no salary or compensation during such suspension; but, upon subsequent exoneration and reinstatement, he shall be paid full salary or compensation including such emoluments accruing during such suspension. (Section 64 of RA 7160)

SECTION 5. No Sanggunian or mayor's action shall be necessary for the reinstatement of the suspended barangay official following the expiration of the preventive suspension in order for the preventively suspended official to resume his duties without prejudice to the continuation of the proceedings against him (DILG Opinion No. 217, series of 1993, DILG Opinion.

SECTION 6. The Sanggunian shall exercise its best collective judgment in the matter of preventive suspension considering that abuse of the same is a ground for abuse of authority. (Section 63 (d) of RA 7160).

RULE VI
INVESTIGATION/HEARING

SECTION 1. Investigation of the case shall commence within ten (10) days after an answer is filed. However, no investigation or hearing shall be held within ninety (90) days immediately prior to any local election and no preventive suspension shall be imposed prior to the 90 days period immediately preceding a local election, it shall be deemed automatically lifted upon the start of aforesaid period. (Section 62 (c) of RA 7160)

SECTION 2. Failure to file an Answer- Default may be declared against respondent who fails to file an answer which failure shall at most be considered a waiver thereof. The investigation shall proceed with the respondent entitled to his rights under the next Section.

SECTION 3. Rights of the Respondent- the respondent shall be accorded full opportunity to appear and defend himself in person or by counsel, to confront and cross-examine the witnesses and the production of documentary evidence in his favor through the compulsory process of subpoena or subpoena duces tecum (Section 65 of RA 7160)

SECTION 4. Adoption and Affirmation of Statement Upon the first hearing of the case, the Complainant and respondent, including their witness, if any shall be summarily asked to identify their

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Notary Public for the City of Ormoc
Commission No. 01001-22-09-0118-140
IBP No. 329704/ 12/17/2023/ 1416
PTR No. 7872599/ 01/02/2024/ Ormoc City
MCLE (Newly Admitted to the Bar May 30, 2022)
J. E. J. Tan Bldg. corner Rizal and Reyes Streets
Contact No. 0967-327-6663

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ORDINARIES
PRESENTED

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sworn statements, affirm the same as the truth of their own personal knowledge, and to adopt their sworn statements as their direct testimonies.

SECTION 5. The Hearing of Any Administrative Case- The hearing or investigation of any administrative case shall be in a plenary session presided over by the chairman of the duly created ad hoc committee for the purpose, or special investigating committee as may be designated by the body. All members of the Sanggunian, acting as jurors, may propound questions relative to the case against any of the parties during the hearing or the investigation addressing said questions to the parties through the chair.

The Sanggunian may likewise delegate the preliminary hearing of the case to the Committee on Laws or Special Investigating Committee for purposes similar to a pre-trial. Upon termination of the preliminary conference, the Committee shall render a report and recommendation to the Sanggunian in plenary.

In such case the Sanggunian may adopt the recommendation of the Committee or call the parties and their witnesses for clarificatory questions. In case of the latter only the Sanggunian members shall propound questions to the parties and/or their witnesses' subject of the clarification. Questions by the Sanggunian members shall afford the parties opportunity to explain or amplify their respective positions for clarification.

SECTION 6. Memorandum/ Position paper- The filing of a Memorandum or Position Paper following the conclusion of the investigation shall be optional. A period not exceeding ten (10) day may be granted to the parties for the filing of simultaneous memorandum which time shall be deducted from the thirty (30) day period for the Sanggunian to render a decision with the express consent of both parties.

SECTION 7. Documentary Evidence- In case any of the parties attach a document as evidence in support of their case, the Sanggunian or its committee investigating/hearing the case may, as warranted, have the document being presented, verified, or authenticated through the author of the same or the person in custodial authority of the document.

SECTION 8. Postponement- No motion for postponement unless for justification reasons in the collective judgment of the Sanggunian, shall be entertained. Whenever granted the same shall be deducted from the period of the investigation and always with the express consent of the both parties.

**RULE VII
DECISION**

SECTION 1. Form and Notice of Decision- the investigation of the case shall be terminated within ninety (90) days from the start thereof. Within thirty (30) days after the end of the investigation, the Sanggunian shall render a decision in writing stating clearly and distinctly the facts and the reason for such decision. Copies of the said decision shall immediately be furnished the respondent and all interested parties. (Section 66 of RA 7160)

SECTION 2. Decision By Way of Resolution- Decision by way of resolution by the Sanggunian shall be arrived at in executive session. Voting following deliberation shall be nominal vote or by secret ballot as the body desires upon motion duly approved. The body may assign the writing of the decision/resolution of the case after determining the verdict in consultation, to a ponente member of the Sanggunian. The ponente may seek the assistance of any lawyer-member of the Sanggunian.

SECTION 3. Decisions of the Sanggunian in administrative cases shall not require the approval of the Mayor (Sec.66 RA 7160 and DILG Opinion No. 19, series of 2002 January 24, 2002)

SECTION 4. In case the Sanggunian has referred the case to a committee to conduct the investigation and said investigation has been terminated, the committee shall recommend the appropriate penalty based on its finding for Sanggunian deliberation prior to the rendition of judgment. In case of failure of the Sanggunian to render a decision within thirty (30) days after the

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Commission No. ORAL-22-09-118-INC Until December 31, 2024
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IBP No. 30704/12/13/2024/ Legal Chapter
MILE (Newly Admitted to the Bar May 30, 2024)

Unit 3-2/F.J.J. Bldg, corner Rizal and Aviles Streets
Marikina City, Marikina, Rizal
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end of the investigation, the Committee recommended penalty by way of resolution shall be considered as the decision of the Sangguniang Bayan. (Art 130(60 IRR RA 7160)(DILG Opinion No. 61 series of 2002 April 29, 2002)

SECTION 5. Determination as To Implemented of Decision. The determination as what manner should its decision is implemented lies within the sound judgment and discretion of the Sanggunian as an incident to its quasi-judicial function expressly conferred by Section 61 (b) of the Local Government Code of 1991 (DILG Opinion No. 55, series of 2000)

SECTION 6. Executive Approval Not Required- As regards the implementation of the Sanggunian decision on the administrative case, there is no need for the approval of the Local Chief Executive for its execution (DILG Opinion No. 55 series of 1997), Subject to appeal within thirty (30) days, the decision of the Sanggunian, is executory (Section 61 © of RA 7160)

SECTION 7. Personal Service of the Decision- It shall be the duty of the Sanggunian to immediately personally served upon the respondent and/or interested parties a copy of the decision/resolution without delay, in order for the parties to protect their interest and for the respondent to file an appeal or apply for any appropriate relief before the decision becomes final (Section 66 RA 7160, DILG Opinion No. 19 series of 2002, Jan. 24, 2002 citing Reyes vs. COMELEC and de Castro (253 SCRA 514)

SECTION 8. Decision Served Not Subject to Reopening- Except as may be provided by the Internal Rules of Procedure, a decision of the Sanggunian duly promulgated by way of resolution and served upon the parties may not reopened as the same has become final and executor (Section 61 of RA 7160, DILG Opinion No. 19 series of 2002, Jan. 24, 2002)

SECTION 9. Motion For Reconsideration- Considering that decision of the Sanggunian in administrative cases takes the form of a resolution in plenary session, only members of the Sanggunian who voted in the affirmative may move for a reconsideration of any vote or decision. No Motion for reconsideration shall be allowed from the parties.

SECTION 10. Pending Cases Overtaken By Local Election- Considering that decision of the Sanggunian in administrative cases is a collective undertaking which must be addressed by the members as a collegial body, the following shall be observed in case of unfinished cases overtaken by a local election, to wit:

1. If a formal investigation has not been terminated at the expiration of the term the Sanggunian originally hearing the case in the sense that presentation of evidences has not yet been concluded, the hearing shall be continued by the new set of Sanggunian officers;
2. In case hearing or investigation has been concluded and the case is submitted for decision and no decision has been rendered by the outgoing members of the Sanggunian, the new set of Sangguniang, the new set of Sanggunian members shall decide the case on the basis of existing records. (DILG Opinion No. 44 series of 2002, citing People vs. Gerano, G.R. No. 115035-36 Feb. 1996 (suppletary application);

In case a decision has already been reached by the Sanggunian but the outgoing members of the Sanggunian but no promulgation has been made by way of resolution, the new set of Sanggunian members shall promulgate the decision; (DILG Opinion No. 44 series of 2002, Jan. 22, 2002 citing Malinao vs. Reyes 255 SCRA)

Section 11. Finality of Decision; Appeals- Decisions of the Sanggunian shall be final and executory (Sec. 61 © despite the right of appeal within thirty (30) days to Sangguniang Panlalawigan or Office of the President as the case maybe (Don etal vs. Lacsas(G.R. No. 1708010, August 7, 2007)

In the exercise of their appealed to said offices, has the power to reverse, alter, modify or amend a decision by the Sanggunian or a component city or municipality as the case may be. (Sec. 67 (a and b) RA 6170) It can even order the stay of execution pending appeal. (DILG Opinion No. 44, s. 2000, May 23, 2000)

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PRESENTED

[Signature]

[Signature]
Notary Public for the City of Ormoc
Commission No. ORM-22-09-018 / MC Until December 31, 2024
Roll of Attorneys No. 82140
BFP No. 329701/12/01/2023/ Leyte Chapter
PTR No. 2872599/01/02/2021/ Ormoc City
MCLE Newly Admitted to the Bar (May 30, 2022)
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**RULES VIII
 PENALTIES**

SECTION 1. The penalty of suspension shall not exceed the unexpired term of the respondent or a period of six (6) months for every administrative offense, nor shall said penalty be a bar to the candidacy of the respondent suspended as long as he meets the qualifications required for the office. (Section 66 (b) RA 7160)

SECTION 2. In case of the imposition of suspension as a penalty, either by an adopted committee resolution or a decision of the Sanggunian following deliberation in plenary, the same shall be immediately executed in accordance with its sound judgment and discretion as an incident to its quasi-judicial function (DILG opinion No. 14, s. 2002, Jan. 17, 2002) The Sanggunian may order implementation either thru its own serving process or thru DILG Regional or Local (DILG Opinion No. 1, s. 2013, Jan. 8, 2013). No approval however of the Local Chief Executive shall be necessary or required for the implementation of the Sanggunian decision (Reyes vs. COMELEC and de Castro (254 SCRA 514)

SECTION 3. The penalty of removal from office as a result of an administrative shall by considered a bar to the candidacy of the respondent for any elective position (Section 66 (c) RA 7160)

**RULE IX
 APPEAL**

SECTION 1. Administrative Appeals- An appeal may be filed by the respondent within thirty (30) days from the receipt of the decision to the Sanggunian Panlalawigan or Office of the President as case maybe (for Provinces, Independent components City or Highly-Urbanized City) whose decision shall be final and executor and may not be a subject of Temporary Restraining Order (TRO) or Writ of Preliminary Injunction (WPI) (Section 67; Section 68 (b) RA 7160)(Lapid vs. Court of Appeals (G.R. No. 142261, June 29, 2000 and Calingin vs. Court of Appeals, (G.R. No. 154616 July 12, 2004.) (Don vs. Lasca, G.R. No. 170810, Aug. 7, 2007)

SECTION 2. Execution Pending Appeal- An appeal not prevent a decision from becoming final and executory. The respondent shall be considered as having been placed under preventive suspension during the pendency of an appeal in the event he wins such appeal. In the event the appeal results in exoneration, he shall be paid his salary and such other emolument's during the pendency of the appeal (Section 68 RA 7160)

**RULE X
 MAINTENANCE OF DOCKET BOOKS**

SECTION 1. The Sanggunian shall keep a docket for administrative cases where all complaints shall be properly entered and given their corresponding number in the order of receipt. The docket shall likewise contain in chronological order every pleading, notice, order, resolution and other incidents of the case in summary form from receipt of the complaint to the service of decision.

RESOLVED FINALLY to furnish copies of this resolution to all parties in administrative cases filed before the Sanggunian.

UNANIMOUSLY CARRIED.

Voting Results: *In favor: 10 Against: None*

Adopted and Approved on February 10, 2021 during SB Regular Session at the SB Session Hall.

I HEREBY CERTIFY to the correctness of the foregoing Resolution

ATTY. MA. KRISK TUMAMAK
 Notary Public for the City of Marikina
 Municipalities of Kanang, Marikina, Marikina, Marikina
 Commission No. ORM-10-10-10-10-10
ATTY. ALLAN R. CASTRO
 Roll of Attorneys at Law
 IBP No. 329704/ 12, 17, 2017, 17, 17
 PTR No. 78
Secretary to the Sanggunian
 MCLB (Newly Admitted to the Bar May 30, 2022)
 Unit 4, 2/F J.E Tan Bldg. corner Rizal and Aviles Streets
 Email: krisk.tumamak@catigon.com
 Contact No. 0967-324-6663

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 PRESENTED

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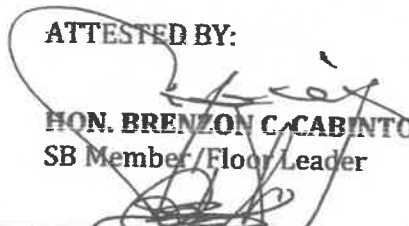
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APPROVED BY:


MIGUEL JORGE P. TAN
Vice Mayor & Presiding Officer

ATTESTED BY:

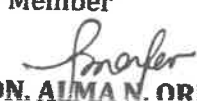

HON. BRENZON C. CABINTOY
SB Member / Floor Leader


HON. RESURRECCION C. CAPANAS
SB Member / Ass. Floor Leader


HON. RUDY B. COGAY
SB Member

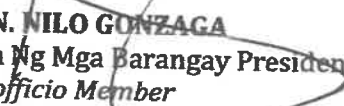

HON. RICHIE C. CRUZ
SB Member

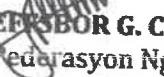

HON. FERNANDO M. ASEO
SB Member


HON. AIMA N. ORFANO
SB Member



HON. MINERVA M. BULAWIT
SB Member


HON. ALLAN C. ESPINOSA
SB Member


HON. NILO GONZAGA
Liga ng Mga Barangay President/
Ex-officio Member


HON. JEFF BOR G. CUIZON
Pambayang Pederasyon Ng Sangguniang
Kabataan President / Ex-officio Member

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PRESENTED


ATTY. MA. KRISKA ANGELE H. TUMAMAK
Notary Public for the City of Ormoc
Municipalities of Kananga, Matig-oh, Merida and Isabel, Leyte
Commission No. ORM-22-09-018-NC Until December 31, 2024
Roll of Attorney's No. 82140
IBP No. 329701/ 12/17/2023/ Leyte Chapter
PTR No. 7872599/ 01/02/2024/ Ormoc City
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EXHIBIT " B "

Republic of the Philippines
Sangguniang Bayan (SB)
Municipality of Kananga,
Province of Leyte
-oOo-

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SABENIANO BIGNAY,
Complainant,

Admin Case No. K-ADM-2023-002

FOR:

Dishonesty, Oppression,
Misconduct in Office, Gross
Negligence, Dereliction of Duty,
abuse of authority under Section 1
Rule IV of the 2021 Rules of
Procedure of the Sangguniang Bayan
(SB) of the Municipality of Kananga,
Province of Leyte, Philippines,

- versus -

Violation of Republic Act No. 3019
(Anti-Graft and Corrupt Practices
Act), R.A. 6713 (Code of Conduct
and Ethical Standards for Public
Officials and Employees).

**LEAH O. EMPLEO, EMERITA P.
LACNO, AND JERRY P.
EMPLEO,**

Respondents.

X-----X

COMPLAINT

PARTIES

1. **Complainant SABENIANO BIGNAY**, of legal age, married, Filipino, and a resident of Brgy. Tugbong, Kananga, Leyte where summons, subpoena and other processes of this Honorable Office may be served.
2. **Respondent Leah O. Empleo**, the incumbent Punong Barangay of Brgy. Tugbong, Kananga, Leyte and a resident of the same Barangay and can be served with summons, subpoena and other processes of this Honorable Office at the Office of the Punong Barangay, Tugbong, Kananga,

ATTY. MA KRISTINE A. H. TUMAMAK
Notary Public for the City of Ormoc
Bar and District Offices, Marikina, Manila and JICA
Commission No. ORM-22-4918-100-00000000000000000000
Boll of Notaries No. 82440
Iss. No. 204/2022
PTR No. 7872599/ 01/02/2024/ Ormoc City
MCIJ (Newly Admitted to the Bar May 30, 2022)
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Leyte.

3. **Respondent Emerita P. Lacno**, Sangguniang Barangay member of Barangay Tugbong, Leyte, and a resident of the same Barangay, and can be served with summons, subpoena and other processes of this Honorable Office at the Barangay Hall, Tugbong, Kananga, Leyte.

4. **Respondent Jerry P. Empleo**, Sangguniang Barangay member of Barangay Tugbong, Leyte, and a resident of the same Barangay, and can be served with summons, subpoena and other processes of this Honorable Office at the Barangay Hall, Tugbong, Kananga, Leyte.

FACTUAL ANTECEDENTS

5. On August 6, 2018, the former Mayor Rowena Codilla prepared and approved a Purchase Request (PR) for the purchase of a 10,000 square-meter portion of a parcel of land known as Lot No. 2 being a portion of the consolidation-subdivision survey of Lot 10184 and Lot 101986 covered by TCT No. T-15094, tax declared under the name of Juliana Nahine and located in Brgy. Tugbong, Kananga, Leyte for PhP 1,400,000.00.

6. The said PR expressly states that purpose of the purchase is for "**Barangay Site of Barangay Tugbong, Kananga, Leyte.**" This bears stressing that on the day the said PR was also prepared and approved by respondent Rowena Codilla, the same was without an approved budget from the previous SB. The copy of said PR No. 2018-12-037 dated August 6, 2018 is hereto attached as **Annex A.**

7. Based on the letter-request dated August 8, 2018 (two days after the PR was issued), the former Municipal Assessor, Engr. Virgilio Tiu requested for the conduct of the appraisal/assessment of said land which was intended for "**Proposed (New) Barangay Site of Tugbong.**" The copy of the said letter-request is hereto attached as **Annex B.**

8. On August 9, 2018, the Provincial Appraisal Committee passed a Resolution No. 026-2018 which shows the recommended appraised market value of the above-mentioned property. The same resolution also states that the appraised property was for the "**Proposed (New) Barangay Site of Tugbong.**" The copy of said Resolution is hereto attached as **Annex C.**

9. On September 10, 2018, the same Sangguninang Bayan under the former Vice Mayor, Elmer Codilla passed a Supplemental Ordinance No. 21L.18-048, Series of 2018 which budgeted an amount for the purchase of said land.

ATTY. MA. KRIS ANGELO H. TUMAMAK
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Roll of Attorney's No. 82440
IBP No. 329704/ 12/17/2023/ Leyte Chapter
PTR No. 7872599/ 01/02/2024/ Ormoc City
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10. On December 10, 2018, the same Sangguniang Bayan passed a Resolution No. 21R.18-523, Series of 2018 authorizing the former mayor Rowena N. Codilla to purchase the above-mentioned land which expressly states that the same was intended for **Barangay Site** of Barangay Tugbong Kananga, Leyte. The copy of the SB Resolution is hereto attached as **Annex D**.

11. On January 18, 2019, LGU Kananga, through the previous mayor, Rowena N. Codilla, executed an Extrajudicial Settlement of Estate with Deed of Absolute Sale purchasing a parcel of land known as Lot 2, situated in Brgy. Tugbong, Kananga, Leyte for PhP 1,400,000.00 from Glicerio Nahine Porcare, Hermogenes Nahine Porcare and Francisco Nahine Porcare. The said sale was entered as doc. No. 66, page no. 14, book no. LXXXIII, and series of 2019 in the notarial register of Atty. Allan R. Castro, Notary Public. The copy of said deed is hereto attached as **Annex E**.

12. On January 24, 2019, Obligation Request No. 100-2019-01-0129 was signed by the former Mayor Rowena N. Codilla for the release of the PhP 1,400,000.00 as payment of the said parcel of land. On the same date, the said amount was released to Glicerio Porcare per Disbursement Voucher No. 2019-01-0200. The copy of said obligation request, Disbursement Voucher and Journal Entry Voucher CDJ No. 2019-01-000200 is hereto attached as **Annexes F, G and H**, respectively.

13. On May 15, 2019, the same Sangguniang Bayan passed a Resolution No. 21R.19-629 series of 2019 authorizing former Mayor Rowena N. Codilla to donate the said property to Brgy. Tugbong. In the said Resolution, it is expressly stated that the said procured property is intended as **Barangay Site of Barangay Tugbong**, not **Relocation Site**. The copy of said SB Resolution is hereto attached as **Annex I**.

14. On June 25, 2019, five (5) days before the end of the term of Rowena Codilla, she hastily executed a Deed of Donation covering the above-described land in favor of Brgy. Tugbong, Kananga, Leyte. However, in said Deed of Donation, it is expressly stated that **“the herein donated property shall be used exclusively as barangay relocation site/expansion of built-up area for its residents.”**

15. This is contrary to, and not in conformity with the authority given to her by SB, per SB resolution no. 21R. 19-629 series of 2019 which authority clearly states that the donated property should be used as **“Barangay Site”** not relocation site. The copy of said deed of donation is hereto attached as **Annex J**.

16. Last August 18, 2023, the Committee of the Whole of the present SB conducted an investigation at the SB session hall where the members of the Sangguniang Barangay attended and participated, and it was

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ATTY. MA. KRISIA ANSELMA H. TUMAMAK
Notary Public for the City of Ormoc
Municipalities of Kananga, Matagob, Merida and Isabel, Leyte
Commission No. ORM-22-009576 Dated December 31, 2021
Roll of Attorney's No. 82440
IBP No. 329704/ 12/17/2023/ Leyte Chapter
PTR No. 7872599/ 01/02/2024/ Ormoc City
MCLJ: (Newly Admitted to the Bar May 30, 2022)
Unit 4, 2/F J.E Tan Bldg. corner Rizal and Aviles Streets
Email: krisiatumamak@yahoo.com
Contact No. 0967-324-6663

found out, That:

- a) The Barangay Sangguniang did not authorize the incumbent Punong Barangay Leah Empleo to execute and accept the aforesaid deed of donation contrary to the Section 389 (b) (b), Book III, Chapter 3 & 4 of the Local Government Code of 1991, Articles 745, 749, 1317 of the New Civil Code of the Philippines.
- b) The said deed of donation was executed by Rowena N. Codilla beyond the authority given to her by the previous SB per SB No. 21R.19-629 series of 2019 authorizing former Mayor Rowena N. Codilla to donate the said property to Brgy. Tugbong. In the said Resolution, it is expressly stated that the said procured property is intended as **Barangay Site of Barangay Tugbong**, not a **Relocation Site**.
- c) The Punong Barangay Leah Empleo illegally partitioned the said land and distributed the same to several persons including some members of the Sangguniang Barangay who accepted and actually introduced improvements thereon without legal basis or Ordinance.

17. The copy of the Committee Report is hereto attached as **Annex K**.

18. Thus, on August 18, 2023, the Committee of the Whole of the present SB authorized the Municipal Mayor, Hon, Manuel M. Torres to revoke or cancel the said Deed of Donation and further authorize him to file the appropriate cases for the recovery of the possession and/or ownership of the subject property. The copy of the Sangguniang Bayan (SB) Resolution No. 23R.23-422, Series of 2023 is hereto attached as **Annex L**.

19. Because of said authority vested on the Municipal Mayor, Hon, Manuel M. Torres, he sent a formal notice formal notice of revocation/cancellation of deed of donation and demand to vacate addressed to defendant Leah Empleo through the Municipal Legal Officer-designate on August 24, 2023. The copy of the said Formal Notice Revocation/Cancellation of Deed of Donation and Demand to vacate is hereto attached as **Annex M**.

20. On September 4 and 5, 2023, the Municipal Legal Office also sent a demand letters to the identified occupants in the subject properties. The copy of the said Demand Letters are hereto attached as **Annex N, O, P, Q, R, S, T, U and V**.

21. To reiterate, instead of using the said property as the New Barangay Site of LGU Tugbong, Kananga, Leyte, the respondents passed a

ATTY. MA. KRISHA H. TUMAMBA
Notary Public for the City of Ormoc
Municipalities of Manobo, Misamis Occidental, Misamis Oriental, Leyte
Commission No. ORM-22-09-018-NC Until December 31, 2024
Roll of Attorney's No. 82440
IBP No. 329704/ 12/17/2023/ Leyte Chapter
PTR No. 7872599/ 01/02/2024/ Ormoc City
MCLB (Newly Admitted to the Bar May 30, 2022)
Unit 4, 2/F J.E. Tan Bldg. corner Rizal and Aviles Streets
Email: krishatumba@vaboo.com
Contact No. 0967-324-6663

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resolution authorizing respondent Leah O. Empleo to give and distribute said parcel of land to its predetermined beneficiaries, including some of the respondents and the Barangay Treasurer and Secretary. In fact, during the aforesaid committee hearing before the Committee of the Whole, respondent Leah O. Empleo admitted that she indeed distributed the said land several individuals including some of the respondents and others. The copy of said Sangguniang Barangay of Tugbong Resolution is hereto attached as **Annex W**.

22. Further, instead of complying with the demand of the LGU Kananga, Leyte to vacate the property and turn over the possession of said property to LGU Kananga, respondent Leah O. Empleo even proudly stated they used the property as Relocation Site. The copy of the reply of respondent Leah O. Empleo is hereto attached as **Annex X**, while the Sangguniang Barangay Resolution No. 035, Series of 2023 of Barangay Tugbong duly signed by all the respondents interposing their opposition to the committee report of the 23rd SB of LGU Kananga is hereto attached as **Annex Y**.

23. Furthermore, the Municipal Legal Office of LGU-Kananga, in response to the Office of the Ombudsman-Visayas referral letter with reference no. OFA (CF)-V(T)-23-0109-W, sent a letter to respondent Leah O. Empleo and reiterated the demand of LGU-Kananga to vacate the property, demolish all the improvements found thereon, and turn over the possession of the subject property to LGU Kananga. The copy of the letter of the Municipal Legal Office of LGU Kananga is hereto attached as **Annex Z**.

24. Considering that it was just recently that it was found out by the present administration that LGU Kananga, through the previous mayor Rowena Codilla, illegally donated said property to LGU Tugbong, it was also discovered that the Tax Declaration and Transfer Certificate of Title (TCT) are not yet transferred in the name of LGU Kananga. The copy of the Tax Declaration No. 21023-00536 under the previous owner's name, Julian Nahine with assessed value at PhP 19,630.00 and market value at 49,087.27 is hereto attached as **Annex AA**, while the copy of TCT No. T-15094 is attached as **Annex BB**.

25. The photos of the improvements of the illegal occupants of the subject properties are hereto attached as **Annexes CC and series**.

26. The copy of the Joint-Affidavit of the Municipal Accounting Officer, Mr. Proceso R. Tomas Pabio to prove that based on its Office's record an amount of PhP 1,400,000.00 was paid for the purchase of Lot 2 as Barangay Site of Brgy. Tugbong, Leyte per Journal Entry Voucher CDJ No. 2019-01-000200, Municipal Treasurer Susan S. Del Monte to prove that an amount of PhP 1,400,000.00 was released to Glicerio Forcare per

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Municipalities of Kananga, Matagob, Merba and Isabel, Leyte
Commission No. ORM/100004-01 Until December 31, 2024
Roll of Attorney's No. 82440
IBP No. 329704/ 12/17/2023/ Leyte Chapter
PTR No. 7872599/ 01/02/2024/ Ormoc City
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Disbursement Voucher No. 2019-01-0200 on January 24, 2019, and Municipal Budget Officer, Mr. Sylvio Y. Quillo Jr. I to prove that PhP 1,400,000.00 was appropriated via supplemental budget for the purchase of Lot 2 as Barangay Site of Brgy. Tugbong, Leyte as **Annex DD**, and the copy of the two (2) separate Certifications issued by Mr. Quillo and Mrs. Del Monte is hereto attached as **Annexes EE** and **FF**, respectively.

27. Further, the present SB of LGU Kananga, Leyte passed another Resolution No. 23R.23-458, Series of 2023 authorizing the Mayor to file appropriate cases, civil, criminal or administrative, against all officials and or persons involved in the utilization of the subject property as a RELOCATION SITE, instead of NEW BARANGAY SITE of Brgy. Tugbong, Kananga, Leyte.

LAWS AND RULES VIOLATED

The respondents have patently violated Section 3, (e) of Republic Act No. 3019 also known as Anti-Graft and Corrupt Practices Act

28. The respondents have patently violated Section 3, (e) and (f) of Republic Act No. 3019 also known as Anti-Graft and Corrupt Practices Act which states that:

“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. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.”
(Emphasis supplied)

29. It is without dispute the respondents in this case are all accountable public officers. Respondent Lea O. Empleo is the incumbent Punong Barangay of Tugbong, Kananga, Leyte, while the rest of the respondents are also incumbent members of the Sangguniang Barangay of Tugbong, Kananga, Leyte.

30. A public officer is defined in the Revised Penal Code as **“any person who, by direct provision of the law, popular election, or appointment by competent authority, shall take part in the performance of public functions in the Government of the**

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ATTY. M. KRISTINA A. TUTOR MAK
Notary Public for the City of Ormoc
Municipality of Ormoc, Province of Leyte, Republic of the Philippines
Commission No. ORM-22-09-018-NC Until December 31, 2024
Roll of Attorney's No. 82440
IBP No. 329704/ 12/17/2023/ Leyte Chapter
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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.” (Emphasis supplied)

31. It is not also disputed that the respondents utilized the subject parcel of land as relocation site for their beneficiaries, instead as New Barangay Site. In fact, they did not deny the same. There are already nine (9) occupants who already introduced improvements thereat as their residence upon the instance of the respondents.

32. Relocation site as the present usage of the subject property is a public use, instead of New Barangay Site of said Barangay.

33. Clearly, the respondents have caused injury to the Local Government of Kananga, Leyte considering that the subject purchased lot was not used according to the purpose for which the fund for the purchase of said lot was appropriated.

34. This bears stressing that Lot 2 situated in Brgy. Tugbong, Kananga, Leyte which is the subject of this case was purchased by LGU Kananga on January 18, 2019, through the previous mayor, Rowena N. Codilla, per Extrajudicial Settlement of Estate with Deed of Absolute Sale for PHP 1,400,000.00 from Glicerio Nahine Porcare, Hermogenes Nahine Porcare and Francisco Nahine Porcare. The said sale was entered as doc. No. 66, page no. 14, book no. LXXXIII, and series of 2019 in the notarial register of Atty. Allan R. Castro, Notary Public. (see Annex E)

35. Prior to the sale, it was established that the public purpose of the purchase of said land is for **“Barangay Site of Barangay Tugbong, Kananga, Leyte.”**

36. The public purpose has been repeatedly mentioned in the following documents:

- i. PR No. 2018-12-037 dated August 6, 2018 (see Annex A).
- ii. Letter-request dated August 8, 2018 (two days after the PR was issued), of the former Municipal Assessor, Engr. Virgilio Tiu who requested for the conduct of the appraisal/assessment of said land (see Annex B).
- iii. Leyte Provincial Appraisal Committee Resolution No. 026-2018 dated August 9, 2018 (see Annex C).
- iv. Sangguniang Bayan passed a Resolution No. 21R.18-523, Series of 2018 dated December 10, 2018 authorizing the former mayor Rowena Codilla to purchase the above-

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Roll of Attorney's No. 82440
IBP No. 329704 / 12/17/2023 / Leyte Chapter
PTR No. 7872599 / 01/02/2024 / Ormor City
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mentioned land which expressly states that the same was intended for Barangay Site of Barangay Tugbong Kananga, Leyte (see Annex D).

37. Very clearly that the public use for which the public funds or property were applied is different from the purpose for which they were originally appropriated by law ordinance.

38. The SB of LGU Kananga in 2018 passed a supplemental ordinance appropriating an amount of PhP 1,400,000.00 for the purchase of a parcel of land (Lot 2) in Brgy. Tugbong, Leyte as the New Barangay Site of the said Barangay.

39. However, by machinations on the part of the respondent Leah O. Empleo and the former Mayor Rowena Codilla, they executed a Deed of Donation wherein they maliciously and intentionally changed the public use of the subject land, which is from a Barangay Site to Relocation Site.

40. Despite of the knowledge that the public use of said land is for Barangay Site of Tugbong, the respondents instead applied and utilized the said property as Relocation Site, and illegally subdivided and distributed the same to nine (9) identified individuals as their beneficiaries.

41. The respondents even passed a resolution interposing the SB's resolution authorizing the Mayor of Kananga, Leyte to revoke the subject deed of donation.

42. Based on the foregoing, the respondents are liable under Section 3, (e) of Republic Act No. 3019 also known as Anti-Graft and Corrupt Practices Act.

The respondents are also patently liable for Dishonesty, Oppression, Misconduct in Office, Gross Negligence, Dereliction of Duty, Abuse of Authority under Section I Rule IV of the 2021 Rules of Procedure of the Sangguniang Bayan (SB) of the Municipality of Kananga, Province of Leyte, Philippines

43. The respondents are also patently liable for Dishonesty, Oppression, Misconduct in Office, Gross Negligence, Dereliction of Duty, Abuse of Authority under Section I Rule IV of the 2021 Rules of Procedure of the Sangguniang Bayan (SB) of the Municipality of Kananga, Province of Leyte, Philippines which provides that:

ATTY. MA. KRISKA ANGELA H. TUMAMAK
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Municipalities of Kananga, Matag-ob, Merida and Isabel, Leyte
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Roll of Attorney's No. 82440
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PTR No. 7872599/ 01/02/2024/ Ormoc City
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“Section 1. When Action Deemed Commenced- An action deemed commenced upon filing of a verified complainant with the Sangguniang Bayan against any elected barangay official in the Municipality of Kananga, Leyte consisting of two (2) copies accompanied by sworn statement of witnesses and supporting documents, if any. The complainant shall specify any of the following grounds:

- 1.) Disloyalty to the Republic of the Philippines;
- 2.) Culpable violation of the Constitution;
- 3.) **Dishonesty, Oppression, Misconduct in Office, Gross Negligence, Dereliction of Duty;**
- 4.) Commission of an offense involving moral turpitude or an offense punishable by at least prison mayor;
- 5.) **Abuse of authority;**
- 6.) Unauthorized absence for 15 consecutive working days, except in the case of members of the Sangguniang Barangay;
- 7.) Application for, or acquisition of foreign citizenship or residence or status of an immigrant of another country; and
- 8.) Such other grounds as may be provided in Republic Act 7160 otherwise known as the Local Government Code of 1991.

44. In application at bar, it cannot be denied that the respondents are liable for **dishonesty, oppression, gross misconduct in his office, gross negligence, dereliction of duty and abuse of authority.**

45. They were dishonest to the oath of their office when they illegally converted the LGU Kananga-purchased land as Relocation Site instead of Barangay Site. Their dishonesty is very manifest in the execution of the deed of donation despite of knowledge that the public purpose of the purchased land is for the New Barangay Site of Tugbong.

46. They are also liable for dereliction of duty for their failure to protect the LGU Kananga-purchased land.

47. The respondents have abused their authority because despite of the fact that they are knowledgeable of the public purpose of the subject land, they converted the same to Relocation Site, and despite being demanded to return the property to LGU Kananga, Leyte, they intentionally allowed persons to continue occupying the same.

ATTY. MA. KRISKA ANGELA H. TUMAMAK
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48. From the foregoing exhaustive discussion, it is indubitably clear that respondents are at the same time, guilty for **grave misconduct and/or gross negligence** under the applicable laws and jurisprudence.

PRAYER

WHEREFORE, in view of all the foregoing, it is most respectfully prayed that an Order be issued:

1. Immediately preventively suspending the respondents for sixty (60) days;
2. Be found administratively guilty for violation of:
 - a. Section 3, (e) of Republic Act No. 3019 also known as Anti-Graft and Corrupt Practices Act; and
 - b. Dishonesty, Oppression, Misconduct in Office, Gross Negligence, Dereliction of Duty, abuse of authority under Section I Rule IV of the 2021 Rules of Procedure of the Sangguniang Bayan (SB) of the Municipality of Kananga, Province of Leyte, Philippines;
3. Imposing a penalty of six (6) months suspension after being found guilty of the aforesaid violations; and
4. Other just and equitable reliefs are likewise prayed for.

Done in Ormoc City, for the Municipality of Kananga, Leyte, Philippines. December 7, 2023.

Respectfully submitted,


SABENIANO BIGNAY
Complainant

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ATTY. MA. KRISKA ANGELA H. TUMAMAK
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Contact No. 0967-324-6663

VERIFICATION AND CERTIFICATION OF NON-FORUM SHOPPING

I, **SABENIANO BIGNAY**, of legal age, Filipino citizen, married and resident of Brgy. Tugbong, Kananga, Leyte, Philippines, after having been duly sworn in accordance with law, hereby depose and state, THAT:

1. I am the complainant of the above-entitled case;
2. I have caused the preparation and filing of this Complaint;
3. I have read and understood the allegations contained therein and that the same are true and correct of our own personal knowledge or based upon authentic records;
4. The pleading is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation;
5. The factual allegations therein have evidentiary support or, if specifically, so identified, will likewise have evidentiary support after a reasonable opportunity for discovery;
6. The factual allegations therein have evidentiary support or, if specifically, so identified, will likewise have evidentiary support after a reasonable opportunity for discovery. I heretofore have not commenced any other action or proceeding or any claim, or filed any claim involving the same issues raised in the above-captioned case, in this Honorable Commission, in the Court of Appeals, nor the different Divisions thereof, nor in any other court or tribunal or agency and, to the best of my knowledge, no such other action or claim is pending therein; and
7. I hereby undertake to notify this Honorable Office of such fact within five (5) days from receipt of such knowledge, should I come to learn that the same or a similar action or claim has been filed or pending in the Supreme Court, Court of Appeals, the different Divisions thereof, or any other court or tribunal or agency.

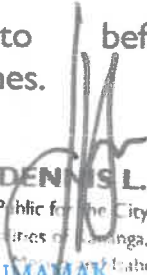
IN WITNESS WHEREOF, I hereunto set my hand on
DEC 07 2023, in Ormoc City, Philippines.



SABENIANO BIGNAY
Affiant/Complainant

SUBSCRIBED AND SWORN to before me on
DEC 07 2023, in Ormoc City, Philippines.

Doc. No. 232 ;
Page No. 48 ;
Book No. 111 ;
Series of 2023.

CERTIFIED TRUE AND
FACTS OF THE
ORIGINAL
PRESENTED


ATTY. DENNIS L. HIBAYA
Notary Public for the City of Ormoc,
Municipalities of Kananga, Matag-ob,
Merida and Isabel


ATTY. MA. KHISKA ANGELA H. TUMAMAK
Notary Public for the City of Ormoc
Municipalities of Kananga, Matag-ob, Merida and Isabel, Leyte
Commission No. ORM-22-09-018-NC Until December 31, 2024
Roll of Attorney's No. 82440
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Contact No. 0967-324-6663

No. 255940, 12/29/2022
Attorney No. 76903
FIN 922-420-348
Matter No. 850, Sec. 3 (a)



Republic of the Philippines
Province of Leyte
MUNICIPALITY OF KANANGA

OFFICE OF THE MUNICIPAL ASSESSOR

August 6, 2018

MRS. MELAGROS F. ROSLEDO, REA
Provincial Assessor
Chairman, Provincial Appraisal Committee
Province of Leyte

Dear Madam:


Greetings!

The Local Government Unit of Kananga, Leyte has planned to purchase Lot 2, (LRC) Pcs-18337 being a portion of the consolidation-subdivision of Lots 10184 & 1795 both of the Cadastral Survey of Omoc, LRC Cad. No. 1795 located in Brgy. Tugbong. The mentioned lot is intended for the Proposed (New) Barangay Site of Tugbong.

Hence, our Local Chief Executive, Hon. Rowena N. Codilla, instructed the undersigned to request the Provincial Appraisal Committee that you chaired to conduct appraisal/assessment of the above-mentioned lot, as required.

Initial information: Lot 2 containing an area of 1.00 hectare is an agricultural land, covered by Tax Declaration No. 21023-00836 (R13) declared in the name of Juliana Nahine. Attached are the tax declaration and title of the property for your reference.

With sincere thanks,


ENGR. VIRGILIO T. TIU
Municipal Assessor

Cc: LGE
File

Received by
2018/09/18



Republic of the Philippines
 PROVINCE OF LEYTE
 Tacloban City
 -oOo-

ANNEX C

Office of the Provincial Assessor

-oOo-

PROVINCIAL APPRAISAL COMMITTEE

August 9, 2018

EXCERPTS FROM THE MINUTES OF THE MEETING OF THE PROVINCIAL APPRAISAL COMMITTEE HELD AT THE OFFICE OF THE PROVINCIAL ASSESSORS, TACLOBAN CITY.

PRESENT

MILAGROS F. ROBLEDO, OIC-Provincial Assessor -Chairman
 ENGR. ROBERTO LUGNASIN, Provincial Engineer -Member
 MR. GERARDO AVORQUE, ICO-Provincial Treasurer -Member

ABSENT

NONE

RESOLUTION NO. 026-2018

Whereas, the Provincial Appraisal Committee has received the letter request of HON. ROWENA N. CODILLA, Municipal Mayor of Kananga, Leyte to appraise/assess real property intended for the Proposed (New) Barangay Site of Tugbong,

Whereas, the Provincial Appraisal Committee had conducted an actual ocular inspection and has found out the following:

1. That the property is declared in the name of JULIANA NAGINE;
2. That the property is located at Brgy. Tugbong, Kananga, Leyte;
3. That the property contains an area of 1.0000 hectare under Tax Declaration No. 21023-00636 R13, Lot 2, (LRC) Pcs-19337 (Lots 10184 & 1795) with Title No. T-15094;
4. That the area to be acquired is 10,000 square meters;
5. That the Local Government Unit of Kananga Leyte intends to purchase of the property for the Proposed (New) Barangay Site of Tugbong;
6. That the amount of One Hundred Forty pesos per square meter (P140.00/SQM.) is just fair and Reasonable.

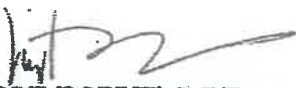
Upon the motion of the Provincial Treasurer, Mr. Gerardo A. Avorque, duly seconded by the Provincial Engineer, Engr. Roberto Luginasin, the appraised market value of the above-mentioned property is just, fair and reasonable.

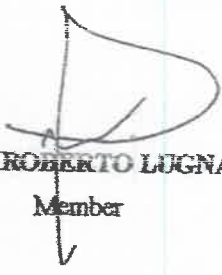
Juliana Nagine


Gerardo Avorque

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Approved Unanimously:


MILAGROS F. ROBLEDO, REA
Chairman



ENGR. ROBERTO LUGNASIN
Member


GERARDO A. AVORQUE
Member

WE HEREBY CERTIFY to the correctness of the foregoing resolution.


ENGR. VIRGILIO R. NAYRA, REA
Secretary


ENGR. LYNDON D. GO, REA
Staff


LOLITA C. CORREGIDOR, REA
Staff

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES
BUREAU OF ENVIRONMENTAL MANAGEMENT AND CONTROL
OFFICE OF THE SECRETARY
1201 MARCOS BUILDING, PASAY CITY, METRO MANILA
TELEPHONE: (02) 886-1000
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Sangguniang Bayan of Kananga

21ST SANGGUNIANG BAYAN

EXCERPTS FROM THE MINUTES OF THE REGULAR SESSION HELD BY THE SANGGUNIANG BAYAN OF KANANGA ON DECEMBER 10, 2018 AT THE SB SESSION HALL.

- | | | |
|-----------|-------------------------------------|----------------------------------|
| Present : | Honorable Elmer C. Codilla | Presiding Officer/Vice-Mayor |
| | Honorable Macario V. Lumangtad, Jr. | Floor Leader/SB Member |
| | Honorable Marciano L. Nahine | SB Member |
| | Honorable Lorenzo M. Aseo | SB Member |
| | Honorable Resurreccion C. Capanas | SB Member |
| | Honorable Edita P. Lacno | SB Member |
| | Honorable Procesa T. Baguio | SB Member |
| | Honorable Edward C. Campos | SB Member |
| | Honorable Mariquita C. Sanchez | SB Member |
| | Honorable Nilo Gonzaga | ABC President, ex Officio Member |
| | Honorable Jeffsbor G. Cuizon | SK Fed. Pres. /Ex-officio Member |

RESOLUTION NO. 21R.18-523
Series of 2018

A RESOLUTION AUTHORIZING THE MUNICIPAL MAYOR HONORABLE ROWENA N. CODILLA TO NEGOTIATE, ENTER INTO CONTRACT, SIGN DOCUMENTS AND TO PURCHASE LOT NO. 2 - PCS-19337 LOCATED IN BARANGAY TUGBONG, KANANGA, LEYTE COVERED BY TCT NO. T-15094 WITH AN AREA OF TEN THOUSAND (10,000) SQUARE METERS FROM THE HEIRS OF JULIANA NAHINE INTENDED FOR THE BARANGAY SITE OF BARANGAY TUGBONG, KANANGA, LEYTE.

WHEREAS, with the increasing population of the locality, the demand for delivery of basic services has also increased, which also proportionately requires bigger and larger working space in performing the multifarious government functions and services;

WHEREAS, Barangay Tugbong is one of the largest barangays and one of having the largest population in the Municipality of Kananga where the need of bigger area for government facilities is inevitable;

WHEREAS, among the areas recommended that is accessible, conducive and ideal for the construction of the new government facilities is the Lot No. 2 - Pcs-19337 located in Barangay Tugbong, Kananga, Leyte covered by TCT No. T-15094 with an area of Ten Thousand (10,000) square meters owned by the Heirs of Juliana Nahine.

WHEREAS, the Provincial Appraisal Committee, through its Resolution No. 026-2018, has considered the price of the lot in the amount of P140.00 per square meters as fair and reasonable.

NOW THEREFORE, on motion of SB Member Marciano L. Nahine, duly seconded by SB Member Edward C. Campos, **BE IT:**

RESOLVED, as it is hereby resolved, to authorize the Municipal Mayor Honorable Rowena N. Codilla to negotiate, enter into contract, sign documents and to purchase Lot No. 2 - Pcs-19337 located in Barangay Tugbong, Kananga, Leyte covered by TCT No. T-15094 with an area of Ten Thousand (10,000) square meters from the Heirs of Juliana Nahine intended for the Barangay Site of Barangay Tugbong, Kananga, Leyte.

CARRIED UNANIMOUSLY.

I HEREBY CERTIFY to the correctness of the afore-quoted Resolution.

ATTESTED:

ELMER C. CODILLA,
Vice Mayor/Presiding Officer

ATTY. ALLAN R. CASTRO
Board Secretary V
(Secretary to the Sangguniang Bayan)

APPROVED:

ROWENA N. CODILLA
Municipal Mayor
12-18-18
(Date)

Vertical text on the right margin: "I hereby certify the correctness of the foregoing resolution." and "Atty. Allan R. Castro, Board Secretary V, Sangguniang Bayan of Kananga, Leyte." with a signature.

Vertical text on the left margin: "I hereby certify the correctness of the foregoing resolution." and "Elmer C. Codilla, Vice Mayor/Presiding Officer, Sangguniang Bayan of Kananga, Leyte." with a signature.

EXTRAJUDICIAL SETTLEMENT OF ESTATE WITH DEED OF ABSOLUTE SALE

KNOW ALL MEN BY THESE PRESENTS:

We, **GLICERIO NAHINE PORCARE**, **HERMOGENES NAHINE PORCARE** and **FRANCISCO NAHINE PORCARE**, all of legal ages, and all Filipinos and all residents of Barangay Tugbong, Kananga, Leyte;

WITNESSETH:

That we are the heirs of the deceased **Salomon P. Porcare** and **Juliana t. Nahine**, who died on April 9, 2010 and December 1, 1975 at Barangay Tugbong, Kananga, Leyte, respectively;

That said deceased died intestate, without Will or Testament and without any outstanding debts in favor of any person or entity;

That the deceased left the herein described parcel of land located at Barangay Tugbong, Kananga, Leyte, covered by Transfer Certificate of Title No. T-15094, particularly described as follows;

"A parcel of land (Lot 2, (LRC) Pcs-19337, being a portion of the consolidation-subdivision survey of Lot 10184 and Lot 101986, both of the Cadastral Survey of Ormoc, L.R.C. Cad. NO. 1795) situated in the Barrio of Tugbong, Municipality of Kananga, Province of Northern Leyte. Bounded on the NE. along line 1-2 by Lot 4 of the consolidation-subdivision plan; along lines 2-3-4-5 by Lot 10185, Ormoc Cadastre; on the SE. along line 5-6 by Lot 5 of the consolidation-subdivision plan; along lines 6-7-8 by Lot 10183; on the SW. along line 8-9 by Lot 11830; on point 9 by Lot 11831, all Ormoc Cadastre; along line 9-10-11 by Lot 1; and along line 11-1 by Lot 3, both of the consolidation-subdivision plan. Containing an area of Ten Thousand (10,000) square meters, covered under Transfer Certificate of Title No. T-15094 issued by the Register of Deeds for the Province of Leyte".

That pursuant to Sec. 1, Rule 74 of the Revised Rules of Court of the Philippines, and the parties herein being all of age, they have agreed to divide as they do hereby divide and adjudicate unto themselves the herein described property in **EQUAL SHARE**;

That they hereby affirm that they have executed the foregoing instrument out of their own voluntary free will without force, intimidation or violence upon their person, that they have hereby received their just and proper share and have no claim or demand against each other;

That, for and in consideration of **ONE MILLION FOUR HUNDRED THOUSAND PESOS (P1,400,000.00)**, Philippine Currency, to us in hand paid to our great satisfaction by the Vendee, **LOCAL GOVERNMENT UNIT OF KANANGA, LEYTE** represented by **Municipal Mayor Hon. ROWENA N. CODILLA**, a local government unit and a subdivision of the Philippine Government with principal address at Poblacion, Kananga, Leyte, we do hereby **SELL, CONVEY and TRANSFER** by way of **ABSOLUTE SALE** unto the said **LOCAL GOVERNMENT UNIT OF KANANGA, LEYTE** represented by **Municipal Mayor Hon. ROWENA N. CODILLA**, its heirs and assigns, all our rights and interests over the parcel of land above described;

ACKNOWLEDGEMENT RECEIPT


To whom this may concern:

THIS IS TO ACKNOWLEDGE the receipt of **ONE MILLION FOUR HUNDRED THOUSAND PESOS (P1,400,000.00)**, paid to us hand by **LOCAL GOVERNMENT UNIT OF KANANGA, LEYTE** represented by **Municipal Mayor Hon. ROWENA N. CODILLA**, as full payment of the parcel of land, particularly described as follows;

"A parcel of land (Lot 2, (LRC) Pcs-19337, being a portion of the consolidation-subdivision survey of Lot 10184 and Lot 101986, both of the Cadastral Survey of Ormoc, L.R.C. Cad. NO. 1795) situated in the Barrio of Tugbong, Municipality of Kananga, Province of Northern Leyte. Bounded on the NE. along line 1-2 by Lot 4 of the consolidation-subdivision plan; along lines 2-3-4-5 by Lot 10185, Ormoc Cadastre; on the SE. along line 5-6 by Lot 5 of the consolidation-subdivision plan; along lines 6-7-8 by Lot 10183; on the SW. along line 8-9 by Lot 11830; on point 9 by Lot 11831, all Ormoc Cadastre; along line 9-10-11 by Lot 1; and along line 11-1 by Lot 3, both of the consolidation-subdivision plan. Containing an area of Ten Thousand (10,000) square meters, covered under Transfer Certificate of Title No. T-15094 issued by the Register of Deeds for the Province of Leyte".

Done this 18th day of January 2019 in Kananga, Leyte, Philippines.


GLICERIO NAHINE PORCARE
Heir-Adjudicatee-Vendor


HERMOGENES NAHINE PORCARE
Heir-Adjudicatee-Vendor

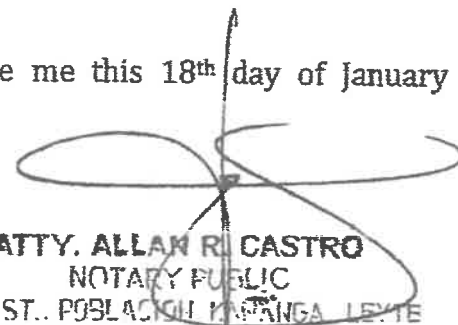
F. P.
FRANCISCO NAHINE PORCARE
Heir-Adjudicatee-Vendor

Signed in the presence of: *Anita P. Law*

Republic of the Philippines)
Province of Leyte)
Municipality of Kananga) S.S



SUBSCRIBED AND SWORN to before me this 18th day of January 2019 in Kananga, Leyte.


ATTY. ALLAN R. CASTRO
NOTARY PUBLIC
REAL ST., POBLACION KANANGA, LEYTE
ATTORNEY'S ROLL NO. 56453
NC. NO. ORM-18-12-010; DEC. 31, 2020
PTR NO. 2454179; 1/3/2019; LEYTE
IDP LT NO. 876853; LEYTE
TIN : 166-552-523

DOC. NO. 07
PAGE NO. 14
BOOK NO. LXXXII
SERIES OF 2019

ANNEX F



Republic of the Philippines
Province of Leyte
Municipality of Kananga

OBLIGATION REQUEST

No. ~~100-2019-01-0169~~
JANUARY 21, 2019


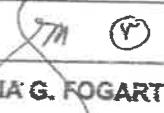
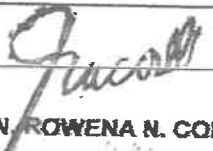

Payee	GLICERIO N. PORCARE
Office	
Address	Kananga, Leyte

Responsibility Center	Particulars	F.P.P.	Account Code	Amount
1011	Procurement of 10,000 square meters of Lot No. 2 Pas-19337 located in Brgy. Tugbang, Kananga, Leyte.	1-07-01-013		1,400,000.00

Total 1,400,000.00

A. Certified <input type="checkbox"/> Charges to appropriation/allotment necessary, lawful and under my direct supervision <input type="checkbox"/> Supporting Documents valid, proper and legal.		B. Certified Existing of available appropriation	
Signature		Signature	
Printed Name	HON. ROWENA N. CODILLA	Printed Name	SYLVIO QUILLO JR. I
Position	Municipal Mayor	Position	Municipal Budget Officer
Date		Date	

Annex G

		Republic of the Philippines PROVINCE OF LEYTE MUNICIPALITY OF KANANGA		Annex 24 1/24/2019 GENERAL FUND
DISBURSEMENT VOUCHER				No. <u>2019-01-0200</u>
Mode of Payment	<input type="checkbox"/> check <input type="checkbox"/> Cash <input type="checkbox"/> Other			
Payee	GLICERIO NAHINE PORCARE	TIN/Employee No.	Obligation Request No.	
Address:	SITIO PUNAY, BGY. TUGBONG, KANANGA, LEYTE		Responsibility Center	
			Office/Unit/Project	Code
EXPLANATION				Amount
To payment for the procurement of real property : parcel of lot No. 2, (LRC) PCS-19337 (Lots 10184 & 1795) with TCT NO. 15094 containing an area of 10,000 square meters located at Barangay Tugbong with appraised market value by the Provincial Appraisal Committee at P140.00 per square meter per Resolution No. 026-2018 and per Extrajudicial Settlement of Estate with Deed of Absolute Sale executed between the Municipality of Kananga and the heirs of Salomon Porcare and Juliana Nahine - Glicerio, Hemogenes, and Francisco Porcare.				1,400,000.00
Amount Due				P 1,400,000.00
A. Certified: <input type="checkbox"/> Allotment obligated for the purpose as indicated above. <input type="checkbox"/> Supporting documents complete.		B. Certified: Funds Available		
Signature			Signature	
Printed Name	JOSEFINA G. FOGARTY	Date	Printed Name	SUSAN S. DELMONTE
Position	Municipal Accountant		Position	Municipal Treasurer / OIC
C. Approved for Payment		D. Received Payment		
Signature			Check No.	Bank Name
Printed Name	HON. ROWENA N. CODILLA		Signature	
Position	Municipal Mayor		Printed Name	GLICERIO NAHINE PORCARE
	OR/Other Documents	JEV No.	Date	

Annex H

Journal Entry Voucher MUNICIPALITY OF KANANGA		Fund : GF - Proper	CDJ No. 2019-01-000200	
		Transaction Type : Disbursement - DISB036	Date January 24, 2019	
Responsibility Center	Account Title	Account Code	Debit	Credit
	Land	1-07-01-010	1,400,000.00	
	General Public Services			1,400,000.00
	Cash in Bank - Local Currency, Current Account	1-01-02-010		1,400,000.00
	LBP - GF Account# 0952-1047-56		1,400,000.00	
TOTAL			1,400,000.00	1,400,000.00
Supporting Documents				
Date	Description			
01/24/2019	Check		0001533886	
01/24/2019	Disbursement Voucher		100-2019-01-200	
01/24/2019	Obligation Request (OBR)		100-2019-01-0129	

Particulars : To payment for the procurement of real property parcel of Lot No. 2 (LRC) PCS - 19337 (Lots 10184 & 1795) with TCT No. 15094 containing an area of 10,000 sq. meters located at Brgy. Tugbong, Kananga, Leyte

Prepared by : Paul Andre G. Quilantang

Approved by : Josefina G. Fogarty

Annex I



Republic of the Philippines
Province of Leyte
Municipality of Kananga
-oOo-

Sangguniang Bayan of Kananga

21ST SANGGUNIAN BAYAN

EXCERPTS FROM THE MINUTES OF THE REGULAR SESSION HELD BY THE SANGGUNIAN BAYAN OF KANANGA ON MAY 15, 2019 AT THE SB SESSION HALL.

- Present :
- Honorable Elmer C. Codilla
 - Honorable Macario V. Lumangtad, Jr.
 - Honorable Marciano L. Nahine
 - Honorable Lorenzo M. Aseo
 - Honorable Resurreccion C. Capanas
 - Honorable Edita P. Lacno
 - Honorable Procesa T. Baguio
 - Honorable Edward C. Campos
 - Honorable Mariquita C. Sanchez
 - Honorable Nilo Gonzaga
 - Honorable Jeffsbor G. Cuizon

- Presiding Officer/Vice-Mayor
- Floor Leader/SB Member
- SB Member
- SB Member
- SB Member
- SB Member
- SB Member
- SB Member
- SB Member
- SB Member
- ABC President, ex Officio Member
- SK Fed. Pres. /Ex-officio Member

RESOLUTION NO. 21R.19-629
Series of 2019

A RESOLUTION AUTHORIZING THE MUNICIPAL MAYOR OF KANANGA, HONORABLE ROWENA N. CODILLA TO DONATE TO BARANGAY TUGBONG, KANANGA, LEYTE THE LGU-ACQUIRED PARCEL OF LAND LOT NO. 2 (LRC) PCS-19337, LOCATED IN BARANGAY TUGBONG, KANANGA, LEYTE.

WHEREAS, the Local Government Unit of Kananga had appropriated funds for the procurement of lot in Barangay Tugbong, Kananga, Leyte which is intended as barangay site of the said barangay;

WHEREAS, after the verification of lot and the production of the required documents including the Resolution of the Provincial Appraisal Committee, the Lot No. 2, (LRC) Pcs-19337, situated in Barangay Tugbong, Kananga, Leyte containing an area of Ten Thousand (10,000) square meters covered by Transfer Certificate of Title No. T-15094 was finally acquired by the LGU Kananga as evidenced by the Deed of Extrajudicial Settlement of Estate With Deed of Absolute Sale dated January 18, 2019;

WHEREAS, for proper recording and inventory of the said property, it is necessary that the account of the said property shall be transferred to Barangay Tugbong for the reason that the barangay is the beneficial user of the said property.

NOW THEREFORE, on motion of SB Member Resurreccion C. Capanas, duly seconded *en masse*, be it:

RESOLVED, as it is hereby resolved, to authorize the Municipal Mayor of Kananga, Honorable Rowena N. Codilla to donate to Barangay Tugbong, Kananga, Leyte the LGU-acquired parcel of land Lot No. 2 (LRC) Pcs-19337, located in Barangay Tugbong, Kananga, Leyte.

CARRIED UNANIMOUSLY

I HEREBY CERTIFY to the correctness of the afore-quoted Resolution.

ATTY. ALLAN R. CASTRO
Board Secretary
(Secretary to the Sangguniang Bayan)

ATTESTED:
ELMER C. CODILLA
Vice Mayor/Presiding Officer

APPROVED:
ROWENA N. CODILLA
Municipal Mayor
5/24/19

SK Fed. Pres. /Ex-officio member

Vertical signatures and stamps on the left and right margins, including names like 'Hon. Elmer C. Codilla' and 'Hon. Resurreccion C. Capanas'.

KNOW ALL MEN BY THESE PRESENTS:

That the **LOCAL GOVERNMENT UNIT OF KANANGA, LEYTE**, duly represented by its Mayor, **HONORABLE ROWENA N. CODILLA**, with the office address at Municipal Hall, Kananga, Leyte, hereinafter referred to as the **DONOR**,

- in favor of -

The **BARANGAY LOCAL GOVERNMENT UNIT OF TUGBONG, KANANGA, LEYTE**, represented by Punong Barangay **LEAH O. EMPLEO**, with the address at Barangay Hall, Tugbong, Kananga, Leyte, hereinafter called the **DONEE**,

WITNESSETH:

That the **DONOR** is the owner of a parcel of land located in Tugbong, Kananga, Leyte, more particularly described as follows:

"A parcel of land (Lot 2, (LRC) Pcs-19337, being a portion of the consolidation-subdivision survey of Lot 10184 and Lot 10186, both of the Cadastal Survey of Ormoc, L.R.C. Cad. No. 1795) situated in the Barrio of Tugbong, Municipality of Kananga, Province of Northern Leyte. Bounded on the NE. along line 1-2 by Lot 4 of the consolidation-subdivision plan; along lines 2-3-4-5 by Lot 10185, Ormoc Cadastre; on the SE. along line 5-6 by Lot 5 of the subdivision-consolidation plan; along lines 6-7-8 by Lot 10183; on the SW., along line 8-9 by Lot 11830; on point 9 by Lot 11831, all of Ormoc Cadastre; along line 9-10-11 by Lot 1; and along line 11-1 by Lot 3, both of the consolidation-subdivision plan. Containing an area of Ten Thousand (10,000) square meters, covered under Transfer Certificate of Title No. T-15094 issued by the Register of Deeds for the Province of Leyte."

That the Municipal Mayor, being the Local Chief Executive is authorized by the Sangguniang Bayan of Kananga through SB Resolution No. 21R.19-629 to donate to the donee the above-described parcel of land.

That **FOR AND IN CONSIDERATION** of supporting the municipal administration's goal and development, and in supporting the programs of the **MUNICIPALITY OF KANANGA** for the welfare of the entire constituency, and as an act of gratitude and liberality on its part, the **DONOR** hereby voluntarily **GIVES, TRANSFERS, and CONVEYS** by way of donation, unto the said **DONEE**, its successors and assigns, the above described property, together with all the improvements found thereon, free from all liens and encumbrances.

That the herein donated property shall be used exclusively as barangay relocation site/expansion of built-up area for its residents;

That the **DONOR** affirms that this donation is not made with intent to deceive its creditors, and that it has reserved for itself sufficient funds and properties;

VERIFIED TRUE COPY FROM THE ORIGINAL.

Presented and read to before me this 20th day of 2021 in Kananga, Leyte

10
XXII
of 20 21
ATTY. ALLAN R. CASTRO
NOTARY PUBLIC
Real Sr. Prob. Kananga, Leyte
Attorney's Roll No. 5615*

That the DONEE hereby accepts and receives this donation made in its favor by the DONOR, and hereby manifests its gratefulness for the latter's generosity.

That the DONOR shall not be liable for any cost arising out of or relating to the execution of this instrument.

IN WITNESS WHEREOF, both the DONOR & DONEE, through their duly authorized representatives have hereunder subscribed their names this 25 day of June 2019 at KANANGA, LEYTE, Philippines.

**LOCAL GOVERNMENT UNIT
OF KANANGA, LEYTE**
Donor

**BARANGAY LOCAL GOVERNMENT
UNIT OF TUGBONG, KANANGA**
Donee

Represented by:

[Signature]
ROWENA N. CODILLA
Municipal Mayor

Represented by:

[Signature]
LEAH O. EMPLEO
Punong Barangay

WITNESSES:

[Signature]

[Signature]

ACKNOWLEDGEMENT

Republic of the Philippines)
KANANGA, LEYTE) S.S

BEFORE ME, a Notary Public for and in the KANANGA, LEYTE, this 25 day of June 2019, personally appeared:

Name Competent Evidence of Identity Date/Place Issued
ROWENA N. CODILLA PE ID # 001 LGU
LEAH O. EMPLEO PE ID # 17-02510201-1

known to me and to me known to be the same persons who executed the foregoing Deed of Donation and acknowledged to me that the same is their free and voluntary act and deed, and by virtue of the powers vested in them by law.

The foregoing instrument relates to a DEED OF DONATION of a parcel of land, consisting of two (2) pages, including this page on which this acknowledgment is written, and has been signed on the left hand margin of the first page thereof, by the parties and their instrumental witnesses, and sealed with my notarial seal.

WITNESS MY HAND AND SEAL, on the date and place first above written.

[Notary Seal]
AT V. ALLAN R. CASTRO
NOTARY PUBLIC
REPUBLIC OF THE PHILIPPINES
ATTORNEYS ROLL NO. 550
IC. NO. OF 19-12-012; DEPT. OF JUSTICE
PTR NO. 2454179; 1/3/2019; LEYTE
IBP LT NO. 876863; LEYTE
TIN: 166-552-526

COC. NO. 31
PAGE NO. 63
BOOK NO. XXXXX
SERIES OF 2019



ANNEX K

REPUBLIC OF THE PHILIPPINES
PROVINCE OF LEYTE
MUNICIPALITY OF KANANGA

Office of the Secretary to the Sangguniang Bayan

August 23, 2023

ATTY. ADELITO M. SOLIBAGA, JR.
Municipal Administrator
Office of the Municipal Administrator
Kananga, Leyte

Dear Atty. Solibaga:

Good day!

Please find attached Committee Report No. 2023-23-08 of the Committee of the Whole of the 23rd Sangguniang Bayan of Kananga, Leyte.

The said Committee Report has a recommendation for your information

Thank you and God Bless.

Very respectfully yours,

Atty. ALLAN R. CASTRO
Board Secretary V
(Secretary to the Sangguniang Bayan)





Republic of the Philippines
Province of Leyte
Municipality of Kananga
-000-

Sangguniang Bayan of Kananga

August 18, 2023
Date

TO. HON. VICE MAYOR/PRESIDING OFFICER
Sangguniang Bayan

COMMITTEE REPORT NO. 2023-23-08 OF THE COMMITTEE OF THE WHOLE

Subject : Letter from the Office of the Mayor, Hon. Manuel Vicente M. Torres requesting for a resolution authorizing him to revoke or cancel the Deed of Donation entered into by LGU Kananga represented by former mayor Rowena Codilla and BLGU of Tugbong represented by Punong Barangay Hon. Leah Empleo pertaining to a parcel of land known as Lot No. 2 being a portion of the consolidation-subdivision survey of Lot 10184 and Lot 101986 covered by TCT No. T-15094, tax declared under the name of Juliana Nahine located in Barangay Tugbong Kananga, Leyte.

Date of Referral: August 14, 2023

ACTION TAKEN:

The Committee of the Whole met at the Sanggunian Bayan Session Hall on August 18, 2023, at 9:30 in the morning to discuss the above-mentioned subject. With majority of the members of the Committee present, quorum was subsequently declared.

In attendance during the committee meeting were the invited guests, namely:

- Hon. Leah O. Empleo (*Punong Barangay, Brgy. Tugbong*)
- Hon. Emerita Lacno (*Sangguniang Barangay Member, Brgy. Tugbong*)
- Hon. Jerry Empleo (*Sangguniang Barangay Member, Brgy. Tugbong*)
- Hon. Gerardo Odan (*Sangguniang Barangay Member, Brgy. Tugbong*)
- Hon. Prescilita Cabintoy (*Sangguniang Barangay Member, Brgy. Tugbong*)
- Hon. Rolando Ymas (*Sangguniang Barangay Member, Brgy. Tugbong*)
- Hon. Alipio Cabalejo, Jr. (*Sangguniang Barangay Member, Brgy. Tugbong*)
- Atty. Adelito Solibaga Jr. (*Municipal Administrator*)

FINDINGS/OBSERVATION:

The Committee headed by the Hon. Brenzon Cabintoy presented to the body the following documents submitted from the Office of the Mayor:

1. Letter request from the Municipal Mayor dated August 10, 2023, requesting authority to revoke the Deed of Donation entered into by LGU Kananga represented by former mayor Rowena Codilla and BLGU Tugbong represented by Punong Barangay Hon. Leah Empleo pertaining to a parcel of land known as Lot No. 2 being a portion of the consolidation-subdivision survey of Lot 10184 and Lot 101986 covered by TCT No. T-15094, tax declared under the name of Juliana Nahine located in Barangay Tugbong Kananga, Leyte.
2. Annex A – Copy of Purchase Request (PR) from the Office of the Mayor dated August 6, 2018, for the procurement of 10,000 square meters of Lot No. 2-pcs-19337 located in Brgy. Tugbong, Kananga, Leyte, covered by TCT No. T-15094 with a total cost of Php 1,400,000.00 intended for the purpose of Barangay Site of Barangay Tugbong, Kananga, Leyte. The said document was requested, approved, and signed by the former mayor Rowena Codilla.

The fact that there is no authority for the Punong Barangay to sign the contract, there was also no authority to accept the donation. Even if the donation happened in 2019, a void contract produces no effect as it is not valid, in the first place, in the beginning.

- That the Municipal Mayor Hon. Manuel Vicente M. Torres be authorized through a separate resolution, to recover the said property and to undertake legal remedies when necessary.

Recommended further, that copies of this Committee Report be furnished to the following:

- Office of the Municipal Mayor;
- Office of the Municipal Administrator;
- Office of the Building Official;
- Municipal Engineering's Office;
- Municipal Planning and Development Office;
- BLGU of Tugbong

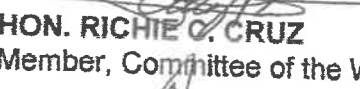
REPORTED BY:

COMMITTEE OF THE WHOLE


HON. BRENZON C. CABINTOY
Chairman, Committee of the Whole


HON. RESURRECCION C. CAPANAS
Member, Committee of the Whole


HON. RUDY B. COGAY
Member, Committee of the Whole

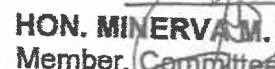

HON. RICHIE C. CRUZ
Member, Committee of the Whole



HON. NILO GONZAGA
Member, Committee of the Whole


HON. MIGUEL JORGE P. TAN
Member, Committee of the Whole


HON. FERNANDO M. ASEO
Member, Committee of the Whole


HON. ALMA N. ORFANO
Member, Committee of the Whole


HON. MINERVA M. BULAWIT
Member, Committee of the Whole


HON. ALLAN C. ESPINOSA
Member, Committee of the Whole


HON. JEFFERSON G. GUIZON
Member, Committee of the Whole



Sangguniang Bayan of Kananga

23rd SANGGUNIANG BAYAN

RESOLUTION NO. 23R.23-422

Series of 2023

A RESOLUTION AUTHORIZING THE MUNICIPAL MAYOR, HON. MANUEL VICENTE M. TORRES, TO REVOKE OR CANCEL THE DEED OF DONATION OF A PARCEL OF LAND KNOWN AS LOT NO. 2, BEING A PORTION OF THE CONSOLIDATION-SUBDIVISION SURVEY OF LOT 10184 AND LOT 101986 COVERED BY TCT NO. T-15094, DATED JUNE 25, 2019 ENTERED INTO BY LGU KANANGA, THEN REPRESENTED BY FORMER MAYOR ROWENA CODILLA, AND BLGU OF TUGBONG, KANANGA, LEYTE, REPRESENTED BY PUNONG BARANGAY LEAH EMPLEO.

WHEREAS, before this Municipal Council is the Letter request from the Municipal Mayor dated August 10, 2023, requesting authority to revoke the Deed of Donation entered into by LGU Kananga represented by former mayor Rowena Codilla and BLGU Tugbong represented by Punong Barangay Hon. Leah Empleo pertaining to a parcel of land known as Lot No. 2 being a portion of the consolidation-subdivision survey of Lot 10184 and Lot 101986 covered by TCT No. T-15094, tax declared under the name of Juliana Nahine located in Barangay Tugbong Kananga, Leyte;

WHEREAS, the request for revocation is premised on the following defects:

1. Failure of the BLGU of Tugbong through its barangay council to authorize through a resolution Punong Barangay Hon. Leah Empleo to sign contracts for and in behalf of the barangay the Deed of Donation/Deed of Acceptance for the donated parcel of land, contrary to what is required by RA No. 7160 or the Local Government Code of 1991. And
2. The Deed of Donation entered into by LGU Kananga represented by former mayor Rowena Codilla that provided the exclusive use of the donated parcel of land to BLGU of Tugbong as barangay relocation site or expansion of built-up area for its residents is beyond the authority provided by the Sanggunian Bayan of Kananga through Resolution No. 21R-19-629 which provides that the intended purpose of the donation of the above-mentioned property shall be for the use as barangay site, and not as a relocation site or expansion site for its residents.

WHEREAS, overwhelming evidences have been submitted by the Executive Department to prove that the said Deed of Donation was in contravention of the authority given to the former local chief executive, such as, but not limited to the Purchase Request, letter request addressed to the Provincial Appraisal Committee, SB Resolutions, and other documents, stating that the land is intended for barangay site;

WHEREAS, during the committee meeting attended by the Punong Barangay and the Members of the Barangay Council of Tugbong, Kananga, Leyte, they admitted that there was no resolution of the barangay authorizing the Punong Barangay to sign the Deed of Donation/Deed of Acceptance;

WHEREAS, the contract or deed of donation is invalid as the authority of former mayor Rowena Codilla is beyond to what was provided under Sanggunian Bayan Resolution No. 21R.19-629; and Article 1317 of the Civil Code of the Philippines, provides that, "No one may contract in the name of another without being authorized by the latter, or unless he has by law a right to represent him. A contract entered into in the name of another by one who has no authority or legal representation, or who has acted beyond his powers, shall be unenforceable, unless it is ratified, expressly or impliedly, by the person on whose behalf it has been executed, before it is revoked by the other contracting party";

WHEREAS, the contract or deed of donation is void-ab-initio as the Punong Barangay Hon. Leah Empleo of Barangay Tugbong does not have an authority by its Sangguniang barangay council to enter or sign into contracts, deed of acceptance, in this instance, as provided by LA 7160 and the Civil Code, to wit, Book III - Chapter 3 & 4, Section 389 (b) (5) the duties

Notary Public for the City of Ormoc
Commission No. CRM-22-09-018-NC Until December 31, 2024
IBP No. 329704 / 12/17/2023 / Leyte Chapter
4, Section 389 (b) (5) the duties

and functions of the Punong Barangay, which states: "Negotiate, enter into, and sign contracts for and in behalf of the Barangay, upon authorization of the Sangguniang Barangay;" Section 391 (12) the duties and functions of the Sangguniang Barangay which states that "Authorize the Punong Barangay to enter into contracts in behalf of the Barangay, subject to the provisions of this Code";

WHEREAS, Article 745 and 749 of the New Civil Code, provides that "The donee must accept the donation personally, or through an authorized person with a special power for the purpose, or with a general and sufficient power; otherwise, the donation shall be void";

WHEREAS, the fact that there is no authority for the Punong Barangay to sign the contract, there was also no authority to accept the donation. Even if the donation happened in 2019, a void contract produces no effect as it is not valid, in the first place, in the beginning;

WHEREAS, the Committee Report No. 2023-23-08 of the Committee of the Whole, to which the above-stated request was referred to, after thorough study and investigation, favorably recommended to give authority to the Municipal Mayor to revoke the said Deed of Donation.

NOW THEREFORE, on motion of SB Member Brenzon C. Cabintoy, duly seconded by all SB Members present, be it:

RESOLVED, as it is hereby resolved, to Authorize the Municipal Mayor, Hon. Manuel Vicente M. Torres, to revoke or cancel the Deed of Donation of a parcel of land known as Lot No. 2, being a portion of the consolidation-subdivision survey of Lot 10184 and Lot 101986 covered by TCT No. T-15094, dated June 25, 2019 entered into by LGU Kananga, then represented by former mayor Rowena Codilla, and BLGU of Tugbong, Kananga, Leyte, represented by Punong Barangay Leah O. Empleo.

RESOLVED FURTHER, that the Honorable Mayor, Manuel Vicente M. Torres, is hereby authorized to recover the said property and to undertake legal remedies whenever necessary.

UNANIMOUSLY APPROVED.

Voting Results: In favor: 10 Against: None

Adopted and Approved on August 14, 2023 during SB Regular Session.

I HEREBY CERTIFY to the correctness of the afore-quoted Resolution.

ATTY. ALLAN R. CASTRO
Board Secretary
(Secretary to the Sanggunian)

APPROVED BY: 
HON. FERNANDO M. ASEO
SB Member & Temporary Presiding Officer


ATTESTED BY:


HON. RESURRECCION C. CAPANAS
SB Member/Floor Leader



HON. ALMA N. ORFANO
SB Member


HON. RICHIE C. CRUZ
SB Member


HON. BRENZON C. CABINTOY
SB Member


HON. RUDY B. COGAY
SB Member


HON. ALLAN C. ESPINOSA
SB Member


HON. JEFFSBOR G. CUIZON
Pambayang Pederasyon Ng Sangguniang
Kabataan President/Ex-officio Member

(Official Travel)
HON. MIGUEL JORGE P. TAN
Vice Mayor


HON. MINERVA M. BULAWIT
SR Member

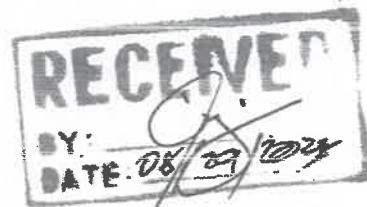

HON. NILO GONZAGA
Liga Ng Mga Barangay President/
Ex-officio Member



Annex M

REPUBLIC OF THE PHILIPPINES
PROVINCE OF LEYTE
MUNICIPALITY OF KANANGA

MUNICIPAL LEGAL OFFICE
Real St., Poblacion, Kananga, Leyte



August 24, 2023

Hon. Leah Empleo
Punong Barangay
Barangay Tubgong,
Kananga, Leyte

Subject: Formal Notice of Revocation/Cancellation of Deed of Donation and Demand to Vacate

Dear Hon. Empleo,

Greetings of Peace!

I am writing you, for and in behalf of Honorable Mayor Manuel Vicente M. Torres, who has been given an authority by the Sangguniang Bayan (SB) of the Municipality of Kananga, Leyte to revoke/cancel the ~~void-from-the-very-beginning deed of donation~~ hastily executed by the previous Mayor of Kananga, Leyte, Rowena Codilla on June 25, 2019 (five days before the end of her term) involving a 10,000 square-meter portion of a parcel of land known as Lot no. 2 being a portion of the consolidation-subdivision survey of Lot 10184 and Lot 101986 covered by TCT No. T-15094, tax declared under the name of Juliana Nahine and located in Brgy. Tubgong, Kananga, Leyte.

A month ago, it was discovered that the aforesaid deed of donation was illegally executed by the former Mayor Codilla beyond the authority given to her by the previous SB.

During the committee hearing of the Committee of the Whole of the present SB, it was confirmed that the incumbent Punong Barangay of Tubgong, Kananga, Leyte, Leah Empleo, did not have any authority from the Sangguniang Barangay to execute and accept said deed of donation. Thus, this letter.

To refresh your memory, the undisputed antecedent facts are as follows:

1. On **August 6, 2018**, former Mayor Rowena Codilla prepared and approved a Purchase Request (PR) for the purchase of a 10,000 square-meter portion of a parcel of land known as Lot no. 2 being a portion of the consolidation-subdivision survey of Lot 10184 and Lot 101986 covered by TCT No. T-15094, tax declared under the name of Juliana Nahine and located in Brgy. Tubgong, Kananga, Leyte for PhP 1,400,000.00.
2. The said PR expressly states that purpose of the purchase is for "Barangay Site of Barangay Tubgong, Kananga, Leyte." This bears stressing that on the day the said PR was also prepared and approved by Rowena Codilla, the same was without an approved budget from the previous SB. The copy of said PR No. 2018-12-037 dated August 6, 2018 is hereto attached as **Annex A**.
3. Based on the letter-request dated August 8, 2018 (two days after the PR was issued), the former Municipal Assessor, Engr. Virgilio Yu requested for the conduct of the appraisal/assessment of said land which was intended for "Proposed (New) Barangay Site of Tubgong." The copy of said letter-request is hereto attached as **Annex B**.

Faint watermark text: Notary Public for the City of Kananga, Municipality of Kananga, Province of Leyte, Republic of the Philippines. Commission No. QNM-22-09-018-NG-11-2023





4. On **August 9, 2018**, the Provincial Appraisal Committee passed a Resolution No. 026-2018 which shows the recommended appraised market value of the above-mentioned property. The same resolution also states that the appraised property was for the "**Proposed (New) Barangay Site of Tugbong.**" The copy of said Resolution is hereto attached as **Annex C.**
5. On **September 10, 2018**, the 21st Sangguniang Bayan under the former Vice Mayor, Elmer Codilla passed a Supplemental Ordinance No. 21L18-048, Series of 2018 which budgeted an amount for the purchase of said land.
6. On **December 10, 2018**, the same Sangguniang Bayan passed a Resolution No. 21R.18-523, series of 2018 authorizing the former Mayor Rowena Codilla to purchase the above-mentioned land which expressly states that the same was **intended for Barangay Site** of Barangay Tugbong, Kananga, Leyte. The copy of said SB Resolution is hereto attached as **Annex D.**
7. On **May 15, 2019**, the same Sangguniang Bayan passed a Resolution No. 21R.19-629 series of 2019 authorizing former Mayor Rowena Codilla to donate the said property to Brgy. Tugbong. In the said Resolution, it is expressly stated that the said procured property is intended as **Barangay Site of Barangay Tugbong**, not a **Relocation Site**. The copy of said SB Resolution is hereto attached as **Annex E.**
8. On **June 25, 2019**, five (5) days before the end of the term of Rowena Codilla, she hastily executed a Deed of Donation covering the above-described land in favor of Brgy. Tugbong, Kananga, Leyte. However, in said Deed of Donation, it is expressly stated that "**the herein donated property shall be used exclusively as barangay relocation site/expansion of built-up area for its residents.**"
9. This is contrary to, and not in conformity with the authority given to her by SB, per SB resolution no. 21R.19-629 series of 2019 which authority clearly states that the donated property should be used as "**Barangay Site**" not a relocation site. The copy of said deed of donation is hereto attached as **Annex F.**

Last August 18, 2023, the Committee of the Whole of the present SB conducted an investigation at the SB session hall (where you and the members of the Sangguniang Barangay attended and participated), and it was found out, THAT:

1. The Barangay Sangguniang did not authorize the incumbent Punong Barangay Leah Empleo to execute and accept the aforesaid deed of donation contrary to the Section 389 (b) (b), Book III, Chapter 3 & 4 of the Local Government Code of 1991, Articles 745, 749, 1317 of the New Civil Code of the Philippines.
2. The said deed of donation was executed by Rowena Codilla beyond the authority given to her by the previous SB per SB No. 21R.19-629 series of 2019 authorizing former Mayor Rowena Codilla to donate the said property to Brgy. Tugbong. In the said Resolution, it is expressly stated that the said procured property is intended as **Barangay Site of Barangay Tugbong**, not a **Relocation Site**.
3. The Punong Barangay Leah Empleo illegally partitioned the said land and distributed the same to several persons including some members of the Sangguniang Barangay who accepted and actually introduced improvements thereon without legal basis (Ordinance).

The copy of the Committee Report is hereto attached as **Annex G.**

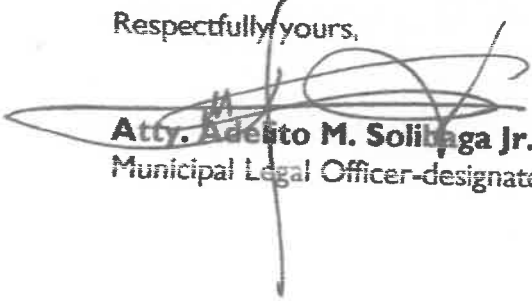
To reiterate, as of the present, the said property has been illegally distributed by LGU Tugbong, through its Punong Barangay Leah Empleo to some of the Barangay Officials of the said Barangay and illegally occupied by more or less 15 households as relocation site.

In view of the foregoing, this is to formally inform the Barangay Local Government of Tugbong, Kananga, Leyte headed by its Punong Barangay Leah Empleo, that the Local Government Unit of Kananga, Leyte, through its Local Chief Executive (LCE), Mayor Manuel Vicente M. Torres, has **REVOKED/CANCELLED the aforesaid DEED OF DONATION** which was illegally executed by Rowena Codilla on June 25, 2019 based on the grounds discussed above.



Further, you are hereby demanded to vacate the property within **THIRTY (30) DAYS** from receipt of this letter, and demolish all the improvements found thereon within the same period at your expense. Otherwise, the LGU Kananga, Leyte will take appropriate legal actions against you to protect its rights and interests over the said property.

Respectfully yours,


Atty. Adesto M. Solibaga Jr.
Municipal Legal Officer-designate



Annex N

REPUBLIC OF THE PHILIPPINES
PROVINCE OF LEYTE
MUNICIPALITY OF KANANGA

MUNICIPAL LEGAL OFFICE
Real St., Poblacion, Kananga, Leyte

September 4, 2023

Mr. Alejandro Nadonza
Barangay Tubgong,
Kananga, Leyte

Subject: Demand to Vacate

Dear Mr. Nadonza,

Greetings of Peace!

This is to formally inform you that the Local Government Unit of Kananga, Leyte, through its Local Chief Executive (LCE), Mayor Manuel Vicente M. Torres, **has already REVOKED/CANCELLED the void-from-the-very-beginning DEED OF DONATION**, which was illegally and hastily executed by Rowena Codilla on June 25, 2023 (five days before the end of her term) in favor of Barangay Local Government Unit of Tubgong, Kananga, Leyte, involving a 10,000 square-meter portion of a parcel of land known as Lot no. 2 being a portion of the consolidation-subdivision survey of Lot 10184 and Lot 101986 covered by TCT No. T-15094, tax declared under the name of Juliana Nahine and located in Brgy. Tubgong, Kananga, Leyte, which you have illegally possessed and occupied.

For your reference, the undisputed antecedent facts are as follows:

1. On **August 6, 2018**, former Mayor Rowena Codilla prepared and approved a Purchase Request (PR) for the purchase of a 10,000 square-meter portion of a parcel of land known as Lot no. 2 being a portion of the consolidation-subdivision survey of Lot 10184 and Lot 101986 covered by TCT No. T-15094, tax declared under the name of Juliana Nahine and located in Brgy. Tubgong, Kananga, Leyte for PhP 1,400,000.00.
2. The said PR expressly states that purpose of the purchase is for "**Barangay Site of Tubgong, Kananga, Leyte**." This bears stressing that on the day the said PR was also prepared and approved by Rowena Codilla, the same was without an approved budget from the previous SB. The copy of said PR No. 2018-12-037 dated August 6, 2018 is hereto attached as **Annex A**.
3. Based on the letter-request dated August 8, 2018 (two days after the PR was issued), the former Municipal Assessor, Engr. Virgilio Tiu requested for the conduct of the appraisal/assessment of said land which was intended for "**Proposed (New) Barangay Site of Tubgong**." The copy of said letter-request is hereto attached as **Annex B**.
4. On **August 9, 2018**, the Provincial Appraisal Committee passed a Resolution No. 026-2018 which shows the recommended appraised market value of the above-mentioned property. The same resolution also states that the appraised property was for the "**Proposed (New) Barangay Site of Tubgong**." The copy of said Resolution is hereto attached as **Annex C**.
- On **September 10, 2018**, the 21st Sangguniang Bayan under the former Vice Mayor, Elmer Codilla passed a Supplemental Ordinance No. 2118-048, Series of 2018 which budgeted an amount for the purchase of said land.

[Handwritten signature]





6. On **December 10, 2018**, the same Sangguniang Bayan passed a Resolution No. 21R.18-523, series of 2018 authorizing the former Mayor Rowena Codilla to purchase the above-mentioned land which expressly states that the same was **intended for Barangay Site** of Barangay Tugbong, Kananga, Leyte. The copy of said SB Resolution is hereto attached as **Annex D**.
7. On **May 15, 2019**, the same Sangguniang Bayan passed a Resolution No. 21R.19-629 series of 2019 authorizing former Mayor Rowena Codilla to donate the said property to Brgy. Tugbong. In the said Resolution, it is expressly stated that the said procured property is intended as **Barangay Site of Barangay Tugbong**, not a **Relocation Site**. The copy of said SB Resolution is hereto attached as **Annex E**.
8. On **June 25, 2019**, five (5) days before the end of the term of Rowena Codilla, she hastily executed a Deed of Donation covering the above-described land in favor of Brgy. Tugbong, Kananga, Leyte. However, in said Deed of Donation, it is expressly stated that "**the herein donated property shall be used exclusively as barangay relocation site/expansion of built-up area for its residents.**"
9. This is contrary to, and not in conformity with the authority given to her by SB, per SB resolution no. 21R.19-629 series of 2019 which authority clearly states that the donated property should be used as "**Barangay Site**" not a relocation site. The copy of said deed of donation is hereto attached as **Annex F**.


Last August 18, 2023, the Committee of the Whole of the present SB conducted an investigation at the SB session hall (where the incumbent Punong Barangay Leah Empleo and the members of the Sangguniang Barangay attended and participated), and it was found out, THAT:

1. The Barangay Sangguniang did not authorize the incumbent Punong Barangay Leah Empleo to execute and accept the aforesaid deed of donation contrary to the Section 389 (b) (b), Book III, Chapter 3 & 4 of the Local Government Code of 1991, Articles 745, 749, 1317 of the New Civil Code of the Philippines.
2. The said deed of donation was executed by Rowena Codilla beyond the authority given to her by the previous SB per SB No. 21R.19-629 series of 2019 authorizing former Mayor Rowena Codilla to donate the said property to Brgy. Tugbong. In the said Resolution, it is expressly stated that the said procured property is intended as **Barangay Site of Barangay Tugbong**, not a **Relocation Site**.
3. The Punong Barangay Leah Empleo illegally partitioned the said land and distributed the same to several persons including some members of the Sangguniang Barangay who accepted and actually introduced improvements thereon without legal basis (Ordinance). The copy of the Committee Report is hereto attached as **Annex G**.

In other words, the subject property was never intended for a relocation site, but for a new Barangay Site of Tugbong. However, the previous Mayor, Rowena Codilla and the incumbent Punong Barangay, Leah Empleo illegally made it as a relocation site, which is contrary to the purpose of the supplemental budget that was approved by the previous SB and the authority given to the said previous Mayor by the same SB.

In view of the foregoing, you are hereby demanded to vacate the property within **THIRTY (30) DAYS** from receipt of this letter, and demolish all the improvements found thereon within the same period at your expense. Otherwise, the LGU Kananga, Leyte will take appropriate legal actions against you to protect its rights and interests over the said property.

Respectfully yours,


Atty. Adelito M. Solibaga Jr.
Municipal Legal Officer designate



Annex 0

REPUBLIC OF THE PHILIPPINES
PROVINCE OF LEYTE
MUNICIPALITY OF KANANGA

MUNICIPAL LEGAL OFFICE
Real St., Poblacion, Kananga, Leyte

September 4, 2023

Mr. Kieven Wenceslao
Barangay Tubgong,
Kananga, Leyte

Subject: Demand to Vacate


Dear Mr. Wenceslao,

Greetings of Peace!

This is to formally inform you that the Local Government Unit of Kananga, Leyte, through its Local Chief Executive (LCE), Mayor Manuel Vicente M. Torres, has already **REVOKED/CANCELLED the void-from-the-very-beginning DEED OF DONATION**, which was illegally and hastily executed by Rowena Codilla on June 25, 2023 (five days before the end of her term) in favor of Barangay Local Government Unit of Tubgong, Kananga, Leyte, involving a 10,000 square-meter portion of a parcel of land known as Lot no. 2 being a portion of the consolidation-subdivision survey of Lot 10184 and Lot 101986 covered by TCT No. T-15094, tax declared under the name of Juliana Nahine and located in Brgy. Tubgong, Kananga, Leyte, which you have illegally possessed and occupied.

For your reference, the undisputed antecedent facts are as follows:

1. On **August 6, 2018**, former Mayor Rowena Codilla prepared and approved a Purchase Request (PR) for the purchase of a **10,000 square-meter** portion of a parcel of land known as Lot no. 2 being a portion of the consolidation-subdivision survey of Lot 10184 and Lot 101986 covered by TCT No. T-15094, tax declared under the name of Juliana Nahine and located in Brgy. Tubgong, Kananga, Leyte for PhP 1,400,000.00.
2. The said PR expressly states that purpose of the purchase is for "**Barangay Site of Tubgong, Kananga, Leyte**." This bears stressing that on the day the said PR was also prepared and approved by Rowena Codilla, the same was without an approved budget from the previous SB. The copy of said PR No. 2018-12-037 dated August 6, 2018 is hereto attached as **Annex A**.
3. Based on the letter-request dated August 8, 2018 (two days after the PR was issued), the former Municipal Assessor, Engr. Virgilio Tiu requested for the conduct of the appraisal/assessment of said land which was intended for "**Proposed (New) Barangay Site of Tubgong**." The copy of said letter-request is hereto attached as **Annex B**.
4. On **August 9, 2018**, the Provincial Appraisal Committee passed a Resolution No. 026-2018 which shows the recommended appraised market value of the above-mentioned property. The same resolution also states that the appraised property was for the "**Proposed (New) Barangay Site of Tubgong**." The copy of said Resolution is hereto attached as **Annex C**.
5. On **September 10, 2018**, the 21st Sangguniang Bayan under the former Vice Mayor Elmer Codilla passed a Supplemental Ordinance No. 21L18-048 which budgeted an amount for the purchase of said land.


KIEVEN WENCESLAO





6. On **December 10, 2018**, the same Sangguniang Bayan passed a Resolution No. 21R.18-523, series of 2018 authorizing the former Mayor Rowena Codilla to purchase the above-mentioned land which expressly states that the same was **intended for Barangay Site** of Barangay Tugbong, Kananga, Leyte. The copy of said SB Resolution is hereto attached as **Annex D**.
7. On **May 15, 2019**, the same Sangguniang Bayan passed a Resolution No. 21R.19-629 series of 2019 authorizing former Mayor Rowena Codilla to donate the said property to Brgy. Tugbong. In the said Resolution, it is expressly stated that the said procured property is intended as **Barangay Site of Barangay Tugbong**, not a **Relocation Site**. The copy of said SB Resolution is hereto attached as **Annex E**.
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9. This is contrary to, and not in conformity with the authority given to her by SB, per SB resolution no. 21R.19-629 series of 2019 which authority clearly states that the donated property should be used as "**Barangay Site**" not a relocation site. The copy of said deed of donation is hereto attached as **Annex F**.

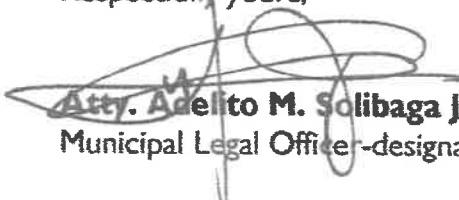
Last August 18, 2023, the Committee of the Whole of the present SB conducted an investigation at the SB session hall (where the incumbent Punong Barangay Leah Empleo and the members of the Sangguniang Barangay attended and participated), and it was found out, THAT:

1. The Barangay Sangguniang did not authorize the incumbent Punong Barangay Leah Empleo to execute and accept the aforesaid deed of donation contrary to the Section 389 (b) (b), Book III, Chapter 3 & 4 of the Local Government Code of 1991, Articles 745, 749, 1317 of the New Civil Code of the Philippines.
2. The said deed of donation was executed by Rowena Codilla beyond the authority given to her by the previous SB per SB No. 21R.19-629 series of 2019 authorizing former Mayor Rowena Codilla to donate the said property to Brgy. Tugbong. In the said Resolution, it is expressly stated that the said procured property is intended as **Barangay Site of Barangay Tugbong**, not a **Relocation Site**.
3. The Punong Barangay Leah Empleo illegally partitioned the said land and distributed the same to several persons including some members of the Sangguniang Barangay who accepted and actually introduced improvements thereon without legal basis (Ordinance). The copy of the Committee Report is hereto attached as **Annex G**.

In other words, the subject property was never intended for a relocation site, but for a new Barangay Site of Tugbong. However, the previous Mayor, Rowena Codilla and the incumbent Punong Barangay, Leah Empleo illegally made it as a relocation site, which is contrary to the purpose of the supplemental budget that was approved by the previous SB and the authority given to the said previous Mayor by the same SB.

In view of the foregoing, you are hereby demanded to vacate the property within **THIRTY (30) DAYS** from receipt of this letter, and demolish all the improvements found thereon within the same period at your expense. Otherwise, the LGU Kananga, Leyte will take appropriate legal actions against you to protect its rights and interests over the said property.

Respectfully yours,


Atty. Adelito M. Solibaga Jr.
Municipal Legal Office -designate



Annex P

REPUBLIC OF THE PHILIPPINES
PROVINCE OF LEYTE
MUNICIPALITY OF KANANGA

MUNICIPAL LEGAL OFFICE
Real St., Poblacion, Kananga, Leyte

September 4, 2023

Mr. Danilo Guisando
Barangay Tubgong,
Kananga, Leyte

Subject: Demand to Vacate

Dear Mr. Guisando,

Greetings of Peace!

This is to formally inform you that the Local Government Unit of Kananga, Leyte, through its Local Chief Executive (LCE), Mayor Manuel Vicente M. Torres, **has already REVOKED/CANCELLED the void-from-the-very-beginning DEED OF DONATION**, which was illegally and hastily executed by Rowena Codilla on June 25, 2023 (five days before the end of her term) in favor of Barangay Local Government Unit of Tubgong, Kananga, Leyte, involving a 10,000 square-meter portion of a parcel of land known as Lot no. 2 being a portion of the consolidation-subdivision survey of Lot 10184 and Lot 101986 covered by TCT No. T-15094, tax declared under the name of Juliana Nahine and located in Brgy. Tubgong, Kananga, Leyte, which you have illegally possessed and occupied.

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4. On **August 9, 2018**, the Provincial Appraisal Committee passed a Resolution No. 026-2018 which shows the recommended appraised market value of the above-mentioned property. The same resolution also states that the appraised property was for the "**Proposed (New) Barangay Site of Tubgong**." The copy of said Resolution is hereto attached as **Annex C**.
5. On **September 10, 2018**, the 21st Sangguniang Bayan under the former Vice Mayor Elmer Codilla passed a Supplemental Ordinance No. 2118-048 Series of 2018 which budgeted an amount for the purchase of said land.

refuse to sign





6. On **December 10, 2018**, the same Sangguniang Bayan passed a Resolution No. 21R.18-523, series of 2018 authorizing the former Mayor Rowena Codilla to purchase the above-mentioned land which expressly states that the same was **intended for Barangay Site** of Barangay Tugbong, Kananga, Leyte. The copy of said SB Resolution is hereto attached as **Annex D**.
7. On **May 15, 2019**, the same Sangguniang Bayan passed a Resolution No. 21R.19-629 series of 2019 authorizing former Mayor Rowena Codilla to donate the said property to Brgy. Tugbong. In the said Resolution, it is expressly stated that the said procured property is intended as **Barangay Site of Barangay Tugbong**, not a **Relocation Site**. The copy of said SB Resolution is hereto attached as **Annex E**.
8. On **June 25, 2019**, five (5) days before the end of the term of Rowena Codilla, she hastily executed a Deed of Donation covering the above-described land in favor of Brgy. Tugbong, Kananga, Leyte. However, in said Deed of Donation, it is expressly stated that **"the herein donated property shall be used exclusively as barangay relocation site/expansion of built-up area for its residents."**
9. This is contrary to, and not in conformity with the authority given to her by SB, per SB resolution no. 21R.19-629 series of 2019 which authority clearly states that the donated property should be used as **"Barangay Site"** not a relocation site. The copy of said deed of donation is hereto attached as **Annex F**.

Last August 18, 2023, the Committee of the Whole of the present SB conducted an investigation at the SB session hall (where the incumbent Punong Barangay Leah Empleo and the members of the Sangguniang Barangay attended and participated), and it was found out, THAT:

1. The Barangay Sangguniang did not authorize the incumbent Punong Barangay Leah Empleo to execute and accept the aforesaid deed of donation contrary to the Section 389 (b) (b), Book III, Chapter 3 & 4 of the Local Government Code of 1991, Articles 745, 749, 1317 of the New Civil Code of the Philippines.
2. The said deed of donation was executed by Rowena Codilla beyond the authority given to her by the previous SB per SB No. 21R.19-629 series of 2019 authorizing former Mayor Rowena Codilla to donate the said property to Brgy. Tugbong. In the said Resolution, it is expressly stated that the said procured property is intended as **Barangay Site of Barangay Tugbong**, not a **Relocation Site**.
3. The Punong Barangay Leah Empleo illegally partitioned the said land and distributed the same to several persons including some members of the Sangguniang Barangay who accepted and actually introduced improvements thereon without legal basis (Ordinance). The copy of the Committee Report is hereto attached as **Annex G**.

In other words, the subject property was never intended for a relocation site, but for a new Barangay Site of Tugbong. However, the previous Mayor, Rowena Codilla and the incumbent Punong Barangay, Leah Empleo illegally made it as a relocation site, which is contrary to the purpose of the supplemental budget that was approved by the previous SB and the authority given to the said previous Mayor by the same SB.

In view of the foregoing, you are hereby demanded to vacate the property within **THIRTY (30) DAYS** from receipt of this letter, and demolish all the improvements found thereon within the same period at your expense. Otherwise, the LGU Kananga, Leyte will take appropriate legal actions against you to protect its rights and interests over the said property.

Respectfully yours,


Atty. Adelito M. Solibaga Jr.
Municipal Legal Officer-designate



Annex R

REPUBLIC OF THE PHILIPPINES
PROVINCE OF LEYTE
MUNICIPALITY OF KANANGA

MUNICIPAL LEGAL OFFICE
Real St., Poblacion, Kananga, Leyte

September 4, 2023

Mr. Danilo Rafolz
Barangay Tubgong,
Kananga, Leyte

Subject: Demand to Vacate

Dear Mr. Rafolz,

Greetings of Peace!

This is to formally inform you that the Local Government Unit of Kananga, Leyte, through its Local Chief Executive (LCE), Mayor Manuel Vicente M. Torres, **has already REVOKED/CANCELLED the void-from-the-very-beginning DEED OF DONATION**, which was illegally and hastily executed by Rowena Codilla on June 25, 2023 (five days before the end of her term) in favor of Barangay Local Government Unit of Tubgong, Kananga, Leyte, involving a 10,000 square-meter portion of a parcel of land known as Lot no. 2 being a portion of the consolidation-subdivision survey of Lot 10184 and Lot 101986 covered by TCT No. T-15094, tax declared under the name of Juliana Nahine and located in Brgy. Tubgong, Kananga, Leyte, which you have illegally possessed and occupied.

For your reference, the undisputed antecedent facts are as follows:

1. On **August 6, 2018**, former Mayor Rowena Codilla prepared and approved a Purchase Request (PR) for the purchase of a 10,000 square-meter portion of a parcel of land known as Lot no. 2 being a portion of the consolidation-subdivision survey of Lot 10184 and Lot 101986 covered by TCT No. T-15094, tax declared under the name of Juliana Nahine and located in Brgy. Tubgong, Kananga, Leyte for PhP 1,400,000.00.
2. The said PR expressly states that purpose of the purchase is for "**Barangay Site of Barangay Tubgong, Kananga, Leyte.**" This bears stressing that on the day the said PR was also prepared and approved by Rowena Codilla, the same was without an approved budget from the previous SB. The copy of said PR No. 2018-12-037 dated August 6, 2018 is hereto attached as **Annex A**.
3. Based on the letter-request dated August 8, 2018 (two days after the PR was issued), the former Municipal Assessor, Engr. Virgilio Tiu requested for the conduct of the appraisal/assessment of said land which was intended for "**Proposed (New) Barangay Site of Tubgong.**" The copy of said letter-request is hereto attached as **Annex B**.
4. On **August 9, 2018**, the Provincial Appraisal Committee passed a Resolution No. 026-2018 which shows the recommended appraised market value of the above-mentioned property. The same resolution also states that the appraised property was for the "**Proposed (New) Barangay Site of Tubgong.**" The copy of said Resolution is hereto attached as **Annex C**.
5. On **September 10, 2018**, the 21st Sangguniang Bayan under the former vice Mayor, Elmer Codilla passed a Supplemental Ordinance No. 211-18-048 Series of 2018 which budgeted an amount for the purchase of said land.

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6. On **December 10, 2018**, the same Sangguniang Bayan passed a Resolution No. 21R.18-523, series of 2018 authorizing the former Mayor Rowena Codilla to purchase the above-mentioned land which expressly states that the same was **intended for Barangay Site** of Barangay Tugbong, Kananga, Leyte. The copy of said SB Resolution is hereto attached as **Annex D**.
7. On **May 15, 2019**, the same Sangguniang Bayan passed a Resolution No. 21R.19-629 series of 2019 authorizing former Mayor Rowena Codilla to donate the said property to Brgy. Tugbong. In the said Resolution, it is expressly stated that the said procured property is intended as **Barangay Site of Barangay Tugbong**, not a **Relocation Site**. The copy of said SB Resolution is hereto attached as **Annex E**.
8. On **June 25, 2019**, five (5) days before the end of the term of Rowena Codilla, she hastily executed a Deed of Donation covering the above-described land in favor of Brgy. Tugbong, Kananga, Leyte. However, in said Deed of Donation, it is expressly stated that **"the herein donated property shall be used exclusively as barangay relocation site/expansion of built-up area for its residents."**
9. This is contrary to, and not in conformity with the authority given to her by SB, per SB resolution no. 21R.19-629 series of 2019 which authority clearly states that the donated property should be used as **"Barangay Site"** not a relocation site. The copy of said deed of donation is hereto attached as **Annex F**.

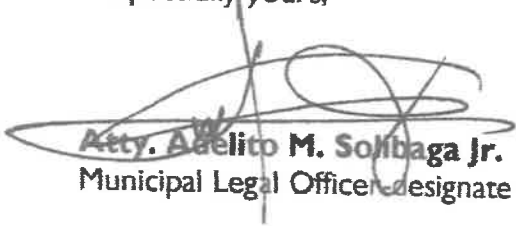
Last August 18, 2023, the Committee of the Whole of the present SB conducted an investigation at the SB session hall (where the incumbent Punong Barangay Leah Empleo and the members of the Sangguniang Barangay attended and participated), and it was found out, THAT:

1. The Barangay Sangguniang did not authorize the incumbent Punong Barangay Leah Empleo to execute and accept the aforesaid deed of donation contrary to the Section 389 (b) (b), Book III, Chapter 3 & 4 of the Local Government Code of 1991, Articles 745, 749, 1317 of the New Civil Code of the Philippines.
2. The said deed of donation was executed by Rowena Codilla beyond the authority given to her by the previous SB per SB No. 21R.19-629 series of 2019 authorizing former Mayor Rowena Codilla to donate the said property to Brgy. Tugbong. In the said Resolution, it is expressly stated that the said procured property is intended as **Barangay Site of Barangay Tugbong**, not a **Relocation Site**.
3. The Punong Barangay Leah Empleo illegally partitioned the said land and distributed the same to several persons including some members of the Sangguniang Barangay who accepted and actually introduced improvements thereon without legal basis (Ordinance). The copy of the Committee Report is hereto attached as **Annex G**.

In other words, the subject property was never intended for a relocation site, but for a new Barangay Site of Tugbong. However, the previous Mayor, Rowena Codilla and the incumbent Punong Barangay, Leah Empleo illegally made it as a relocation site, which is contrary to the purpose of the supplemental budget that was approved by the previous SB and the authority given to the said previous Mayor by the same SB.

In view of the foregoing, you are hereby demanded to vacate the property within **THIRTY (30) DAYS** from receipt of this letter, and demolish all the improvements found thereon within the same period at your expense. Otherwise, the LGU Kananga, Leyte will take appropriate legal actions against you to protect its rights and interests over the said property.

Respectfully yours,


Atty. Adelito M. Solbaga Jr.
Municipal Legal Officer-designate



Annex S

REPUBLIC OF THE PHILIPPINES
PROVINCE OF LEYTE
MUNICIPALITY OF KANANGA

MUNICIPAL LEGAL OFFICE
Real St., Poblacion, Kananga, Leyte

September 4, 2023

Mrs. Florabelle Cabalejo
Barangay Tubgong,
Kananga, Leyte

Subject: Demand to Vacate

Dear Mrs. Cabalejo,

Greetings of Peace!

This is to formally inform you that the Local Government Unit of Kananga, Leyte, through its Local Chief Executive (LCE), Mayor Manuel Vicente M. Torres, **has already REVOKED/CANCELLED the void-from-the-very-beginning DEED OF DONATION**, which was illegally and hastily executed by Rowena Codilla on June 25, 2023 (five days before the end of her term) in favor of Barangay Local Government Unit of Tubgong, Kananga, Leyte, involving a 10,000 square-meter portion of a parcel of land known as Lot no. 2 being a portion of the consolidation-subdivision survey of Lot 10184 and Lot 101986 covered by TCT No. T-15094, tax declared under the name of Juliana Nahine and located in Brgy. Tubgong, Kananga, Leyte, which you have illegally possessed and occupied.

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3. Based on the letter-request dated August 8, 2018 (two days after the PR was issued), the former Municipal Assessor, Engr. Virgilio Tiu requested for the conduct of the appraisal/assessment of said land which was intended for "**Proposed (New) Barangay Site of Tubgong**." The copy of said letter-request is hereto attached as **Annex B**.
4. On **August 9, 2018**, the Provincial Appraisal Committee passed a Resolution No. 026-2018 which shows the recommended appraised market value of the above-mentioned property. The same resolution also states that the appraised property was for the "**Proposed (New) Barangay Site of Tubgong**." The copy of said Resolution is hereto attached as **Annex C**.
5. On **September 10, 2018**, the 21st Sangguniang bayan under the former vice mayor, Elmer Codilla passed a Supplemental Ordinance No. 211-18-048, Series of 2018 which budgeted an amount for the purchase of said land.

Florabel M. Cabalejo
FLORABEL M. CABALEJO





6. On **December 10, 2018**, the same Sangguniang Bayan passed a Resolution No. 21R.18-523, series of 2018 authorizing the former Mayor Rowena Codilla to purchase the above-mentioned land which expressly states that the same was **intended for Barangay Site** of Barangay Tugbong, Kananga, Leyte. The copy of said SB Resolution is hereto attached as **Annex D**.
7. On **May 15, 2019**, the same Sangguniang Bayan passed a Resolution No. 21R.19-629 series of 2019 authorizing former Mayor Rowena Codilla to donate the said property to Brgy. Tugbong. In the said Resolution, it is expressly stated that the said procured property is intended as **Barangay Site of Barangay Tugbong**, not a **Relocation Site**. The copy of said SB Resolution is hereto attached as **Annex E**.
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9. This is contrary to, and not in conformity with the authority given to her by SB, per SB resolution no. 21R.19-629 series of 2019 which authority clearly states that the donated property should be used as **"Barangay Site"** not a relocation site. The copy of said deed of donation is hereto attached as **Annex F**.


Last August 18, 2023, the Committee of the Whole of the present SB conducted an investigation at the SB session hall (where the incumbent Punong Barangay Leah Empleo and the members of the Sangguniang Barangay attended and participated), and it was found out, THAT:

1. The Barangay Sangguniang did not authorize the incumbent Punong Barangay Leah Empleo to execute and accept the aforesaid deed of donation contrary to the Section 389 (b) (b), Book III, Chapter 3 & 4 of the Local Government Code of 1991, Articles 745, 749, 1317 of the New Civil Code of the Philippines.
2. The said deed of donation was executed by Rowena Codilla beyond the authority given to her by the previous SB per SB No. 21R.19-629 series of 2019 authorizing former Mayor Rowena Codilla to donate the said property to Brgy. Tugbong. In the said Resolution, it is expressly stated that the said procured property is intended as **Barangay Site of Barangay Tugbong**, not a **Relocation Site**.
3. The Punong Barangay Leah Empleo illegally partitioned the said land and distributed the same to several persons including some members of the Sangguniang Barangay who accepted and actually introduced improvements thereon without legal basis (Ordinance). The copy of the Committee Report is hereto attached as **Annex G**.

In other words, the subject property was never intended for a relocation site, but for a new Barangay Site of Tugbong. However, the previous Mayor, Rowena Codilla and the incumbent Punong Barangay, Leah Empleo illegally made it as a relocation site, which is contrary to the purpose of the supplemental budget that was approved by the previous SB and the authority given to the said previous Mayor by the same SB.

In view of the foregoing, you are hereby demanded to vacate the property within **THIRTY (30) DAYS** from receipt of this letter, and demolish all the improvements found thereon within the same period at your expense. Otherwise, the LGU Kananga, Leyte will take appropriate legal actions against you to protect its rights and interests over the said property.

Respectfully yours,


Atty. Adelito M. Solbaga Jr.
Municipal Legal Officer-designate



Annex T

REPUBLIC OF THE PHILIPPINES
PROVINCE OF LEYTE
MUNICIPALITY OF KANANGA

MUNICIPAL LEGAL OFFICE
Real St., Poblacion, Kananga, Leyte

September 4, 2023

Mrs. Mercedita Dasal
Brgy. Secretary
Barangay Tubgong,
Kananga, Leyte

Subject: Demand to Vacate

Dear Mrs. Dasal,

Greetings of Peace!

This is to formally inform you that the Local Government Unit of Kananga, Leyte, through its Local Chief Executive (LCE), Mayor Manuel Vicente M. Torres, **has already REVOKED/CANCELLED the void-from-the-very-beginning DEED OF DONATION**, which was illegally and hastily executed by Rowena Codilla on June 25, 2023 (five days before the end of her term) in favor of Barangay Local Government Unit of Tubgong, Kananga, Leyte, involving a 10,000 square-meter portion of a parcel of land known as Lot no. 2 being a portion of the consolidation-subdivision survey of Lot 10184 and Lot 101986 covered by TCT No. T-15094, tax declared under the name of Juliana Nahine and located in Brgy. Tubgong, Kananga, Leyte, which you have illegally possessed and occupied.

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3. Based on the letter-request dated August 8, 2018 (two days after the PR was issued), the former Municipal Assessor, Engr. Virgilio Tiu requested for the conduct of the appraisal/assessment of said land which was intended for "**Proposed (New) Barangay Site of Tubgong**." The copy of said letter-request is hereto attached as **Annex B**.
4. On **August 9, 2018**, the Provincial Appraisal Committee passed a Resolution No. 026-2018 which shows the recommended appraised market value of the above-mentioned property. The same resolution also states that the appraised property was for the "**Proposed (New) Barangay Site of Tubgong**." The copy of said Resolution is hereto attached as **Annex C**.

DATE: 7/4/23





5. On **September 10, 2018**, the 21st Sangguniang Bayan under the former Vice Mayor, Elmer Codilla passed a Supplemental Ordinance No. 21L.18-048, Series of 2018 which budgeted an amount for the purchase of said land.
6. On **December 10, 2018**, the same Sangguniang Bayan passed a Resolution No. 21R.18-523, series of 2018 authorizing the former Mayor Rowena Codilla to purchase the above-mentioned land which expressly states that the same was **intended for Barangay Site** of Barangay Tugbong, Kananga, Leyte. The copy of said SB Resolution is hereto attached as **Annex D**.
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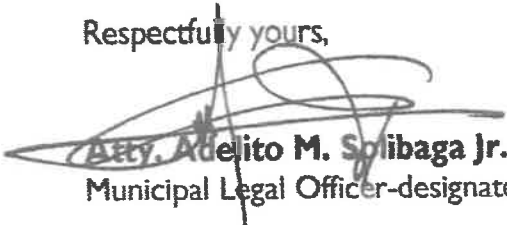
Last August 18, 2023, the Committee of the Whole of the present SB conducted an investigation at the SB session hall (where the incumbent Punong Barangay Leah Empleo and the members of the Sangguniang Barangay attended and participated), and it was found out, THAT:

1. The Barangay Sangguniang did not authorize the incumbent Punong Barangay Leah Empleo to execute and accept the aforesaid deed of donation contrary to the Section 389 (b) (b), Book III, Chapter 3 & 4 of the Local Government Code of 1991, Articles 745, 749, 1317 of the New Civil Code of the Philippines.
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In other words, the subject property was never intended for a relocation site, but for a new Barangay Site of Tugbong. However, the previous Mayor, Rowena Codilla and the incumbent Punong Barangay, Leah Empleo illegally made it as a relocation site, which is contrary to the purpose of the supplemental budget that was approved by the previous SB and the authority given to the said previous Mayor by the same SB.

In view of the foregoing, you are hereby demanded to vacate the property within **THIRTY (30) DAYS** from receipt of this letter, and demolish all the improvements found thereon within the same period at your expense. Otherwise, the LGU Kananga, Leyte will take appropriate legal actions against you to protect its rights and interests over the said property.

Respectfully yours,


Atty. Adelito M. Solibaga Jr.
Municipal Legal Officer-designate



Annex U

REPUBLIC OF THE PHILIPPINES
PROVINCE OF LEYTE
MUNICIPALITY OF KANANGA

MUNICIPAL LEGAL OFFICE
Real St., Poblacion, Kananga, Leyte

September 4, 2023

Mrs. Amy Abilong
Brgy. Treasurer
Barangay Tubgong,
Kananga, Leyte

Subject: Demand to Vacate

Dear Mrs. Abilong,

Greetings of Peace!

This is to formally inform you that the Local Government Unit of Kananga, Leyte, through its Local Chief Executive (LCE), Mayor Manuel Vicente M. Torres, **has already REVOKED/CANCELLED the void-from-the-very-beginning DEED OF DONATION**, which was illegally and hastily executed by Rowena Codilla on June 25, 2023 (five days before the end of her term) in favor of Barangay Local Government Unit of Tubgong, Kananga, Leyte, involving a 10,000 square-meter portion of a parcel of land known as Lot no. 2 being a portion of the consolidation-subdivision survey of Lot 10184 and Lot 101986 covered by TCT No. T-15094, tax declared under the name of Juliana Nahine and located in Brgy. Tubgong, Kananga, Leyte, which you have illegally possessed and occupied.

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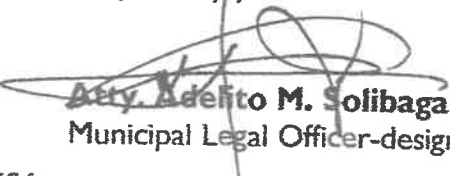
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In view of the foregoing, you are hereby demanded to **vacate the property within THIRTY (30) DAYS** from receipt of this letter, and demolish all the **improvements** found thereon within the same period at your expense. Otherwise, the LGU Kananga, Leyte will take appropriate legal actions against you to protect its rights and interests over the said property.

Respectfully yours,


Atty. Adelito M. Solibaga Jr.
Municipal Legal Officer-designate



Annex V

REPUBLIC OF THE PHILIPPINES
PROVINCE OF LEYTE
MUNICIPALITY OF KANANGA

MUNICIPAL LEGAL OFFICE
Real St., Poblacion, Kananga, Leyte

September 5, 2023

Mrs. Analyn Moana
Barangay Tugbong,
Kananga, Leyte

Subject: Demand to Vacate

Dear Mrs. Moana,

Greetings of Peace!

This is to formally inform you that the Local Government Unit of Kananga, Leyte, through its Local Chief Executive (LCE), Mayor Manuel Vicente M. Torres, **has already REVOKED/CANCELLED the void-from-the-very-beginning DEED OF DONATION**, which was illegally and hastily executed by Rowena Codilla on June 25, 2023 (five days before the end of her term) in favor of Barangay Local Government Unit of Tugbong, Kananga, Leyte, involving a 10,000 square-meter portion of a parcel of land known as Lot no. 2 being a portion of the consolidation-subdivision survey of Lot 10184 and Lot 101986 covered by TCT No. T-15094, tax declared under the name of Juliana Nahine and located in Brgy. Tugbong, Kananga, Leyte, which you have illegally possessed and occupied.

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MAYOR M.



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7. On **May 15, 2019**, the same Sangguniang Bayan passed a Resolution No. 21R.19-629 series of 2019 authorizing former Mayor Rowena Codilla to donate the said property to Brgy. Tugbong. In the said Resolution, it is expressly stated that the said procured property is intended as **Barangay Site of Barangay Tugbong**, not a **Relocation Site**. The copy of said SB Resolution is hereto attached as **Annex E**.
8. On **June 25, 2019**, five (5) days before the end of the term of Rowena Codilla, she hastily executed a Deed of Donation covering the above-described land in favor of Brgy. Tugbong, Kananga, Leyte. However, in said Deed of Donation, it is expressly stated that **"the herein donated property shall be used exclusively as barangay relocation site/expansion of built-up area for its residents."**
9. This is contrary to, and not in conformity with the authority given to her by SB, per SB resolution no. 21R.19-629 series of 2019 which authority clearly states that the donated property should be used as **"Barangay Site"** not a relocation site. The copy of said deed of donation is hereto attached as **Annex F**.


Last August 18, 2023, the Committee of the Whole of the present SB conducted an investigation at the SB session hall (where the incumbent Punong Barangay Leah Empleo and the members of the Sangguniang Barangay attended and participated), and it was found out, THAT:

1. The Barangay Sangguniang did not authorize the incumbent Punong Barangay Leah Empleo to execute and accept the aforesaid deed of donation contrary to the Section 389 (b) (b), Book III, Chapter 3 & 4 of the Local Government Code of 1991, Articles 745, 749, 1317 of the New Civil Code of the Philippines.
2. The said deed of donation was executed by Rowena Codilla beyond the authority given to her by the previous SB per SB No. 21R.19-629 series of 2019 authorizing former Mayor Rowena Codilla to donate the said property to Brgy. Tugbong. In the said Resolution, it is expressly stated that the said procured property is intended as **Barangay Site of Barangay Tugbong**, not a **Relocation Site**.
3. The Punong Barangay Leah Empleo illegally partitioned the said land and distributed the same to several persons including some members of the Sangguniang Barangay who accepted and actually introduced improvements thereon without legal basis (Ordinance). The copy of the Committee Report is hereto attached as **Annex G**.

In other words, the subject property was never intended for a relocation site, but for a new Barangay Site of Tugbong. However, the previous Mayor, Rowena Codilla and the incumbent Punong Barangay, Leah Empleo illegally made it as a relocation site, which is contrary to the purpose of the supplemental budget that was approved by the previous SB and the authority given to the said previous Mayor by the same SB.

In view of the foregoing, you are hereby demanded to vacate the property within **THIRTY (30) DAYS** from receipt of this letter, and demolish all the improvements found thereon within the same period at your expense. Otherwise, the LGU Kananga, Leyte will take appropriate legal actions against you to protect its rights and interests over the said property.

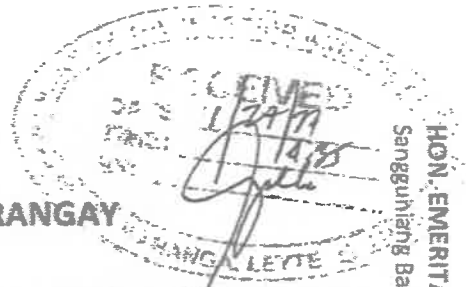
Respectfully yours,


Atty. Adelito M. Solibaga Jr.
Municipal Legal Officer-designate

Annex W



Republic of the Philippines
Province of Leyte
Municipality of Kananga
Barangay Tugbong



oOo

OFFICE OF THE SANGGUNIANG BARANGAY

HON. ELMER S. RUADO

SK Chairperson

EXCERPTS FROM THE MINUTES OF SECOND REGULAR SESSION OF SANGGUNIANG BARANGAY HELD ON JUNE 18, 2022 AT 9:00 IN THE MORNING AT THE SANGGUNIANG BARANGAY SESSION HALL, BARANGAY TUGBONG KANANGA, LEYTE.

PRESENT:

- HON. LEAH O. EMPLEO
- HON. EMERITA P. LACNO
- HON. BEATRIZ C. NAHINE
- HON. ALIPIO C. CABALEJO JR.
- HON. PRESCILITA O. CABINTOY
- HON. ROLANDO C. YMAS
- HON. GERARDO D. ODAN
- HON. JERRY P. EMPLEO
- HON. ELMER S. RUADO

- Punong Barangay / Presiding Officer
- Sangguniang Barangay Member
- Sangguniang Barangay Member
- Sangguniang Barangay Member
- Sangguniang Barangay Member
- Sangguniang Barangay Member
- Sangguniang Barangay Member
- Sangguniang Barangay Member
- Barangay SK Chairperson

ABSENT : NONE

RESOLUTION NO. 033

Series of 2022

A RESOLUTION OF SANGGUNIANG BARANGAY MEMBERS OF BARANGAY TUGBONG THAT AUTHORIZED HON. LEAH O. EMPLEO, LOCAL CHIEF EXECUTIVE OF BARANGAY TUGBONG, TO GRANT THE LOT GIVIN BY THE LOCAL GOVERNMENT UNIT OF KANANGA TO ITS RECIPIENTS OR BENEFICIARIES. THE TEN THOUSAND (10,000) SQUARE METERS OF LOT WITH THE TITTLE NO. T- 15094 WAS DULY GIVEN BY THE LOCAL GOVERNMENT OF KANANGA LAST JUNE 25, 2019 AND GRANTED IT TO BARANGAY TUGBONG, KANANGA LEYTE AS RELOCATION SITE.

WHEREAS, many of the constituents of Barangay Tugbong were affected by the road widening project of the government and until now they need proper relocation.

WHEREAS, many of them are situated along the Riverbank and very risk during flood.

WHEREAS, the Local Government of Kananga headed by former Mayor Rowena N. Codilla purchased a lot located in sitio Nahine of Barangay Tugbong with the total area of 10,000 square meters and granted it to Barangay Tugbong last June 25, 2019 as relocation site.

NOW THEREFORE, on motion of HON. ALIPIO C. CABALEJO JR. Sangguniang Barangay Member duly seconded by HON. GERARDO D. ODAN and HON. JERRY P. EMPLEO, BE IT RESOLVED AS IT IS HERE BY RESOLVED, to AUTHORIZED HON. LEAH O. EMPLEO, LOCAL CHIEF EXECUTIVE OF BARANGAY TUGBONG, TO GRANT THE LOT GIVIN BY THE LOCAL GOVERNMENT UNIT OF KANANGA TO ITS RECIPIENTS OR BENEFICIARIES. THE TEN THOUSAND (10,000) SQUARE METERS OF LOT WITH THE TITTLE NO. T- 15094 WAS DULY GIVEN BY THE LOCAL GOVERNMENT OF KANANGA LAST JUNE 25, 2019 AND GRANTED IT TO BARANGAY TUGBONG, KANANGA LEYTE AS RELOCATION SITE.

UNANIMOUSLY APPROVED THIS 18th DAY OF JUNE 2022 AT BARANGAY TUGBONG, KANANGA, LEYTE PHILIPPINES.

CERTIFIED CORRECT
MERCEDITA T. DASAL
Barangay Secretary

HON. LEAH O. EMPLEO
Punong Barangay

HON. JERRY P. EMPLEO

Sangguniang Barangay Member

HON. GERARDO D. ODAN

Sangguniang Barangay Member

HON. ROLANDO C. YMAS

Sangguniang Barangay Member

HON. EMERITA P. LACNO
Sangguniang Barangay Member

HON. BEATRIZ C. NAHINE
Sangguniang Barangay Member

HON. ALIPIO C. CABALEJO JR.
Sangguniang Barangay Member

HON. PRESCILITA O. CABINTOY
Sangguniang Barangay Member

Annex X



REPUBLIC OF THE PHILIPPINES
Province of Leyte
Municipality of Kananga
BARANGAY TUGBONG

OFFICE OF THE PUNONG BARANGAY

TO: ATTY. ADELITO M. SOLIBAGA, JR.
Municipal Administrator
Kananga, Leyte

DATE: August 29, 2023

FROM: LEAH O. EMPLEO
Punong Barangay
Barangay Tugbong
Kananga, Leyte

SUBJECT: REPLY TO FORMAL NOTICE OF
REVOCATION/CANCELLATION OF DEED OF DONATION
AND DEMAND TO VACATE

Dear Atty. Solibaga,

Greetings!!!

The undersigned received a copy of the above letter on August 28, 2023 courteously demanding to vacate the lot subject of this case and to demolish all improvements found thereon within 30 days from receipt of your letter.

Base on our records and recollections, Barangay Tugbong, Kananga, Leyte was a recipient of a parcel of land known as Lot 2, being a portion of the consolidation subdivision survey of lot 10184 and lot 101986, covered by TCT No. T- 15094, registered in the name of Juliana Nahine located in Barangay Tugbong, Kananga, Leyte through a Deed of Donation dated June 25, 2019 executed by then Mayor Rowena N. Codilla by virtue of SB Resolution No. 21R – 18 – 523.

As far as I can remember, Barangay Tugbong has been in existence for 8 decades already as one of the original and oldest barangay of the municipality hence, by the passage of time and increase in population, the barangay has already become congested . It was the primary reason why the municipality of Kananga opted to donate a portion of 10,000 square meters property to the barangay to be used as barangay site to cater the needs of its growing population.

We believe that LGU Kananga has validly donated the same to the barangay through several SB Resolutions to purchase and donate the said lot.

Immediately after the execution of the Deed of Donation, the barangay impliedly accepted the same by taking over possession, ownership and dominion over the above parcel of land and subsequently used for barangay site/relocation site for the benefit of the constituents of our barangay.

As we incumbent barangay chairman, I am in quandary as to the reason why after the lapse of more than four (4) years of uninterrupted possession, a Committee Report No. 2023 -23 – 08 was furnished to us recommending for the revocation of the Deed of Donation and further authorizing the Municipal Mayor to Revoke the same and has in fact has already revoked it in your letter.

Upon knowledge of the Committee Report No. 2023 – 23 – 08, the Sangguniang Barangay Vehemently interposed its objection through Barangay Resolution No. 035 Series of 2023, dated August 24, 2023. A copy of the same is attached for your perusal.

The objection was based on the fact that the act of revocation is being violative of paragraph 3, Article 764 of the Civil Code of the Philippines which state that:

“ Article 764.

This action shall prescribe after four years from the noncompliance with the condition, may be transmitted to the heirs of the donor, and may be exercised against the donee' s heirs.”

The donation was impliedly accepted by the barangay when it immediately took over possession, ownership and dominion and used for its intended purpose which is the barangay site/relocation site on June 25, 2019.

Hence, it is our position that the action of the incumbent Sangguniang Bayan through its committee report dated August 18, 2023, recommending for the cancellation/revocation of the Deed of Donation and the subsequent revocation of Hon. Mayor Torres is already beyond the prescribed period.

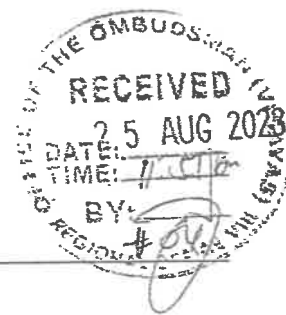
Thank you.

HON. LEAH S. EMPLEO
Barangay Chairman

Annex Y



REPUBLIC OF THE PHILIPPINES
PROVINCE OF LEYTE
MUNICIPALITY OF KANANGA
BARANGAY TUGBONG



OFFICE OF THE SANGGUNIANG BARANGAY

August 24, 2023

OFA(CF)-V(T)-23-0109-W

ATTY, JANICE G. GABRITO AGULLO
Acting Director, Ombudsman Visayas Tacloban Regional Office No. 8
3rd Floor LY Building
Fatima Village, Marasbaras Tacloban City

Dear Atty. Agullo,

We are respectfully submitting the Barangay Council Resolution No. 35 Series of 2023 A Resolution Interposing Vehement Objection to Sangguniang Bayan Committee Report No. 2023 – 23 – 08 of the Committee as a whole authorizing the Municipal Mayor, Hon. Manuel Vicente M. Torres to Revoke or Cancel the Deed of Donation Dated June 25, 2019 entered into by LGU Kananga and BLGU of Tugbong.

Herein attached Sangguniang Barangay Member Resolution of the original copies.

Please acknowledge upon receipt

Thank you

Sincerely yours,

HON. LEAH S. EMPLEO
Punong Barangay
Brgy. Tugbong, Kananga, Leyte

Cc
Office of the Ombudsman Regional Office No. 8
Brgy Tugbong Records:



REPUBLIC OF THE PHILIPPINES
 PROVINCE OF LEYTE
 MUNICIPALITY OF KANANGA
 BARANGAY TUGBONG



OFFICE OF THE SANGGUNIANG BARANGAY

EXCERPT FROM THE MINUTES OF ESPECIAL SESSION OF THE SAGGUNIANG BARANGAY, HELD AT BARANGAY HALL, BARANGAY TUGBONG KANANGA, LEYTE, DATED AUGUST 24, 2023 @ 2:00 IN THE AFTERNOON.

PRESENT:

HON. LEAH O. EMPLEO
 HON. EMERITA P. LACNO
 HON. BEATRIZ C. NAHINE
 HON. ALIPIO C. CABALEJO JR.
 HON. PRESCILITA O. CABINTOY
 HON. ROLANDO C. YMAS
 HON. GERARDO D. ODAN
 HON. JERRY P. ODAN
 HON. ELMER S. RUADO

PUNONG BARANGAY
 SANGGUNIANG BARANGAY MEMBER
 SANGGUNIANG BARANGAY MEMBER
 SANGGUNIANG BARANGAY MEMBER
 SANGGUNIANG BARANGAY MEMBER
 SANGGUNIANG BARANGAY MEMBER
 SANGGUNIANG BARANGAY MEMBER
 SANGGUNIANG BARANGAY MEMBER
 BARANGAY SK CHAIRPERSON

RESOLUTION NO. 035
 Series of 2023

A RESOLUTION INTERPOSING VEHEMENT OBJECTION TO SANGGUNIANG BAYAN COMMITTEE REPORT NO. 2023 – 23 – 08 OF THE COMMITTEE AS A WHOLE AUTHORIZING THE MUNICIPAL MAYOR, HON. MANUEL VICENTE M. TORRES TO REVOKE OR CANCEL THE DEED OF DONATION DATED JUNE 25, 2019 ENTERED INTO BY LGU KANANGA AND BLGU OF TUGBONG.

WHEREAS, The Sangguniang Barangay of Tugbong, Kananga, Leyte was a receipt of a parcel of land known as Lot 2, being a portion of the consolidation subdivision survey of lot 10184 and lot 101986, covered by TLC No. T – 15094, registered in the name of Juliana Nahine located in Barangay Tugbong, Kananga, Leyte through a Deed of Donation dated June 25, 2019 executed by then Mayor Rowena Codilla by virtue of SB Resolution No. 21R – 18 – 523;

WHEREAS, immediately after the execution of the Deed of Donation, Barangay Tugbong, Kananga, Leyte implied accepted the same by taking over possession, ownership, and dominion over the above parcel of land and subsequently used for its intended purpose;

WHEREAS, after the lapse of more than four (4) years of uninterrupted possession by the barangay, a Committee Report No. 2023 – 23 – 08 was finished recommending for the revocation of the Deed of Donation and further authorizing the Municipal Mayor to revoke the same;

WHEREAS, the Sangguniang Barangay vehemently interposes objection to the unilateral act of revocation for being violated of paragraph 3, Article 764 of the Civil Code of the Philippines wit state that;

“ Article 764, The donation shall be revoked at the instance of the donor, when the done fails to comply with any of the conditions which the former imposed upon the letter.

In this case, the property donated shall be returned to the donor, the alienations made by the done and the mortgages imposed thereon by him being void, with the limitations established with regard to third person, by the mortgage Law, and the Land Registration Laws.

This action shall prescribe after four (4) years from the noncompliance with the condition, may be transmitted to the heirs of the donor, and may be exercised against the donee's (underlining supplied)

WHEREAS, the lot donated was used for its intended purpose, subject to the limitations established and that the same shall filed within four (4) years from the noncompliance of the condition

[Handwritten signatures]

Amie p. [Signature]

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PTB No. 2872994-01/0012024
 MCLP (Newly Admitted to the Bar May 30, 2022)

WHEREAS, the lot donated was used for its intended purpose.

WHEREAS, the Deed of Donation was executed on June 25, 2019, and immediately, the barangay took possession and used the same for its intended purpose;

WHEREAS, the Committee Report No. 2023 – 23 – 08, authorizing the revocation of the Deed of Donation dated June 25, 2019, was issued on August 18, 2023, hence the action authorizing the revocation has already lapsed.

NOW THEREFORE, on mass motion, BE IT RESOLVED, as it is hereby RESOLVED, to interpose vehement objection to any action for revocation of the above lot for having been prescribe and contrary to law.

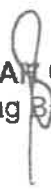
RESOLVED FURTHER that copies of this Resolution shall be forwarded to the Office of Atty. Janice G. Gabrito Agullo, Acting Director, Ombudsman Visayas Tacloban Regional Office No. 8, Tacloban City for their copy furnished.

I HEREBY CERTIFY to the correctness of the foregoing resolution.

Prepared by:


MERCEDITA T. DASAL
Barangay Secretary

Approved by:


HON. LEAL O. EMPLEO
Punong Barangay

Sangguniang Barangay Member:


HON. EMERITA P. LACNO


HON. ALIPIO C. CABALEJO JR.

HON. ROLANDO C. YMAS


HON. JERRY P. EMPLEO


HON. BEATRIZ C. NAHINE

HON. PRESCILITA O. CABINTOY


HON. GERARDO D. ODAN


HON. ELMER S. RUADO
Brgy. BK Chairperson



Annex 3

REPUBLIC OF THE PHILIPPINES
PROVINCE OF LEYTE
MUNICIPALITY OF KANANGA

MUNICIPAL LEGAL OFFICE
Real St., Poblacion, Kananga, Leyte

September 18, 2023

Hon. Leah Empleo
Punong Barangay
Barangay Tubgong,
Kananga, Leyte

Subject: Reply to Office of the Ombudsman-Visayas letter with reference number **OFA(CF)-V(T)-23-0109-W**

Dear Hon. Empleo,

Greetings of Peace!

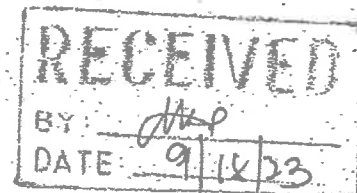
I am writing you, for and in behalf of Honorable Mayor Manuel Vicente M. Torres, the Local Chief Executive (LCE) of the Municipality of Kananga, Leyte who received on September 11, 2023 an endorsement letter dated August 29, 2023 from Atty. Janice G. Gabrito, Acting Director, Regional Office VIII of the Office of the Ombudsman-Visayas, Regional Office VIII, Marasbaras, Tacloban City.

On August 29, 2023, the undersigned with the authority from the Honorable Mayor Manuel Vicente M. Torres, informed you in writing that the latter has already revoked/cancelled the **void-from-the-very-beginning deed of donation** which was hastily executed by the previous Mayor of Kananga, Leyte, Rowena Codilla on June 25, 2019 (five days before the end of her term) involving a 10,000 square-meter portion of a parcel of land known as Lot no. 2 being a portion of the consolidation-subdivision survey of Lot 10184 and Lot 101986 covered by TCT No. T-15094, tax declared under the name of Juliana Nahine and located in Brgy. Tugbong, Kananga, Leyte. The copy of said letter is hereto attached as **Annex A**.

The Honorable Mayor Torres was duly equipped with Sangguniang Bayan (SB) Resolution No. 23R.23-422, Series of 2023 in revoking/cancelling said void ab initio-Donation, which further authorized him to file the appropriate cases for the recovery of the possession and/or ownership of the subject property. The copy of said Resolution is hereto attached as **Annex B**.

On September 4 and 5, 2023, the undersigned also sent demand letters to the identified occupants in said properties. Initially, these are the individuals who were already demanded in writing to vacate the said properties within 30 days from receipt of the said letters, to wit:

1. Analyn Moana
2. Amy Abilong (Brgy. Treasurer)
3. Mercedita Dasal (Brgy. Secretary)
4. Florabelle Cabalejo
5. Danilo Rafolz
6. Marian Rafolz
7. Danilo Guisando
8. Kieven Wenceslao
9. Alejandro Nadonza



The LGU Kananga, Leyte is still identifying the other occupants in the said property.



[Handwritten signature]



For easy reference to all concerned, the contents of the letter that this office sent to the Punong Barangay of Tugbong, Hon. Leah Empleo is hereunder reproduced, to wit:

"A month ago, it was discovered that the aforesaid deed of donation was illegally executed by the former Mayor Codilla beyond the authority given to her by the previous SB.

During the committee hearing of the Committee of the Whole of the present SB, it was confirmed that the incumbent Punong Barangay of Tugbong, Kananga, Leyte, Leah Empleo, did not have any authority from the Sangguniang Barangay to execute and accept said deed of donation. Thus, this letter.

To refresh your memory, the undisputed antecedent facts are as follows:

1. On **August 6, 2018**, former Mayor Rowena Codilla prepared and approved a Purchase Request (PR) for the purchase of a 10,000 square-meter portion of a parcel of land known as Lot no. 2 being a portion of the consolidation-subdivision survey of Lot 10184 and Lot 101986 covered by TCT No. T-15094, tax declared under the name of Juliana Nahine and located in Brgy. Tugbong, Kananga, Leyte for PhP 1,400,000.00.
2. The said PR expressly states that purpose of the purchase is for "**Barangay Site of Barangay Tugbong, Kananga, Leyte.**" This bears stressing that on the day the said PR was also prepared and approved by Rowena Codilla, the same was without an approved budget from the previous SB. The copy of said PR No. 2018-12-037 dated August 6, 2018 is hereto attached as **Annex A.**
3. Based on the letter-request dated August 8, 2018 (two days after the PR was issued), the former Municipal Assessor, Engr. Virgilio Tiu requested for the conduct of the appraisal/assessment of said land which was intended for "**Proposed (New) Barangay Site of Tugbong.**" The copy of said letter-request is hereto attached as **Annex B.**
4. On **August 9, 2018**, the Provincial Appraisal Committee passed a Resolution No. 026-2018 which shows the recommended appraised market value of the above-mentioned property. The same resolution also states that the appraised property was for the "**Proposed (New) Barangay Site of Tugbong.**" The copy of said Resolution is hereto attached as **Annex C.**
5. On **September 10, 2018**, the 21st Sangguniang Bayan under the former Vice Mayor, Elmer Codilla passed a Supplemental Ordinance No. 21L.18-048, Series of 2018 which budgeted an amount for the purchase of said land.
6. On **December 10, 2018**, the same Sangguniang Bayan passed a Resolution No. 21R.18-523, series of 2018 authorizing the former Mayor Rowena Codilla to purchase the above-mentioned land which expressly states that the same was **intended for Barangay Site** of Barangay Tugbong, Kananga, Leyte. The copy of said SB Resolution is hereto attached as **Annex D.**
7. On **May 15, 2019**, the same Sangguniang Bayan passed a Resolution No. 21R.19-629 series of 2019 authorizing former Mayor Rowena Codilla to donate the said property to Brgy. Tugbong. In the said Resolution, it is expressly stated that the said procured property is intended as **Barangay Site of Barangay Tugbong**, not a **Relocation Site**. The copy of said SB Resolution is hereto attached as **Annex E.**
8. On **June 25, 2019**, five (5) days before the end of the term of Rowena Codilla, she hastily executed a Deed of Donation covering the above-described land in favor of Brgy. Tugbong, Kananga, Leyte. However, in said Deed of Donation, it is expressly stated that "**the herein donated property shall be used exclusively as barangay relocation site/expansion of built-up area for its residents.**"



9. This is contrary to, and not in conformity with the authority given to her by SB, per SB resolution no. 21R.19-629 series of 2019 which authority clearly states that the donated property should be used as "**Barangay Site**" not a relocation site. The copy of said deed of donation is hereto attached as **Annex F**.

Last August 18, 2023, the Committee of the Whole of the present SB conducted an investigation at the SB session hall (where you and the members of the Sangguniang Barangay attended and participated), and it was found out, **THAT:**

1. The Barangay Sangguniang did not authorize the incumbent Punong Barangay Leah Empleo to execute and accept the aforesaid deed of donation contrary to the Section 389 (b) (b), Book III, Chapter 3 & 4 of the Local Government Code of 1991, Articles 745, 749, 1317 of the New Civil Code of the Philippines.
2. The said deed of donation was executed by Rowena Codilla beyond the authority given to her by the previous SB per SB No. 21R.19-629 series of 2019 authorizing former Mayor Rowena Codilla to donate the said property to Brgy. Tugbong. In the said Resolution, it is expressly stated that the said procured property is intended as **Barangay Site of Barangay Tugbong**, not a **Relocation Site**.
3. The Punong Barangay Leah Empleo illegally partitioned the said land and distributed the same to several persons including some members of the Sangguniang Barangay who accepted and actually introduced improvements thereon without legal basis (Ordinance).

The copy of the Committee Report is hereto attached as **Annex G**.

To reiterate, as of the present, the said property has been illegally distributed by LGU Tugbong, through its Punong Barangay Leah Empleo to some of the **Barangay Officials** of the said Barangay and illegally occupied by more or less 15 households as relocation site.

In view of the foregoing, this is to formally inform the Barangay Local Government of Tugbong, Kananga, Leyte headed by its Punong Barangay Leah Empleo, that the Local Government Unit of Kananga, Leyte, through its Local Chief Executive (LCE), Mayor Manuel Vicente M. Torres, has **REVOKED/CANCELLED** the aforesaid **DEED OF DONATION** which was illegally executed by Rowena Codilla on June 25, 2019 based on the grounds discussed above.

Further, you are hereby demanded to vacate the property within **THIRTY (30) DAYS** from receipt of this letter, and demolish all the improvements found thereon within the same period at your expense. Otherwise, the LGU Kananga, Leyte will take appropriate legal actions against you to protect its rights and interests over the said property."

This is to emphasize that purpose for which the fund was originally appropriated by the Sangguniang Bayan was for procurement of land to be utilized as the New Barangay Site of Barangay Tugbong, Kananga, Leyte. That is very clear from the relevant documents that were attached to the above-mentioned letters.

The subject deed of donation was executed by the former Mayor Rowena Codilla beyond the authority given to her by the previous SB, and the utilization of the said LGU Kananga-procured

land as **RELOCATION SITE** runs contrary to the purpose (**NEW BARANGAY SITE OF BRGY. TUGBONG**) for which the fund was originally appropriated by an ordinance.

3
MAYOR M. TORRES



Further, under the law, the utilization of the fund different from the purpose for which it was appropriated by a law or an ordinance is tantamount to technical malversation.

Article 220 of the Revised Penal Code reads:

Art. 220. Illegal use of public funds or property. — Any public officer who shall apply any public fund or property under his administration to any public use other than for which such fund or property were appropriated by law or ordinance shall suffer the penalty of prison correccional in its minimum period or a fine ranging from one-half to the total of the sum misapplied, if by reason of such misapplication, any damages or embarrassment shall have resulted to the public service. In either case, the offender shall also suffer the penalty of temporary special disqualification.

If no damage or embarrassment to the public service has resulted, the penalty shall be a fine from 5 to 50 per cent of the sum misapplied.

In a case, the Supreme Court upheld the conviction of the Mayor for Technical malversation, which has three elements:

- a) that the offender is an accountable public officer;
- b) that he applies public funds or property under his administration to some public use; and
- c) that the public use for which such funds or property were applied is different from the purpose for which they were originally appropriated by law or ordinance.

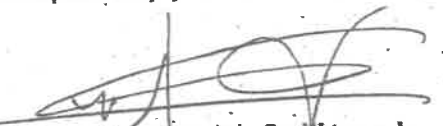
The Supreme Court held that:

“no matter how noble or miniscule the amount diverted, constitutes the crime of technical malversation.” Criminal intent is not an element of technical malversation. “The law punishes the act of diverting public property earmarked by law or ordinance for a particular public purpose to another public purpose. The offense is mala prohibita, meaning that the prohibited act is not inherently immoral but becomes a criminal offense because positive law forbids its commission based on considerations of public policy, order, and convenience. It is the commission of an act as defined by the law, and not the character or effect thereof, that determines whether or not the provision has been violated. Hence, malice or criminal intent is completely irrelevant.”

It is hoped that you would cooperate with LGU Kananga, Leyte in protecting all its funds and properties, and to make sure that said funds and properties are utilized in accordance with the purpose or public use for which they are appropriated by law or ordinance.

Further, as reiteration of the previous letter of demand to vacate, the LGU Kananga, Leyte is expecting you to vacate the premises within the period of time that was given to you in the said previous letter. Otherwise, the LGU Kananga will file the appropriate cases before the proper courts to protect its rights and interests over said property.

Respectfully yours,


Atty. Adelito M. Solbaga Jr.
Municipal Legal Officer-designate



Copy furnished:

Atty. Janice G. Gabrito
Acting Director,
Regional Office VIII
Office of the Ombudsman-Visayas,
Marasbaras, Tacloban City

Hon. Manuel Vicente M. Torres
Mayor
Office of the Mayor
Poblacion, Kananga, Leyte

Hon. Miguel Jorge P. Tan
Vice Mayor
Office of the Vice Mayor
Poblacion, Kananga, Leyte

REGISTRY RECEIPT

₱ 85.-

Post Office

RC 448 606 268 ZS

Letter/Pack

Posted on SEP 18 2023

Preserve this receipt for reference in case of inquiry

Postmaster/Teller

JMU
9/18/2023

MUNICIPALITY OF KANANGA
PROVINCE OF LEYTE
OFFICE OF THE VICE MAYOR

RECEIVED

DATE: 9-18-23
TIME: 3:56
BY: *[Signature]*



[Handwritten signature]



TAX DECLARATION OF REAL PROPERTY

TO NO: 21023-00552 Property Identification No. 044-21-023-20-059

OWNER: JULIANA NAHINE TIN: _____

ADDRESS: Tugbong, Kananga, Leyte TEL. NO. _____

Administrator/Beneficial User: _____ TIN: _____

Address: _____ Tel. No. _____

Location of Property: Tugbong, Kananga, Leyte

(Number of Streets) 1 Register (Municipality & Province/City) Kananga, Leyte

OFFICIAL CA No. T-15094 Survey No. P-15287

Lot No. Lot 2, being a portion of the cons. Subd. Of lots 10184, 10186

Block No. _____

North E. of S. 10184: 10184 South W. 11830, 11829, Lot 1 Lot 3

West E. of S. 10184: 10184 West _____

KIND OF PROPERTY ASSESSED:

- LAND
- BUILDING (No. of storey: _____, Brief Description: _____)
- MACHINERY (Brief Description: _____)
- OTHERS (Specify: _____)

CERTIFIED XEROX COPY

ENGR. VIRGILIO T. TILU
MUNICIPAL ASSESSOR
O.R. # 24587 91

ISSUED ON: 1-18-19

Description	Area	Net of Value	Actual Use	Level	Value
Agric land 1st	1.0000	49,087.77	Sugar Id.	4%	19,635.00
102	1.0000	49,087.45			
Total 20%				4%	19,630.00

AMOUNT IN WORDS: FOURTY NINE THOUSAND SIX HUNDRED THIRTY PESOS

Effective of Assessment: 2011

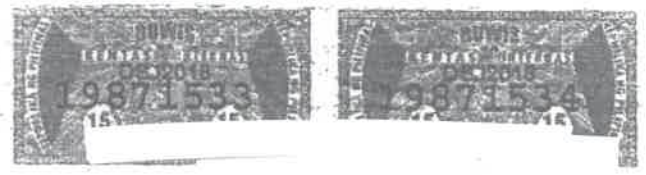
APPROVED BY: ATTY RAFAEL M. MARTE Provincial Assessor

RECOMMENDED BY: ENGR. VIRGILIO T. TILU Municipal Assessor/Surveyor

This declaration covers TO No. 21023-00552 Owner: JULIANA NAHINE (Same) Previous Assessed Value: 19,630.00

Remarks: Revision is hereby made to correct the name of the declared owner based on O.R. 1 and extra judicial declaration is hereby attached. Taxes paid up to the year 2011, per O.R. #0360543 dated 6/28/11 at Kananga, Leyte.

Notes: This declaration is for real property taxation purposes only and the valuation indicated herein is based on the fair market value prepared for the purpose and duly enacted into an Ordinance by the Sangguniang _____ under Ordinance No. _____ dated _____ 20____. It does not and cannot by itself alone confer any ownership or legal title to the property.



DECLARATION OF REAL PROPERTY
 (FILED UNDER PRESIDENTIAL DECREE NO. 163)

Owner: Land Master Address: Leangre, But
 Administrator _____ Address _____

DESCRIPTION AND OTHER PARTICULARS OF PROPERTY

Location of Property: Taguig (Municipality/City/Province)
 Certificate of Title No. 1228 Cadastre Lot No. 1228
 Foundation: Concrete
 Remarks: Part of a 9 ha. area under a Subdivision Plan No. 1228, Zone 1, located at the intersection of 31st and 32nd Street, Taguig City, Rizal. The area is bounded on the North by 31st Street, on the South by 32nd Street, on the East by the area of Subdivision Plan No. 1228, and on the West by the area of Subdivision Plan No. 1228. The area is bounded on the North by 31st Street, on the South by 32nd Street, on the East by the area of Subdivision Plan No. 1228, and on the West by the area of Subdivision Plan No. 1228.

I (a) LAND (AGRICULTURAL/MINERAL)

OWNERS DECLARATION			ASSESSORS FINDING				
Kind	Area	Value	Kind	Area	Class	Ass. Value	Market Value
Barangay Land	3,960	3,960	Barangay Land	3,960	1st	3,960.00	P2,247.40
Total	3,960	P4,350		3,960			P2,247.40

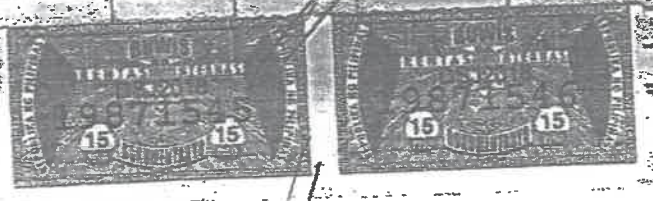
I (b) PLANTS & TREES

OWNERS DECLARATION			ASSESSORS FINDING				
Kind	Area	Value	Kind	Area	Unit Value	Market Value	
CERTIFIED XEROX COPY ENGR. VIRGINIO I. DELA CRUZ MUNICIPAL ASSESSOR B. P. 53, 2406791 ISSUED ON 1-18-19 ISSUED AT <u>Taguig</u>			Market Value	100%			
CERTIFIED XEROX COPY ENGR. VIRGINIO I. DELA CRUZ MUNICIPAL ASSESSOR B. P. 53, 2406791 ISSUED ON 1-18-19 ISSUED AT <u>Taguig</u>			Adjustments:				
			(a) Along or no road frontage	1%			
			(b) Area to be weathered	0%			
			(c) Area to be used (pub)	0%			
			Total Adjustments				
			Assessed Market Value	100%		P	
Total			Total for land, plant and trees			P2,247.40	
Total			Assessed value for land, plant and trees			P2,247.40	

II LAND (RESIDENTIAL, COMMERCIAL, INDUSTRIAL, SPECIAL)

OWNERS DECLARATION			ASSESSORS FINDING			
Kind	Area	Value	Kind	Area	Unit Value	Market Value

IMPORTANT: Issued for taxation purposes only and should not be considered as title to the property.



SN No 2895590

REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF JUSTICE

Land Registration Commission
REGISTRY OF DEEDS FOR THE PROVINCE OF LEYTE

Transfer Certificate of Title

No. T-15094

IT IS HEREBY CERTIFIED that certain land situated in the Municipality of Kananga
Province of Leyte, Philippines bounded and described as follows:

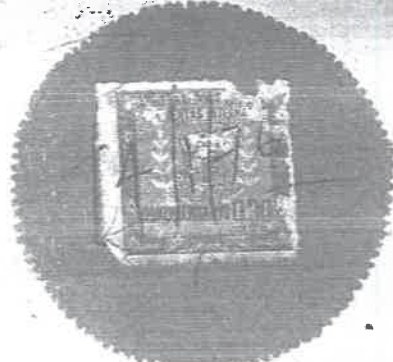
A parcel of land (lot 2, (LRC) Pcc-19337, being a portion of the consolidation-subdivision survey of Lot 10134 and Lot 10136, both of the Cadastral Survey of Ormoc, L.R.C. Cad. No. 1795), situated in the Barrio of Tugbong, Municipality of Kananga, Province of Northern Leyte, Island of Leyte. Bounded on the N.E., along line 1-2 by Lot 4 of the consolidation-subdivision plan; along lines 2-3-4-5 by Lot 10135, Ormoc Cadastre; on the E.E., along line 5-6 by Lot 5 of the consolidation-subdivision plan; along line 6-7-8 by Lot 10133; on the S.W., along line 8-9 by Lot 10130; on point 9 by Lot 11031; all Ormoc Cadastre; along line 9-10-11 by Lot 1; and along line 11-1 by Lot 3, both of the consolidation-subdivision plan. Beginning at a point marked "1" on plan, being N. 33 deg. 47' W., 395.67 m. from S.L.L.M. No. 205, Ormoc Cadastre, thence S. 60 deg.

is registered in accordance with the provisions of the Land Registration Act in the name of JULIANA MAGINE, of legal age, Filipino, Married to Salomon Purcar

as owner thereof in fee simple, subject to such of the incumbrances mentioned in Section 39 of said Act as may be subsisting and to a first lien in favor of the National Government to guarantee the payment of the national debt pursuant to the provisions of section 18 of Act 2933, an amendment

IT IS FURTHER CERTIFIED that said land was originally registered on the 19th day of February, in the year nineteen hundred and forty in the Registration Book of the Office of the Register of Deeds of Leyte, Volume 110 page 71572, as Original Certificate of Title No. 27282, pursuant to Decree No. 71572 issued in L.R.C. Cadastral Record No. 1795

This certificate is a transfer from Original Certificate of Title No. 27282 & 27365 which is cancelled by virtue hereof in so far as the above-described land is concerned.



Entered at Taoleban City
Philippines, on the 1st day of April
in the year nineteen hundred and seventy-six
at 9:00 a. m.

ATTIST:

Kananga, Leyte, Philippines
(Owner's postal address)

Act 109 Register of Deeds

* State the civil status, name of spouse if married, age if a minor, citizenship and residence of the registered owner. If the owner is a married woman state also the citizenship of her husband. If the land is registered in the name of the conjugal partnership, state the citizenship of both spouses.

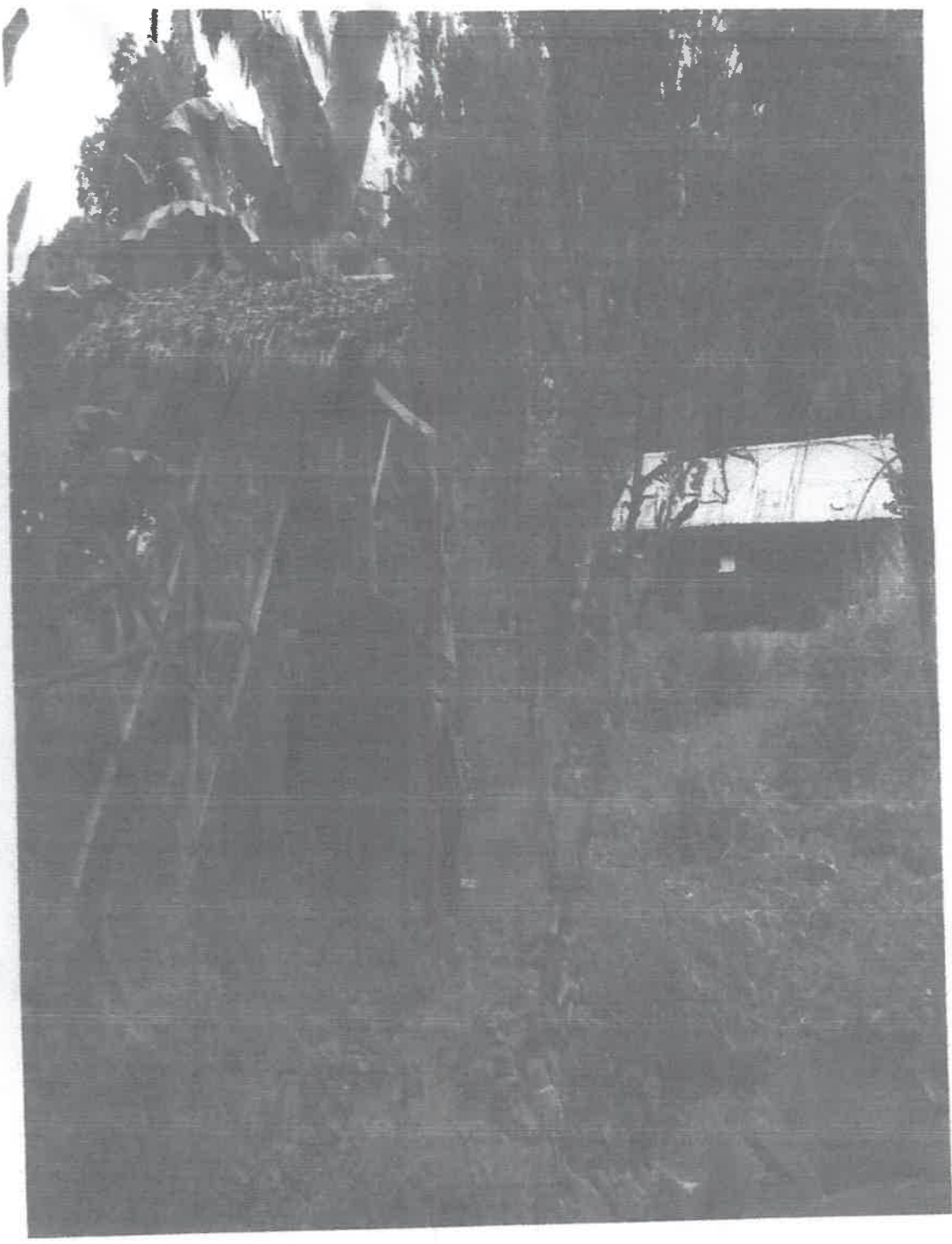
OWNER'S DUPLICATE OF THE CERTIFICATE

Annex CC



Annex CC 1







ANNEX CC 4



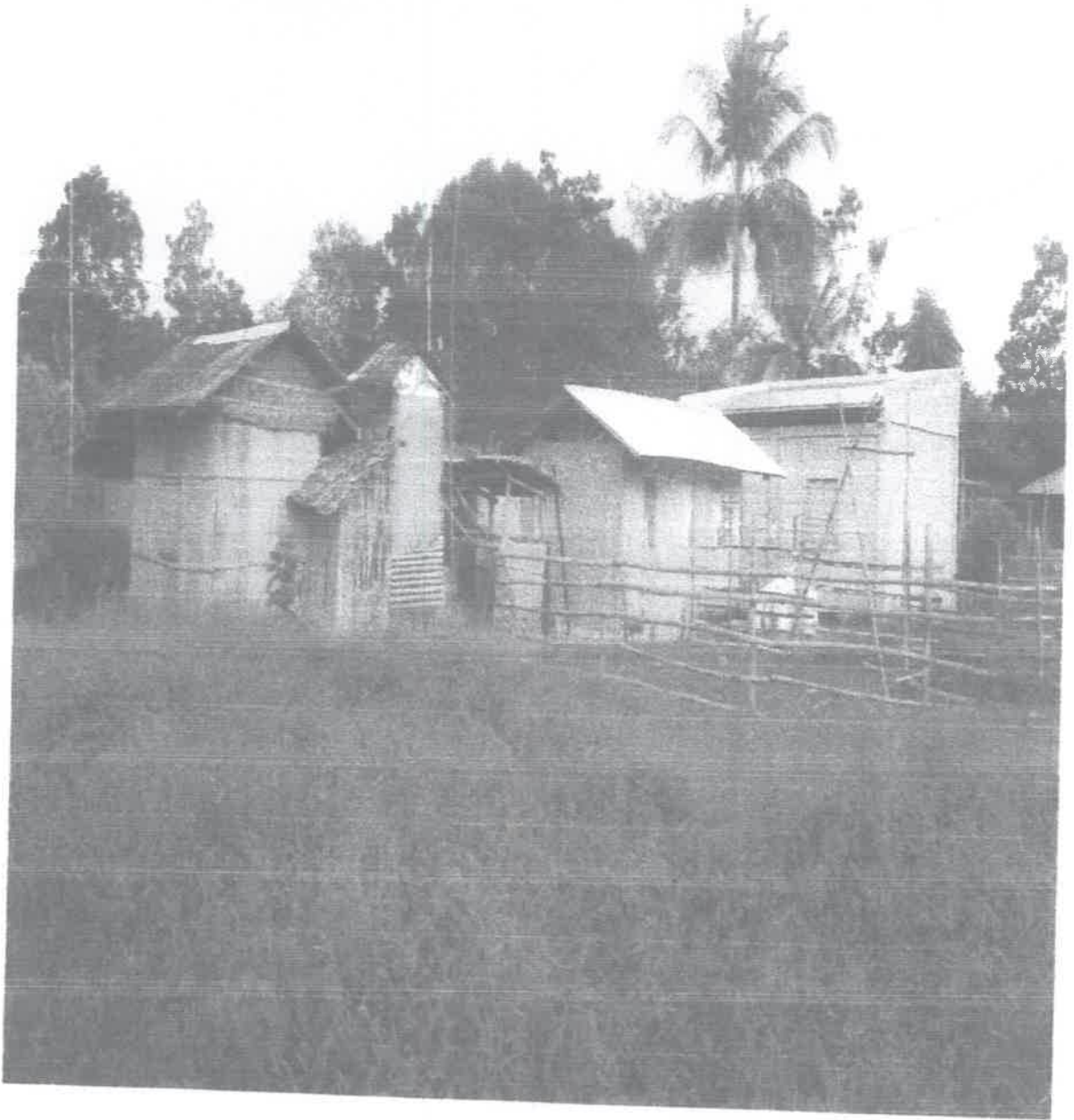
**CERTIFIED TRUE AND
FAITHFUL COPY OF THE
ORIGINAL WHEN
PRESENTED**

ATTY. MA. KRISKA ANGELA H. TUMAMAK

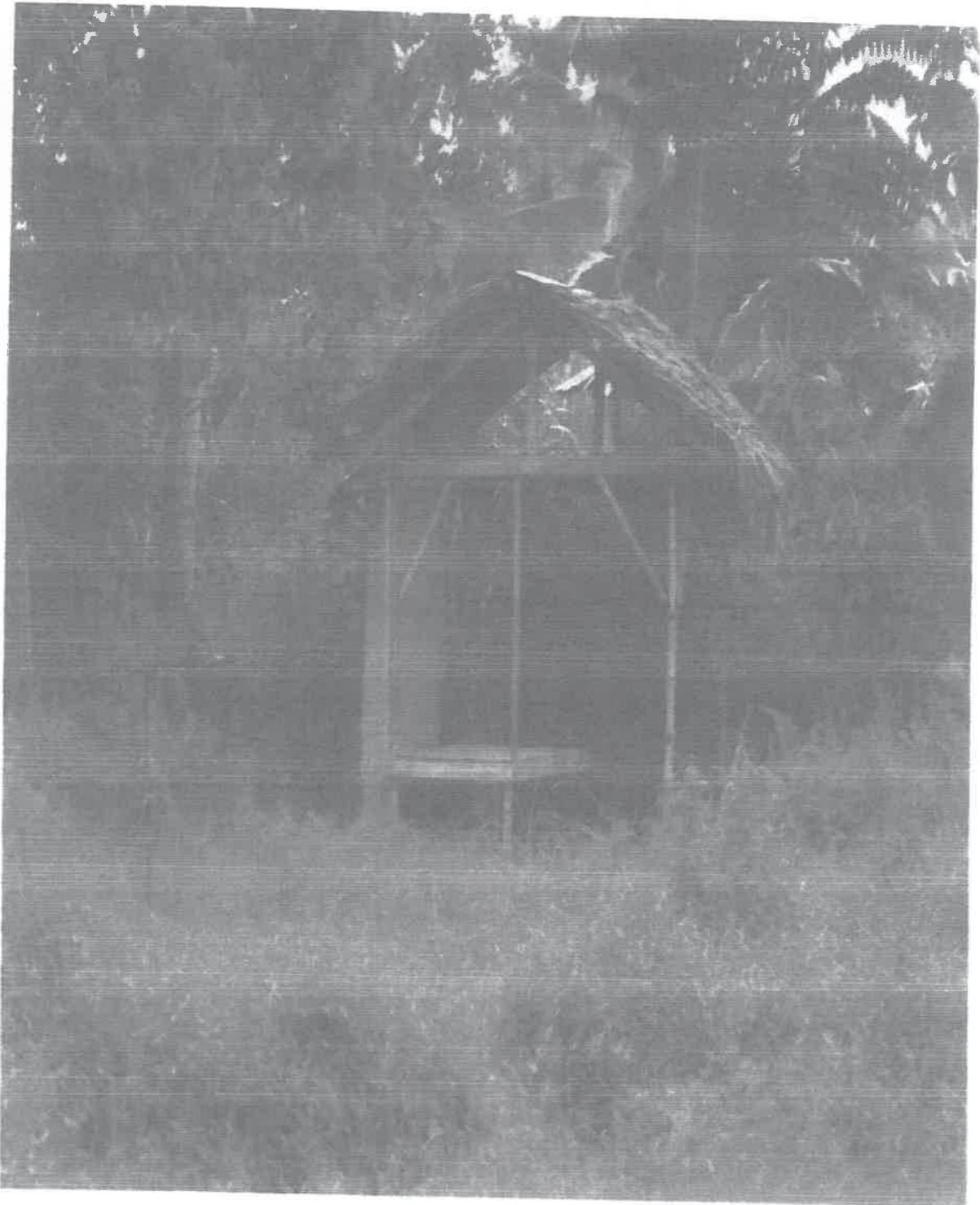
Notary Public for the City of Ormoc
Municipalities of Kananga, Matag-ob, Merida and Isabel, Leyte
Commission No. ORM-22-09-018-NC Until December 31, 2024
Roll of Attorney's No. 82440

IBP No. 329704/ 12/17/2023/ Leyte Chapter
PTR No. 7872599/ 01/02/2024/ Ormoc City
MCLJE (Newly Admitted to the Bar May 30, 2022)
Unit 4, 2/F J.E Tan Bldg. corner Rizal and Aviles Streets
Email: kriskatumamak@yahoo.com
Contact No. 0967-324-6663

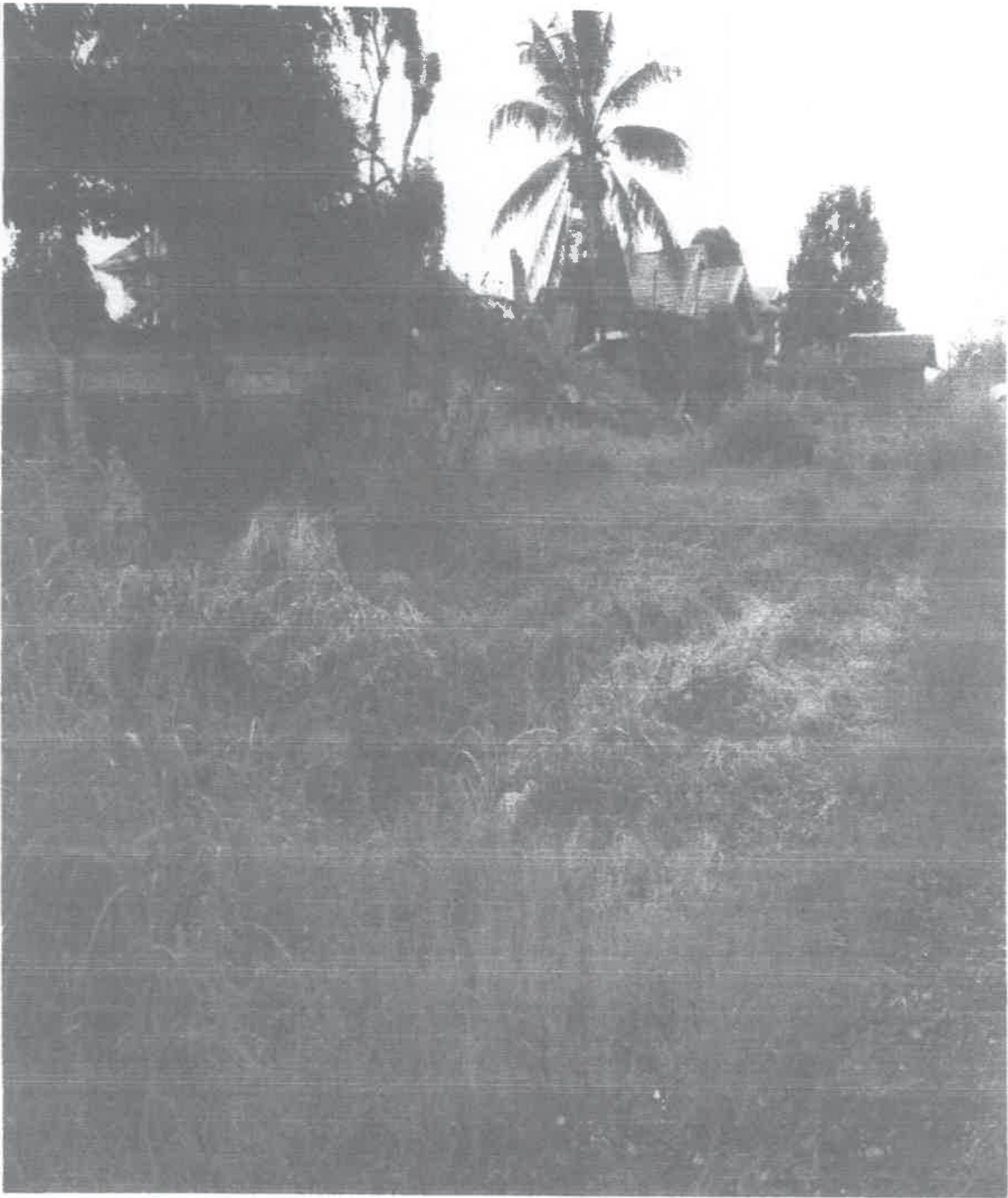
ANNEX CC'5



ANNEX CC U



ANNEX CC7



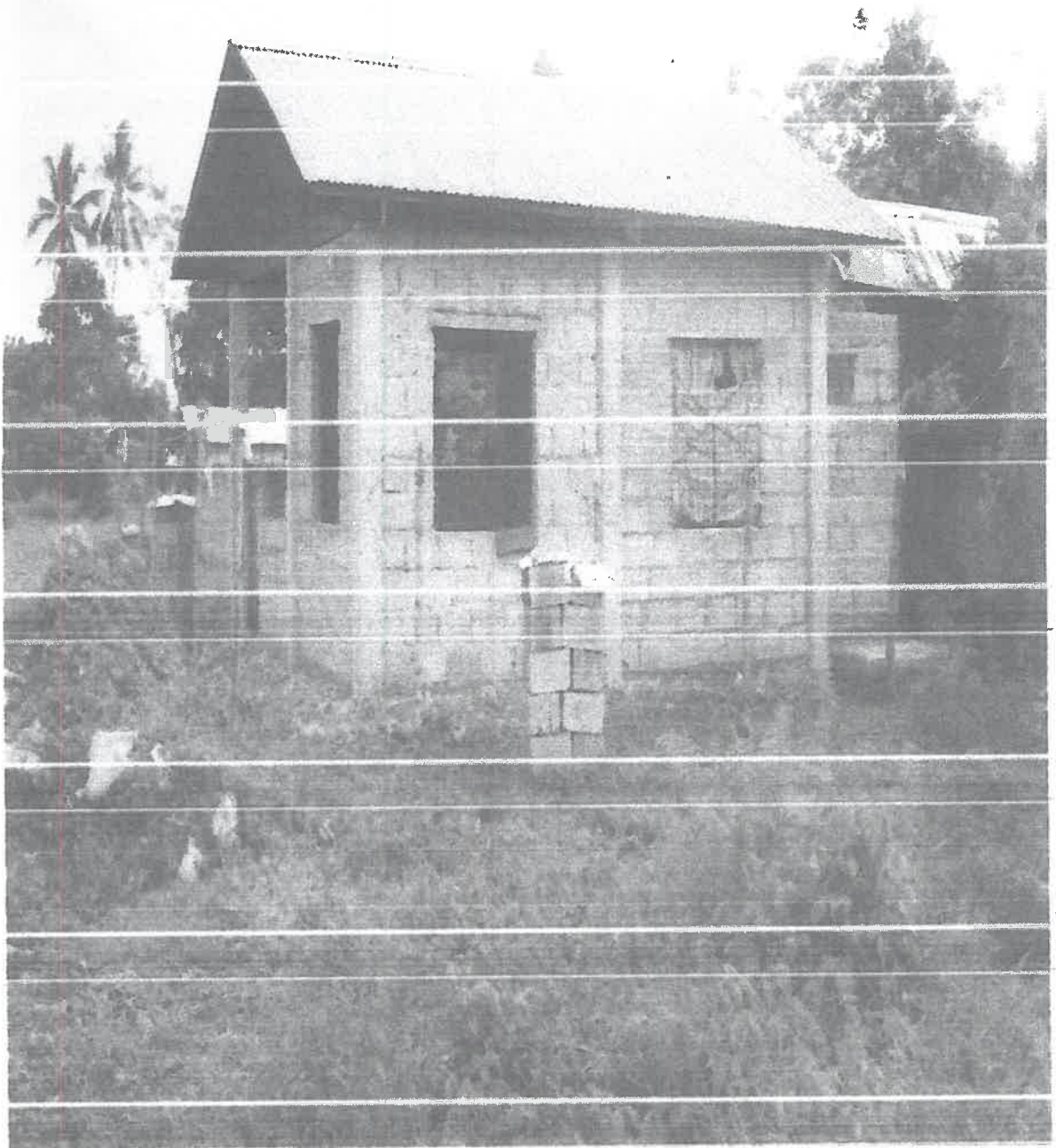
ANNEX CC 8



ANNEX EC 9



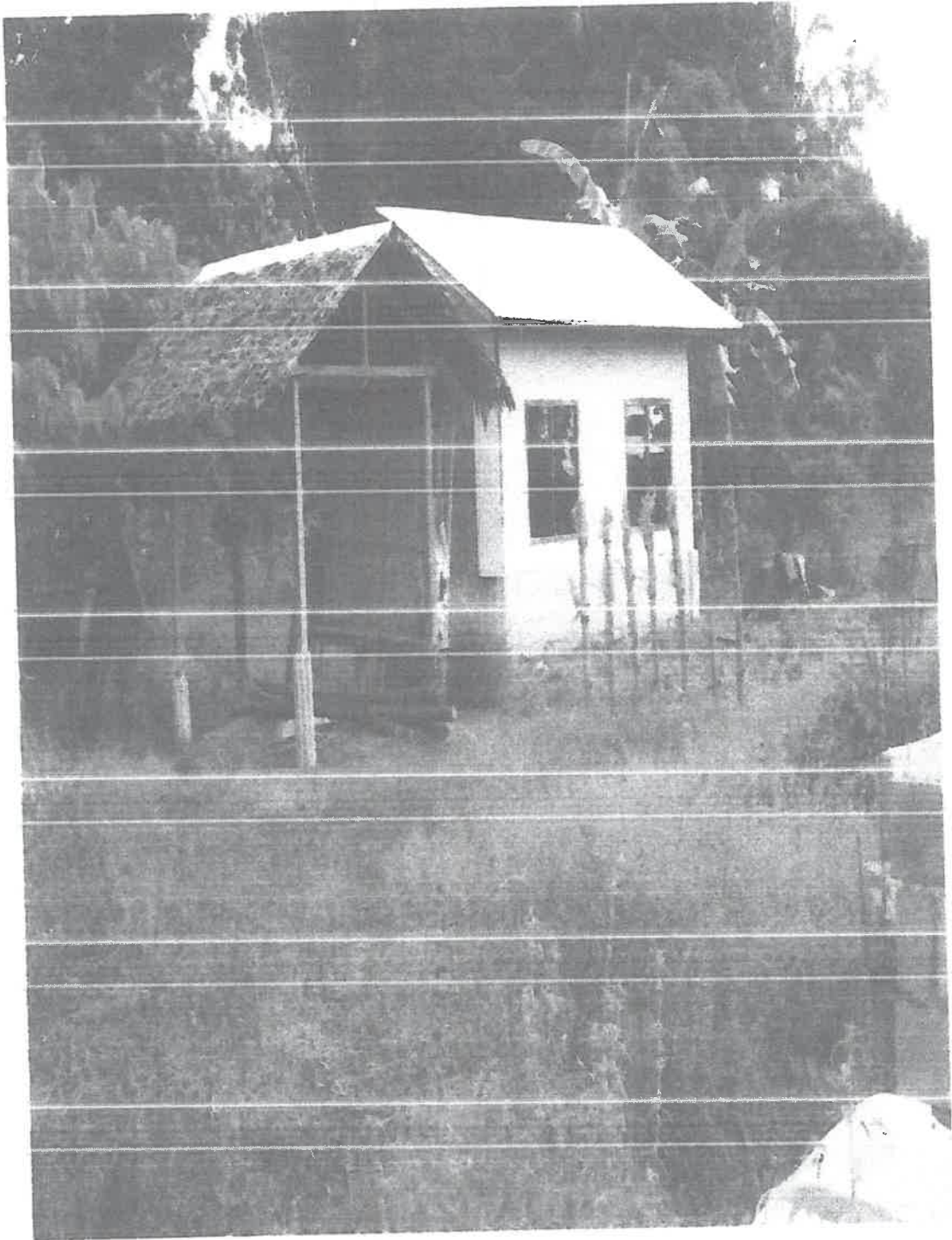
ANNEX CC 10



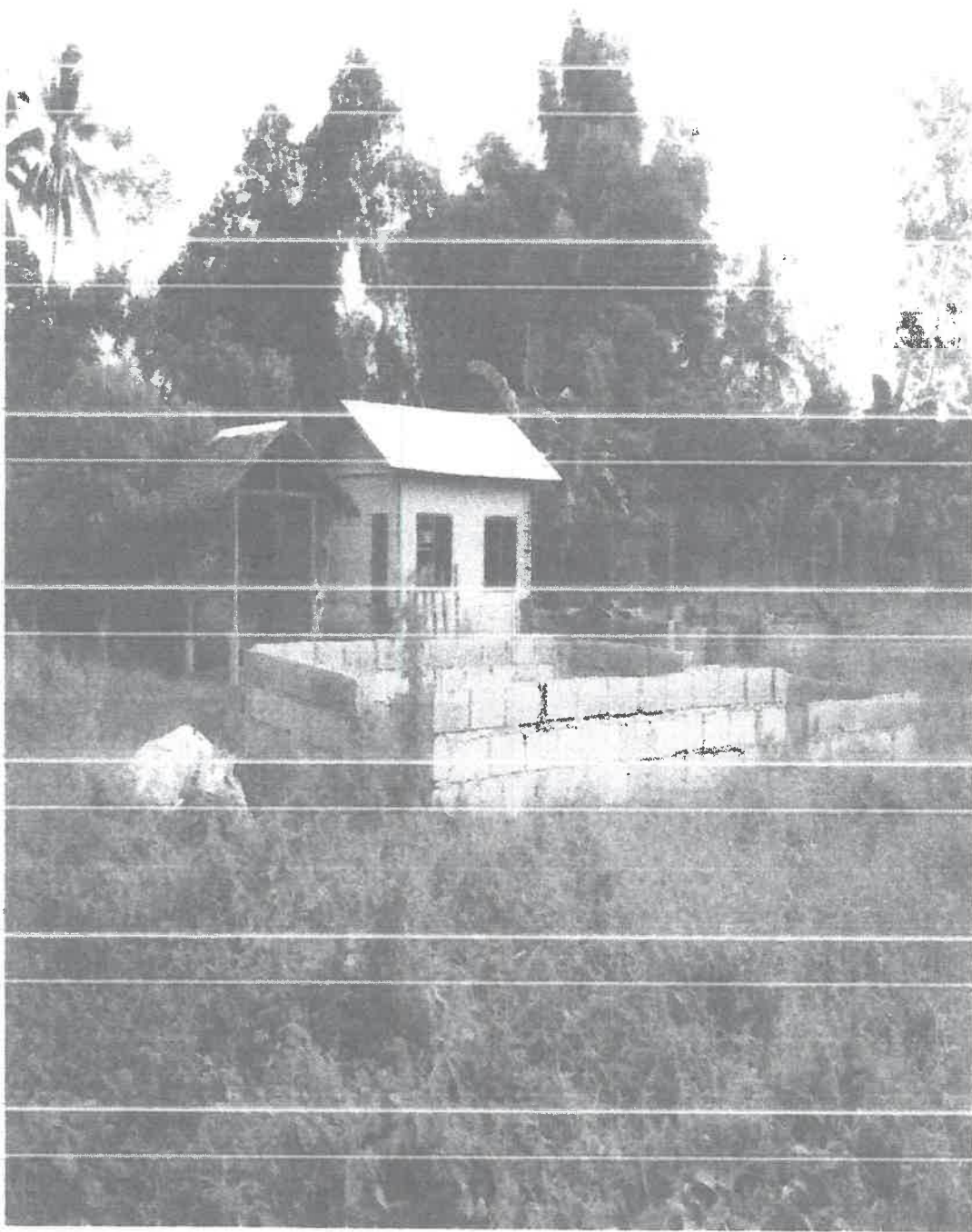
ANNEX COA



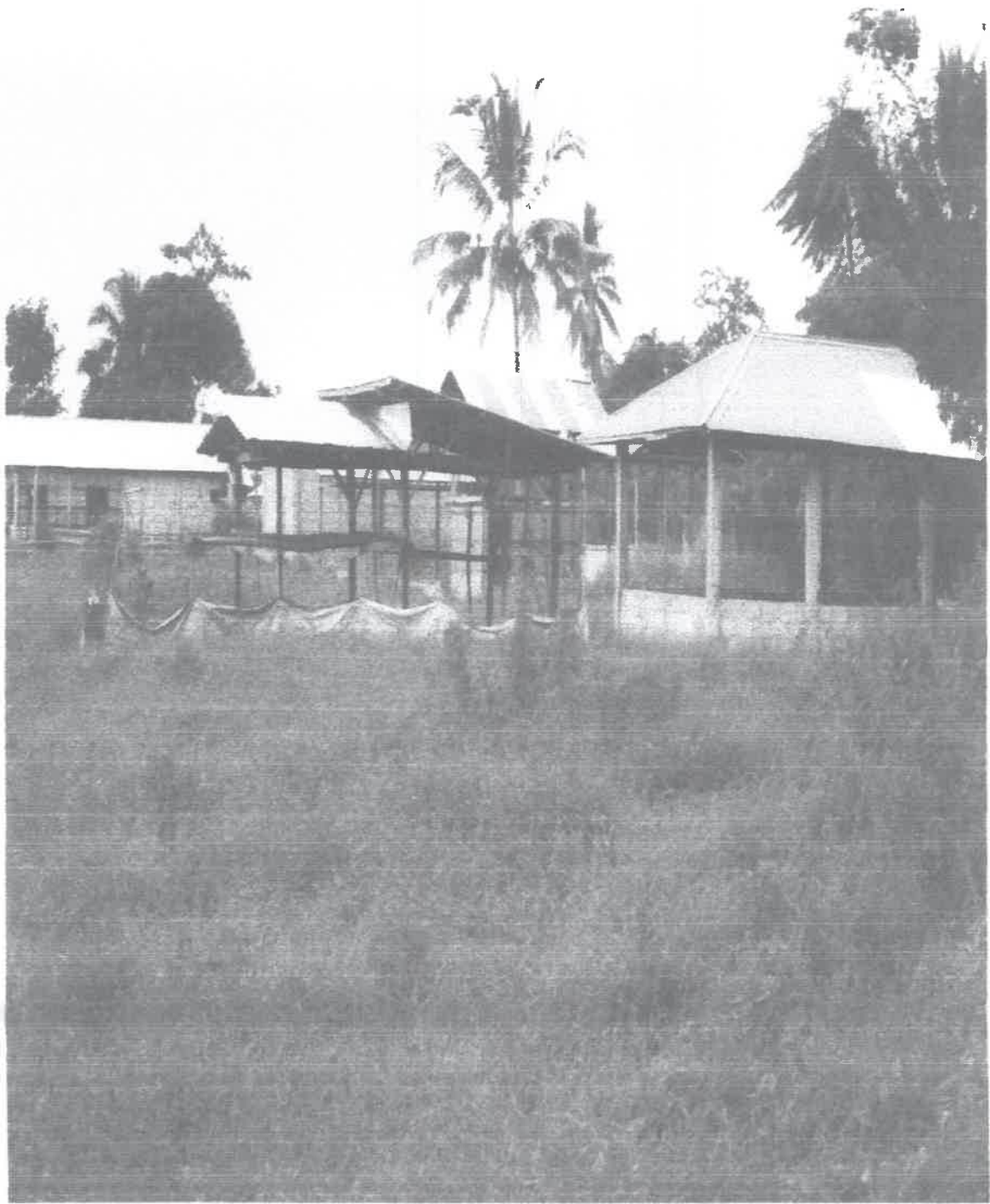
ANNEX CC-12



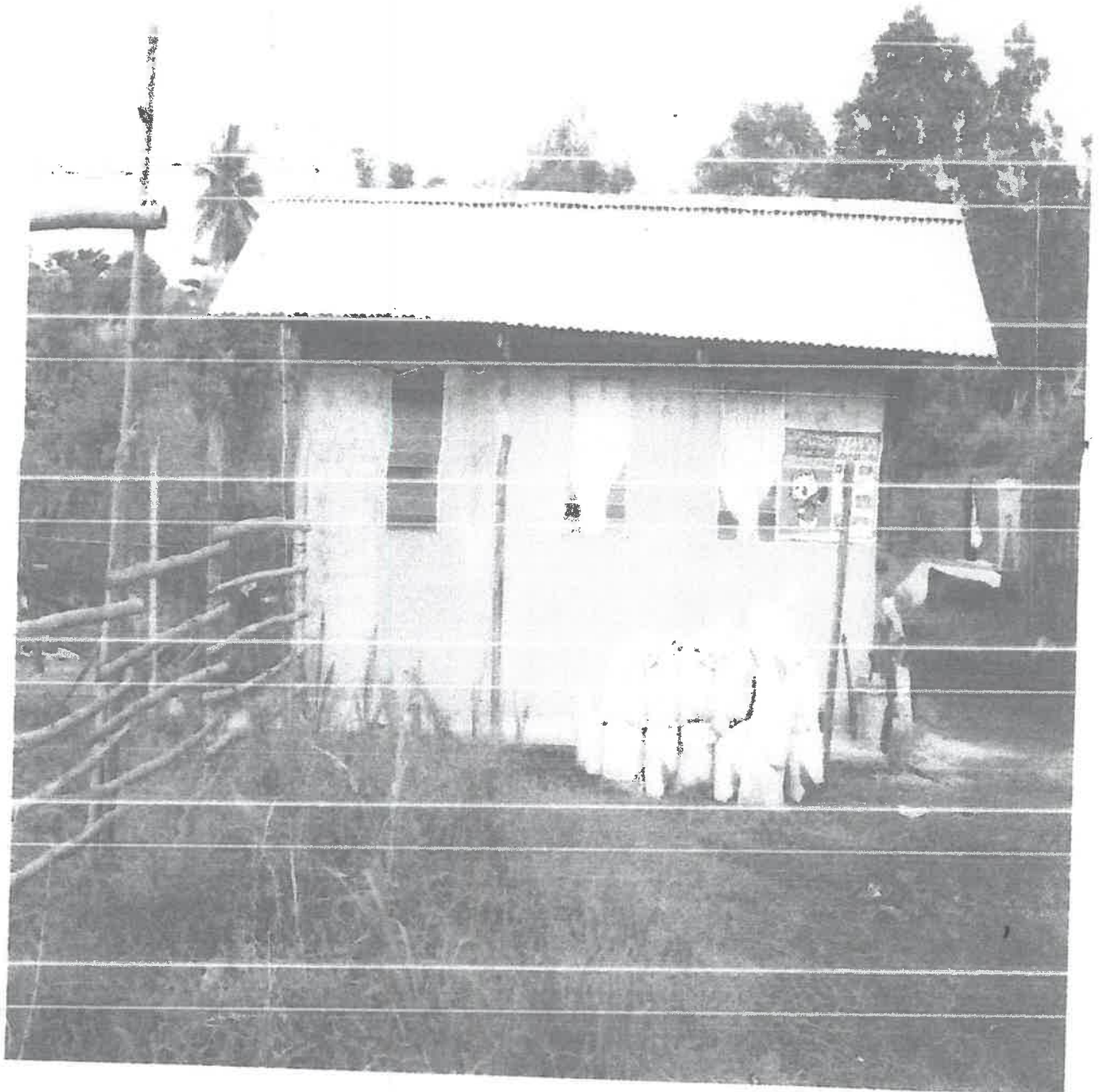
ANNEX C-C-B



ANNEX CC 14



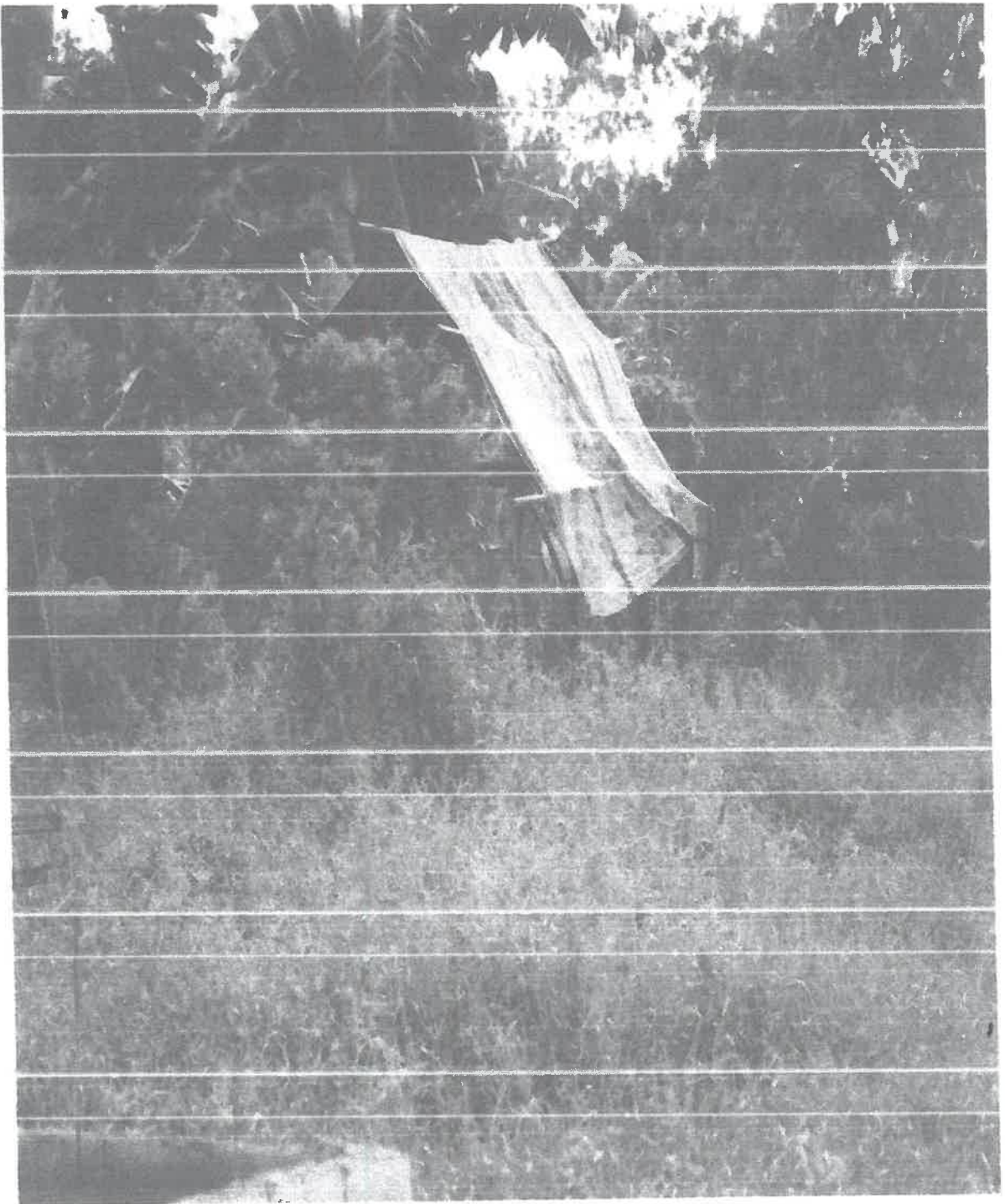
ANNEX CC 15



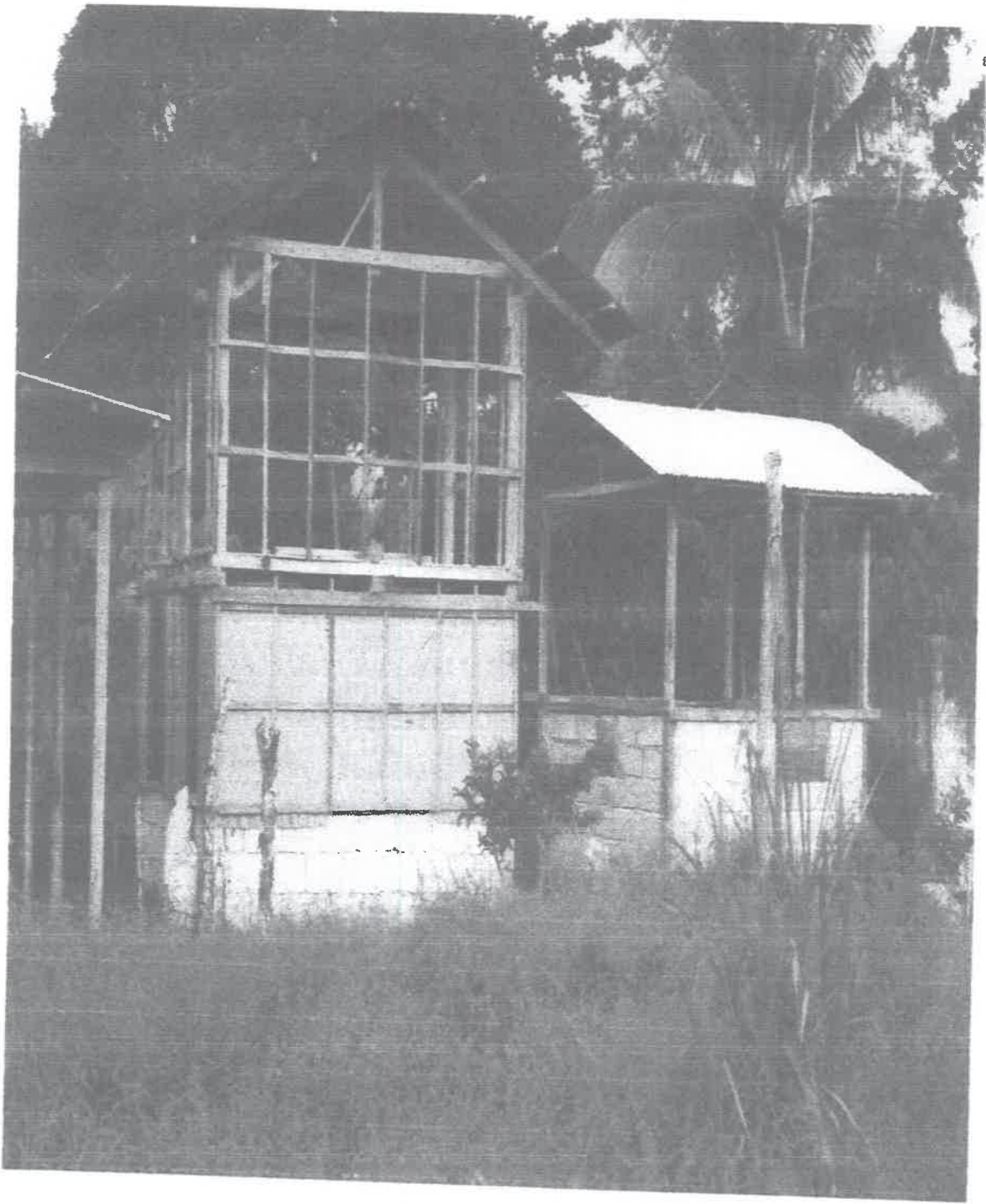
ANNEX CC 16



ANNEX CC-17



ANNEX CC 18



EX DD

Annex 24



Republic of the Philippines
PROVINCE OF LEYTE
MUNICIPALITY OF KANANGA

1/24/2019

GENERAL FUND

DISBURSEMENT VOUCHER

No. 2019-01-020

Made of Payment	<input type="checkbox"/> check	<input type="checkbox"/> Cash	<input type="checkbox"/> Other
Payee	GLICERIO NAHINE PORCARE	TIN/Employee No.	Obligation Request No.
Address	SIRIO PUNAY, BGY. TUGBONG, KANANGA, LEYTE	Responsibility Center	
		Code	

EXPLANATION	Amount
To payment for the procurement of real property - parcel of lot No. 2, (LRC) PCS-19337(Lots 10184 & 1795) with TCT NO. 15094 containing an area of 10,000 square meters located at Barangay Tugbong with appraised market value by the Provincial Appraisal Committee at P140.00 per square meter per Resolution No. 026-2018 and per Extrajudicial Settlement of Estate with Deed of Absolute Sale executed between the Municipality of Kananga and the heirs of Salomon Porcare and Juliana Nahine - Glicerio, Hermogenes, and Francisco Porcare.	1,400,000.00

Amount Due P 1,400,000.00

<input checked="" type="checkbox"/> Certified: <input type="checkbox"/> Allotment obligated for the purpose as indicated above. <input type="checkbox"/> Supporting documents complete		<input type="checkbox"/> Certified: Funds Available	
Signature		Signature	
Printed Name	JOSEFINA G. FOGARTY	Printed Name	SUSAN S. DELMONTE
Date	1/24/19	Date	
Position	Municipal Accountant	Position	Municipal Treasurer / OIC
<input checked="" type="checkbox"/> Approved for Payment		<input type="checkbox"/> Received Payment	
Signature		Check No.	Bank Name
Printed Name	HON. ROWENA N. CODILLA	Signature	
Date		Printed Name	MUNICIPALITY OF KANANGA
Position	Municipal Mayor	Other Documents	JEV No. Date



MUNEX EE

**Municipality of Kananga
Office of the Municipal Budget Officer
Brgy. Poblacion, Kananga, Leyte
October 16, 2023**

CERTIFICATION

To Whom It May Concern,

This is to certify that based on records of the Municipal Budget Office of the Municipality of Kananga, an amount of One Million Four Hundred Thousand Pesos (Php 1,400,000.00) was duly appropriated for the procurement of a lot at Brgy. Tugbong, Kananga, Leyte.

The relevant details are as follows:

Ordinance No.:	Ordinance No. 21L18-048
Budget Line Item:	Procurement of Lot @ Brgy. Tugbong, Kananga, Leyte
Amount Appropriated:	Php1,400,000.00
Fiscal Year:	Supplemental Budget No. 2 CY 2018

This certification confirms the existence of the appropriation with the purpose stated in the disbursement voucher.

Sincerely,


**SYLVIO QUILO JR. I
Municipal Budget Officer**



NN5X FF

REPUBLIC OF THE PHILIPPINES
PROVINCE OF LEYTE
MUNICIPALITY OF KANANGA

Municipality of Kananga
Office of the Municipal Treasurer
Brgy. Poblacion, Kananga, Leyte
October 16, 2023

CERTIFICATION

To Whom It May Concern,

This is to certify that the payment for the Procurement of Lot No. 2 situated in Brgy. Tugbong, Kananga, Leyte per TCT No.15094 containing an area of 10,000 square meters as per disbursement voucher, has been duly processed and completed by the Municipal Treasurer's Office of the Municipality of Kananga.

The payment transaction details are as follows:

Description: Lot No. 2 (LRC) PCS-19337 (Lots 10184 & 1795) with TCT NO. 15094

Location: Brgy. Tugbong, Kananga, Leyte

Amount: Php 1,400,000.00

Disbursement Voucher Number: 2019-01-0200

This certification is issued upon the request of the concerned party for whatever legal purpose it may serve.

Sincerely,


SUSAN DEL MONTE
Municipal Treasurer



Republic of the Philippines
Province of Leyte
Municipality of Kananga

SANGGUNIANG BAYAN OF KANANGA

SABENIANO BIGNAY

Complainant,

Administrative Case No.:

K-ADM-2023-002

Dishonesty, Oppression, Misconduct in Office, Gross Negligence, Dereliction of Duty, abuse of authority under Section I Rule IV of the 2021 Rules of Procedure of the Sangguniang Bayan (SB) of the Municipality of Kananga, Province of Leyte, Philippines.

Violation of Republic Act No. 3019 (Anti-Graft and Corrupt Practices Act), R.A. 6713 (Code of Conduct and Ethical Standards for Public Officials and Employees).

LEAH O. EMPLEO, EMERITA P. LACNO, AND JERRY P. EMPLEO

Respondents.

X-----X

ORDER

On December 7, 2023, the Office of the Sangguniang Bayan of this Municipality received a verified complaint from Mr. Sabeniano Bignay, a resident of Barangay Tugbong, Kananga, Leyte, filing administrative case against Leah O. Empleo, Emerita P. Lacno and Jerry P. Empleo for "Dishonesty, Oppression, Misconduct in Office, Gross Negligence, Dereliction of Duty, abuse of authority under Section I Rule IV of the 2021 Rules of Procedure of the Sangguniang Bayan (SB) of the Municipality of Kananga, Province of Leyte, Philippines and Violation of Republic Act No. 3019 (Anti-Graft and Corrupt Practices Act), R.A. 6713 (Code of Conduct and Ethical Standards for Public Officials and Employees). Attached herewith is the copy of the complaint and its supporting documents.

Pursuant to Republic Act 7160 or the Local Government Code of 1991:

The Sanggunian Panlalawigan/Panlungsod/Bayan shall exercise its two (2) functions, namely: Legislative function and Quasi-Judicial function.

3/6/2024

PER OR #: 84493603

San Bldg. Rival and A
001-324-66

Legislative function refers to the power of local sanggunian to enact rules or regulations, which may be embodied in the form of an ordinance or a resolution of local application and having the force and effect of law. In the exercise of legislative powers, the sanggunian has no compulsory process to require persons to appear before it.

Quasi-judicial function, on the other hand, refers to their power to hear and decide administrative cases against erring elective local officials. Extensively, quasi-judicial refers to the discretion of officers who are required to investigate facts, or ascertain the existence of facts and draw conclusions from them as basis for their official action and to exercise discretion of a judicial nature. In the exercise of quasi-judicial functions, the sanggunian can compel the appearance of any person pursuant to its subpoena powers in relation to Section 65 of the Local Government Code of 1991 (Rights of Respondent). Thus, in recognition of the right of the respondent in administrative investigation to confront and cross-examine the witnesses and to require the attendance of witnesses and the production of documentary evidence in his favor, the sanggunian is allowed to issue compulsory process of subpoena or subpoena duces tecum.

SECTION 61. Form and Filing of Administrative Complaints. - A verified complaint against any erring local elective official shall be prepared as follows:

- (a) A complaint against any elective official of a province, a highly urbanized city, an independent component city or component city shall be filed before the Office of the President;
- (b) A complaint against any elective official of a municipality shall be filed before the Sangguniang Panlalawigan whose decision may be appealed to the Office of the President; and
- (c) A complaint against any **elective Barangay official** shall be filed before the Sangguniang Panlungsod or Sangguniang Bayan concerned whose decision shall be final and executory.

SECTION 62. Notice of Hearing.

- (a) *Within seven (7) days after the administrative complaint is filed before the Office of the President or the Sanggunian concerned, as the case may be, shall require the respondent to submit his verified answer within fifteen (15) days from receipt thereof, and commence the investigation of the case within ten (10) days after receipt of such answer of the respondent.*
- (b) *When the respondent is an elective official of a province or highly urbanized city, such hearing and investigation shall be conducted in the place where he renders or holds office. For all other local elective officials, the venue shall be the place where the Sanggunian concerned is located.*
- (c) *However, no investigation shall be held within ninety (90) days immediately prior to any local election, and no preventive suspension shall be imposed within the said period. If preventive suspension has been imposed prior to the 90-day period immediately preceding local election, it shall be deemed automatically lifted upon the start of aforesaid period.*

In view of the foregoing, **you are hereby required to submit your verified answer within fifteen (15) days from receipt thereof.** Afterwards, the Sanggunian Bayan of Kananga shall commence investigation whether or not the administrative case filed against you is meritorious or not.



SO ORDERED:

Issued this 14th day of December 2023 in Kananga, Leyte.

For the Sangguniang Bayan


ATTY. ALLAN R. CASTRO
Sangguniang Secretary

Received:

Hon. Leah O. Empleo
Tugbong, Kananga, Leyte

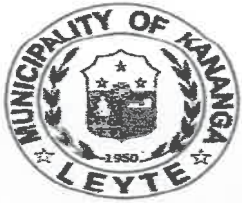
_____ *Date*

Hon. Emerita P. Lacno
Tugbong, Kananga, Leyte

_____ *Date*

Hon. Jerry P. Empleo
Tugbong, Kananga, Leyte

_____ *Date*



Republic of the Philippines
Province of Leyte
Municipality of Kananga

SANGGUNIANG BAYAN OF KANANGA

AD HOC COMMITTEE

SABENIANO BIGNAY

Complainant,

Administrative Case No.:

K-ADM-2023-002

Dishonesty, Oppression, Misconduct in Office, Gross Negligence, Dereliction of Duty, abuse of authority under Section I Rule IV of the 2021 Rules of Procedure of the Sangguniang Bayan (SB) of the Municipality of Kananga, Province of Leyte, Philippines.

Violation of Republic Act No. 3019 (Anti-Graft and Corrupt Practices Act), R.A. 6713 (Code of Conduct and Ethical Standards for Public Officials and Employees).

LEAH O. EMPLEO, EMERITA P. LACNO, AND JERRY P. EMPLEO

Respondents.

X-----X

ORDER

In today's Ad Hoc Committee Meeting, the committee noted the submission of the Formal Entry of Appearance as Counsel for the Respondents with attached Verified Answer, filed by Atty. Ma. Kriska Angela H. Tumamak and Atty. Gerentstein T. Banzon of the Banzon Law Office, for the respondents.

In relation thereto, parties are required submit their respective Pre-Trial Briefs not later than January 10, 2024.

The Ad Hoc Committee reconfirms the scheduled Preliminary Conference on January 12, 2024 at 9:00 in the morning at the SB Session Hall in Kananga, Leyte, concerning the above-stated case.

SO ORDERED.

Issued this 5th day of January 2024 in Kananga, Leyte.


3/6/2024

PER. NO. #: 8449361 B


HON. RESURRECCION CAPANAS
SB Member
Chairman, Ad Hoc Committee

2024 / Leyte Chapter
4/4/2024
R. M. M. 10, 2024





Noted:

HON. MIGUEL JORGE P. TAN
Vice Mayor and Presiding Officer

Received:

Sabeniano Bignay
Tugbong, Kananga, Leyte

Date

Leah O. Empleo
Tugbong, Kananga, Leyte

Date

Emerita P. Lacno
Tugbong, Kananga, Leyte

Am for file

1/5/24
Date

6:01 PM

Jerry P. Empleo
Tugbong, Kananga, Leyte

Date

Banzon Law Office
Unit 4, 2/F, JE Tan Building
Rizal corner Aviles Streets,
Ormoc City, Leyte

Date

Republic of the Philippines
Sangguniang Bayan (SB)
Municipality of Kananga
Province of Leyte
-oOo-

SABENIANO BIGNAY
Complainant,

Admin. Case No.
K-ADM-2023-002

- versus -

For:
Dishonesty, Oppression,
Misconduct in Office, Gross
Negligence, Dereliction of
Duty, Abuse of Authority
under Sec. 1, Rule IV of the
2021 Rules of Procedure of
the Sangguniang Bayan of
the Municipality of
Kananga, Province of Leyte,
Philippines

Violation of Republic Act No.
3019 (Anti-Graft and
Corrupt Practices Act), R.A.
6713 (Code of Conduct and
Ethical Standards for Public
Officials and Employees).

**LEAH O. EMPLEO, EMERITA
P. LACNO and JERRY P.
EMPLEO**

Defendants.

X-----X

**FORMAL ENTRY OF APPEARANCE AS COUNSEL FOR
THE RESPONDENTS WITH ATTACHED VERIFIED
ANSWER**

CERTIFIED TRUE AND
FAITHFUL COPY OF THE
ORIGINAL WHEN
PRESENT

SB SECRETARY'S OFFICE
RECEIVED
DATE: 12/20/23 1:44 PM
BY: [Signature]

[Signature]
ATTY. MA. KRISKA ANGELA H. TUMAMAK
Notary Public for the City of Ormoc
Municipalities of Kananga, Matag-ob, Mendaya and Isabel, Leyte
Commission No. ORM-22-09-018-NC Until December 31, 2024
Roll of Attorneys No. 32116
IBP No. 329204 (2/17/2021) Leyte Chapter
PTR No. 2892599-01-025-2021 Ormoc City
MCTD (Newly Admitted to no. 31-315-30, 2022)
Unit 4, 2/F J.T. Tan Bldg. corner Bizard and Aviles Streets
Email: kriskatumamak@nra.com.ph
Contact No. 0967-321-6663

COMES NOW, undersigned counsels, unto this Honorable Court, most humbly and respectfully aver:

1. That the Respondents engaged the services of the undersigned counsels;
2. That in view of this engagement, the undersigned counsels hereby enter their appearance as counsels for the Respondents until such time as he pleases;
3. That it is respectfully requested that henceforth, all subsequent notices, orders and processes of this Honorable Office and copies of all pleadings of the opposing party/counsel intended for the Respondent should also be directed to the undersigned office address at **Unit 4, 2/F, JE Tan Building, Rizal corner Aviles Streets, Ormoc City, Leyte;**

PRAYER

WHEREFORE, it is most respectfully prayed of this Honorable Office that the entry of appearance of the undersigned counsels for the Respondents be NOTED and entered into the records of this case.

Other just and equitable relief and remedies are likewise prayed for.

Ormoc City (for Kananga), Leyte, Philippines, January 2, 2023.

Most respectfully submitted:

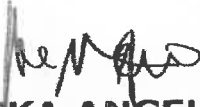
BANZON LAW OFFICE
(Counsel for the Respondents)
Unit 4, 2/F JE Tan Bldg.
Cor. Rizal and Aviles Sts. Ormoc City

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ATTY. MA. KRISKA ANGELO H. TUMAMAK

Notary Public for the City of Ormoc
Municipalities of Kananga, Maragoh, Merida and Isabel, Leyte
Commission No. ORM-22-09-018-NC Until December 31, 2024
Roll of Attorney's No. 82110
IRP No. 329/04/12/17/2023/ Leyte Chapter
PTR No. 7872599/ 01/02/2021/ Ormoc City
MCLP (Newly Admitted to the Bar May 30, 2022)
Unit 4, 2/F J.J. Tan Bldg. corner Rizal and Aviles Streets
Email: kass@ormoccity.gov.ph
Contact No. 0967-324-6663

By:



ATTY. MA. KRISKA ANGELA H. TUMAMAK

Roll of Attorney's No. 82440

IBP O.R. No. 329704, dated 12/17/2023

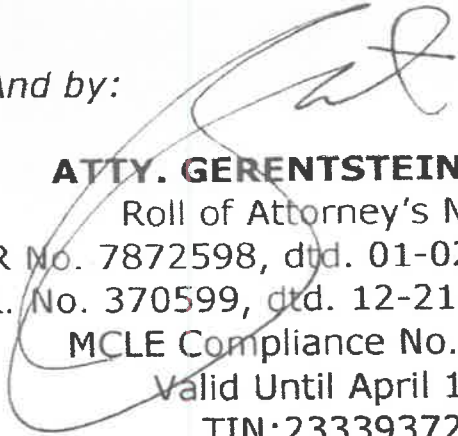
PTR No. 7872599, dated 01/02/2024, Ormoc City

MCLE Compliance- Newly Admitted 05/30/2022)

Office Tel. No: (053) 561-0529

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And by:



ATTY. GERENTSTEIN T. BANZON

Roll of Attorney's No. 53280

PTR No. 7872598, dtd. 01-02-2024, Ormoc City

IBP O.R. No. 370599, dtd. 12-21-2023, Leyte Chapter

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Valid Until April 14, 2025

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Email: gerentstein@gmail.com

**OFFICE OF THE SANGGUNIANG BAYAN
KANANGA, LEYTE**

Greetings:

Kindly submit the foregoing FORMAL ENTRY OF APPEARANCE AS COUNSELS FOR THE RESPONDENTS for consideration of the Honorable Office immediately upon receipt hereof.

Thank you very much.


MA. KRISKA ANGELA H. TUMAMAK

Copy furnished:

SABENIANO BIGNAY

Brgy. Tugbong, Kananga, Leyte


ATTY. MA. KRISKA ANGELA H. TUMAMAK

Notary Public for the City of Ormoc
Municipalities of Kananga, Masagoh, Merida and Isabel, Leyte
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Republic of the Philippines
Sangguniang Bayan (SB)
Municipality of Kananga
Province of Leyte
-oOo-

SABENIANO BIGNAY
Complainant,

Admin. Case No.
K-ADM-2023-002

- versus -

For:
Dishonesty, Oppression,
Misconduct in Office, Gross
Negligence, Dereliction of
Duty, Abuse of Authority
under Sec. 1, Rule IV of the
2021 Rules of Procedure of
the Sangguniang Bayan of
the Municipality of
Kananga, Province of Leyte,
Philippines

Violation of Republic Act No.
3019 (Anti-Graft and
Corrupt Practices Act), R.A.
6713 (Code of Conduct and
Ethical Standards for Public
Officials and Employees).

**LEAH O. EMPLEO, EMERITA
P. LACNO and JERRY P.
EMPLEO**

Defendants.

X-----X

ANSWER

Respondents, **LEAH O. EMPLEO, EMERITA P. LACNO
and JERRY P. EMPLEO**, unto this Honorable Office, most
respectfully aver, that:

ATTY. MA. KRISKA ANGELA H. TUMAMAK
Notary Public for the City of Ormoc
Municipality of Kananga, Maragoc, Merida and Isabel, Leyte
Commission No. ORM 22-09-018-NC until December 31, 2024
Roll of Attorney's No. 82110
IRP No. 329701/17/17/2023/ Leyte Chapter
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1

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I. STATEMENT OF MATERIAL DATE

1. On December 15, 2023, respondents received an Order from the Sangguniang Bayan (SB) of Kananga directing them to submit their verified answer within fifteen (15) days from receipt thereof. Attached to the said Order is a copy of the complaint and its supporting documents. Thus, the last day of filing the verified answer will be on December 30, 2023. However, considering that December 30, 2023 falls on a Saturday, the next working day is on January 2, 2023. Hence, this verified answer is filed within the reglementary period.

II. DENIALS AND STATEMENT OF FACTS

2. That respondents specifically deny the allegations in the complaint filed by Sabeniano Bignay. The truth of the matter are as follows:
 - a. That prior to year 2018, barangay Tugbong thru its elective barangay officials started identifying its constituents who were in dire need of a safe place for their family. Many of their constituents were affected by the road widening project of the government. Also, many were situated along the river banks and were at high risk during heavy rains because of flood.
 - b. That due to those detriment, the Office of the Sangguniang Barangay of barangay Tugbong passed Resolution No. 29, series of 2018 dated August 18, 2018 requesting the Local Government Unit of Kananga, Leyte to allocate fund for the purchase of lot for barangay relocation site. Resolution No. 29, series of 2018 is herein attached as **Exhibit "1"**.
 - c. The barangay officials then of barangay Tugbong headed by their Punong Barangay Leah Empleo were clear that their request was for the purpose of a relocation site since there is already an existing barangay site. Hence, the intent was clear.

III. ISSUES

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ATTY. MA. KRISKA ANGELA H. TUMAMAK
Notary Public for the City of Ormoc
Municipalities of Kananga, Matag-ob, Merida and Isabel, Leyte
Commission No. ORM-22-09-018-NC Until December 31, 2024
Roll of Attorneys No. 87400
IBP No. 329701-17/17/2023/ Leyte Chapter
PTR No. 752593-61/07/2021/ Ormoc City
MCLB (Newly Admitted to the Bar May 30, 2022)
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Esmak Cross Street, Ormoc City, Leyte
Contact No. 0967-324 6663

- I. A. Whether or not Respondents violated Section 3 (e) of Republic Act No. 3019 also known as Anti-Graft and Corrupt Practices Act.
- B. Whether or not the Sangguniang Bayan of Kananga, Leyte has jurisdiction over violation of Section 3 (e) of Republic Act No. 3019.
- II. Whether or not Respondents are liable for dishonesty, oppression, misconduct in office, gross negligence, dereliction of duty, abuse of authority under Section 1, Rule IV of the 2021 Rules of Procedure of the Sangguniang Bayan (SB) of the Municipality of Kananga, Leyte.
- III. Whether or not complaint has complied with the verification and certification of non-forum shopping.

IV. DISCUSSION AND ARGUMENTS

I. I (A) and (B)

The Sangguniang Bayan of Kananga, Leyte has NO jurisdiction over violation of Section 3 (e) of R.A no. 3019. Respondents are NOT liable and did NOT violate Section 3 (e) of R.A no. 3019.

3. Sections 3(e) of RA 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:

x x x x

(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefit, advantage or preference in

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Notary Office, 2/F J.J. Tan Bldg., corner Rizal and Aviles Streets,
Ormoc City, Leyte
Commission No. OR019-22-09-018-NC Until December 31, 2024
Roll of Attorney's No. 82110
IBP No. 329704/ 12/17/2023/ Leyte Chapter
PTR No. 7872599/ 01/02/2021/ Ormoc City
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the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions;

The elements of violation of Section 3(e) of RA 3019 are:

- (a) That the accused must be a public officer discharging administrative, judicial, or official functions, or a private individual acting in conspiracy with such public officers;
- (b) That he acted with manifest partiality, evident bad faith, or inexcusable negligence; and
- (c) That his action caused any undue injury to any party, including the government, or giving any private party unwarranted benefits, advantage, or preference in the discharge of his functions¹.

4. In addition, Chapter 3, Section 389 (b) (2) of the Local Government Code (RA 7160) provides, to wit:

SECTION 389. Chief Executive: Powers, Duties, and Functions. -

xxx

(b) For efficient, effective and economical governance, the purpose of which is the general welfare of the barangay and its inhabitants pursuant to Section 16 of this Code, the punong barangay shall:

xxx

(2) Negotiate, enter into, and sign contracts for and in behalf of the barangay, upon authorization of the sangguniang barangay;

5. In the instant case, the Deed of Donation dated June 25, 2019 executed by the LGU of Kananga, represented by then Mayor, Rowena N. Codilla as donor in favour of the barangay local government unit of Alugbong,

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¹ Radaza vs SB, et. al, G.R No. 201380, August 4, 2021

Kananga, Leyte represented by punong barangay Leah O. Empleo as donee provided with a provision that the donated property shall be used exclusively as barangay relocation site/ expansion of built-up area for its residents. The Deed of Donation is herein marked as **Exhibit "2"**.

6. The complaint asserted that respondent Leah Empleo was not authorized by the Sangguniang Bayan to execute and accept the above-mentioned deed of donation. However, the act of Leah Empleo was ratified by the sangguniang barangay of barangay Tugbong by virtue of Resolution No. 038 series of 2023. Resolution no. 038 series of 2023 is herein marked as **Exhibit "3"**.

7. Article 1317 of the New Civil Code provides, to wit:

Art. 1317. No one may contract in the name of another without being authorized by the latter, or unless he has by law a right to represent him.

A contract entered into in the name of another by one who has no authority or legal representation, or who has acted beyond his powers, shall be unenforceable, **unless it is ratified, expressly or impliedly, by the person on whose behalf it has been executed**, before it is revoked by the other contracting party. (Emphasis added)

8. In fact, the Office of the Sangguniang Barangay of barangay Tugbong signed Resolution no. 035, series of 2023 interposing their vehement objection to the Sangguniang bayan committee report No. 2023-23-08 authorizing Municipal Mayor Manuel Vicente Torres (Mayor Torres) to revoke or cancel the deed of donation dated June 25, 2019. Resolution No. 035 series of 2023 is attached as **Exhibit "4"**.

9. Assuming arguendo that barangay Tugbong through respondent Leah Empleo did not comply the condition stated in the donation, the act of Sangguniang Bayan

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Commission No. ORM-22-09-018-NC Until December 31, 2024
Roll of Attorneys No. 83140
IBP No. 329704/ 12/17/ 2023/ Leyte Chapter
PTR No. 7872599/ 01/02/ 2024/ Ormoc City
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authorizing Mayor Torres to revoke the said deed of donation has already prescribed.

10. Article 764 of the New Civil Code provides that:

Art. 764. The donation shall be revoked at the instance of the donor, when the donee fails to comply with any of the conditions which the former imposed upon the latter.

In this case, the property donated shall be returned to the donor, the alienations made by the donee and the mortgages imposed thereon by him being void, with the limitations established, with regard to third persons, by the Mortgage Law and the Land Registration Laws.

This action shall prescribe after four years from the noncompliance with the condition, may be transmitted to the heirs of the donor, and may be exercised against the donee's heirs. (Emphasis added)

11. Clearly, the act of revocation by the Sangguniang Bayan by virtue of a resolution has already lapsed.

12. Given the forgoing, the act of respondent Leah Empleo is not tantamount to manifest partiality, bad faith and gross negligence on her part. There was no undue injury on the part of the government considering that the act of herein respondent was in compliance with the provision as set forth in the aforementioned deed of donation. Hence, the second and third elements are lacking.

13. Also, neither a complaint was ever lodged by the Commission on Audit to question the expense made to acquire the subject lot nor was there an adverse finding issued relative thereof. Hence, the acquisition and transfer from LGU Kananga to barangay LGU of Tugbong, Kananga was validated.

14. Section 3 of BP blg. 195 which amended Section 10 of RA no. 3019 provides, to wit:

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MARIA KRISKA AUGELA H. TUMAMAK
Notary Public for the City of Ormoc
Municipalities of Kananga, Matag-ob, Mirida and Isabel, Leyte
Commission No. GRM-22-09 018-NC Until December 31, 2024
Roll of Attorneys No. 82140
IBP No. 39904/1/17/2023/ Leyte Chapter
PIR No. 7872599/01/02/2021/ Ormoc City
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SEC. 3. Section 10 of Republic Act No. 3019 is hereby amended to read as follows:

"SEC. 10. Competent Court.—Until otherwise provided by law, **all prosecutions under this Act shall be within the original jurisdiction of the Sandiganbayan.**"

15. Section 2 of RA no. 10660 provides:

Section 2. Section 4 of the same Decree is hereby further amended to read as follows:

"Sec. 4. Jurisdiction. The Sandiganbayan shall exercise original jurisdiction in all cases involving:

"a. Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII of the Revised Penal Code, where one or more of the principal accused are officials occupying the following positions in the government, whether in permanent, acting or interim capacity, at the time of the commission of the offense:

xxx

"In cases where none of the principal accused are occupying positions corresponding to salary grade "27" or higher, as prescribed in the said Republic Act No. 6758, or PNP officers occupying the rank of superintendent or higher, or their equivalent, exclusive jurisdiction thereof shall be vested in the proper Regional Trial Court, Metropolitan Trial Court, Municipal Trial Court, and Municipal Circuit Trial Court, as the case may be, pursuant to their respective jurisdictions as provided in Batas Pambansa Blg. 129. (Emphasis added)

16. As such, it is clear that the Sangguniang Bayan has no jurisdiction in relation to the alleged violation of Section 3 (e) of RA 3019.

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ATTY. MA. KRISKA ANGELA H. TUMAMAK

Notary Public for the City of Zamboanga
Municipalities of Kananga, Matangoh, Mendaya and Isabel, Leyte
Commission No. ORM-22-09-018-NC 1 until December 31, 2024

Roll of Attorney's No. 82430

IBP No. 329201/12/12/2023, Ex-Officio Chapter

PTR No. 7832599/01/07/2024, Zamboanga City

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Contact No. 0957-321-6663

II. Respondents are NOT liable for dishonesty, oppression, misconduct in office, gross negligence, dereliction of duty, abuse of authority under Section 1, Rule IV of the 2021 Rules of Procedure of the Sangguniang Bayan (SB) of the Municipality of Kananga, Leyte.

17. It is the humble submission of herein respondents especially respondent Leah Empleo that her act providing relocation site as clearly and manifestly provided in the deed of donation executed by the LGU-Kananga does not constitute or is not tantamount to dishonesty, oppression, misconduct in office, gross negligence, dereliction of duty and abuse of authority.

18. Dishonesty as defined under the 2021 Rules of Procedures of the Sangguniang Bayan of the Municipality of Kananga, Leyte refers to the concealment or distortion of truth in a matter of fact relevant to one's office or connected with the performance of his duty. It implies a disposition of lie, cheat, deceive, or defraud; untrustworthiness, lack of integrity, lack of honesty, probity or integrity in principle; lack of fairness and straight forwardness.

19. Oppression is also defined as an act of cruelty, severity, unlawful exaction, domination or excessive use of authority.

20. Misconduct in office is defined as one that affects the performance of duties as a public officer, and not such as affects character as a private individual.

21. Gross negligence on the other hand has been defined as the want of even slight case and diligence.

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Roll of Attorneys No. 82440
IBP No. 32934 / 02/17-2021/ Leyte Chapter
PTR No. 782/597-01, 02/2021/ Ormoc City
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xxx. Such negligence as amounts to a reckless disregard of the safety of persons or properties.

22. Dereliction of duty generally refers to a failure to conform to rules of one's job, which will vary by tasks involved, it is a failure or refusal to perform an assigned duty.

23. And lastly invoked by complainant is the abuse of authority which refers to a denial of justice when discretion, by virtue of one's position has not been justly exercised. It signifies the use of that discretion in such a way as to deprive a person of his right or of the remedy to protect or enforce such right.

24. To reiterate, respondents in this case especially Leah Empleo did not commit acts which are grounds for disciplinary actions. The act of respondent Leah Empleo was within the authority vested by her by the Sangguniang Barangay of barangay Tugbong which was in accordance with the deed of donation executed by the LGU-Kananga.

25. It is clear that the instant complaint is essentially a political harassment against herein respondents.

III. The complaint has NOT complied with the verification and certification of non-forum shopping.

26. Upon perusal and careful examination of the verification and certification of non-forum shopping, complainant attested under par. 6 therein that "no such other action or claim is pending therein ". Further under par. 7, complainant undertake to notify this Honorable Office if he learns that the same or similar action or claim has been filed or pending in the Supreme Court, Court of Appeals, the different Divisions thereof or any other court or tribunal or agency. However, there is a pending case before the Office of the Provincial Prosecution-Leyte in Ormoc City

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filed by the Municipality of Kananga, Leyte represented by Mayor Manuel Vicente M. Torres. It is impossible for the complainant in this case not to know the pendency of the said criminal case which involved the same issues.

27. Complainant Sabeniano Bignay has no personal knowledge of the transaction entered into between LGU-Kananga and Sangguniang Barangay of barangay Tugbong. Hence, he has no legal personality or sufficient personal interest on the subject matter and to the filing of the instant case.

28. Clearly, upon perusal of the complaint, no act or omission committed by respondents Emerita P. Lacno and Jerry P. Empleo were alleged by complainant against them. There are no clear violations committed by herein respondents. This only shows that they, along with Leah Empleo are politically harassed by the LGU-Kananga. The complaint is trivial, frivolous, vexatious and made in bad faith.

PRAYER

WHEREFORE, premises considered, it is most respectfully prayed unto this Honorable Office that judgment be rendered **DISMISSING** outright this instant case **FOR LACK OF MERIT** and with costs against the complainant.

Respondents further pray for such other relief and remedies just and equitable under the premises.

Ormoc City (for Kananga, Leyte), Philippines, January 2, 2024.

BANZON LAW OFFICE
(Counsel for the Respondents)
Unit 4, 2/F JE Tan Bldg.
Cor. Rizal and Aviles Sts. Ormoc City

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PRESENTED


ATTY. MA. KRISKA ANGELES H. TUMAMAK
Notary Public for the City of Ormoc
Municipalities of Kananga, Matig-ay, Misula and Isabel, Leyte
Commission No. ORML-12-01-018-NC-1 (until December 31, 2024)
Roll of Attorneys No. 83110
IBP No. 329701/12/17/2013/ Leyte Chapter
PTR No. 7821509/01/02/2021/ Ormoc City
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By:

ATTY. MA. KRISKA ANGELA H. TUMAMAK

Roll of Attorney's No. 82440

IBP O.R. No. 329704, dated 12/17/2023

PTR No. 7872599, dated 01/02/2024, Ormoc City

MCLE Compliance- Newly Admitted 05/30/2022)

Office Tel. No: (053) 561-0529

E-mail address: kriskatumamak@yahoo.com

And by:

ATTY. GERENTSTEIN T. BANZON

Roll of Attorney's No. 53280

PTR No. 7872598, dtd. 01-02-2024, Ormoc City

IBP O.R. No. 370599, dtd. 12-21-2023, Leyte Chapter

MCLE Compliance No. VI-0016334

Valid Until April 14, 2025

TIN:233393726000

Email: gerentstein@gmail.com

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PRESENTED

ATTY. MA. KRISKA ANGELA H. TUMAMAK

Notary Public for the City of Ormoc

Municipalities of Kananga, Matag-ob, Merida and Isabel, Leyte
Commission No. ORM 22-09-018-NC Until December 31, 2024

Roll of Attorney's No. 82440

IBP No. 329704/ 12/17/2023/ Leyte Chapter

PTR No. 7872599/ 01/02/ 2024/ Ormoc City

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Email: kriskatumamak@yahoo.com

Contact No. 0967-324-6663

Republic of the Philippines)
City of Ormoc)S.S.
x -----//

VERIFICATION AND CERTIFICATION OF NON-FORUM SHOPPING

WE, **LEAH O. EMPLEO, EMERITA P. LACNO and JERRY P. EMPLEO**, all of legal age, Filipino citizens and a resident of Brgy. Tugbong, Municipality of Kananga, Leyte, Philippines, after being sworn in accordance with law, hereby depose and say:

1. That we are the respondents in the instant case;
2. That we have caused the preparation of the above Answer and we have read the same and know the contents thereof;
3. That the allegations contained therein are true and correct of our own personal knowledge and based on authentic records and documents.
4. That the Answer is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation;
5. That the factual allegations therein have evidentiary support or, if specifically so identified, will likewise have evidentiary support after a reasonable opportunity for discovery; and
6. That we further certify that a Criminal case for violation of Article 220 of the RPC was filed by the Municipality of Kananga, Leyte represented by Mayor Manuel Vicente M. Torres and is pending before the Office of the Provincial Prosecution-Leyte in Ormoc City against herein respondents, among others. The said criminal case is anchored on the same facts as filed in the instant case.

Emerita P. Lacno

Jerry P. Empleo

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PRESENTED

Kriska
ATTY. MA. KRISKA ANGELA H. TUMAMAK
Notary Public for the City of Ormoc
Municipality of Kananga, Marag-oh, Merida and Isabel, Leyte
Commission No. ORM-22-09-018-NC1 until December 31, 2024
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IRP No. 329304/ 12/17/2023/ Leyte Chapter
PTR No. 782599/ 01/02/2021/ Ormoc City
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Email: kriska@mmnken.com
Contact No. 0967-324-6663

IN WITNESS WHEREOF, WE have hereunto set our hands this 2nd day of January 2024 in Ormoc City, Leyte, Philippines

LEAH O. EMPLEO
Driver's License
H012-09-000103

Emerita P. Lacno
EMERITA P. LACNO
COMELED I.D
3726-0136A-K1066EPL20000

Jerry P. Empleo
JERRY P. EMPLEO
Driver's License
H03-91-014177

SUBSCRIBED AND SWORN TO before me this 2nd day of January 2024 in Ormoc City, Philippines, affiants personally appeared before me and exhibited to me their competent evidence of identities as indicated above.

Doc. No. 4 ;
Page No. 2 ;
Book No. 1 ;
Series of 2024.

Copy Furnished:

SABENIANO BIGNAY
Brgy.Tugbong, Kananga, Leyte

CERTIFIED TRUE AND
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ORIGINAL WHEN
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Kriska M. Tumamak
ATTY. MA. KRISKA M. TUMAMAK
Notary Public for the City of Ormoc
Municipalities of Kananga, Matag-ob, Merida and Isabel, Leyte
Commission No. ORM-27-09-018-NG Until December 31, 2024
Roll of Attorney's No. 82140
IBP No. 329704/ 12/17/2021/ Leyte Chapter
PTR No. 7822599/ 01/02/2021/ Ormoc City
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SB SECRETARY OFFICE
RECEIVED
By: *[Signature]*
Date: *1-31-2024*

Republic of the Philippines
Sangguniang Bayan (SB)
Municipality of Kananga
Province of Leyte
-oOo-

EXHIBIT " D "

SABENIANO BIGNAY
Complainant,

Admin. Case No.
K-ADM-2023-002

- versus -

For:
Dishonesty, Oppression,
Misconduct in Office, Gross
Negligence, Dereliction of
Duty, Abuse of Authority
under Sec. 1, Rule IV of the
2021 Rules of Procedure of
the Sangguniang Bayan of
the Municipality of
Kananga, Province of Leyte,
Philippines

Violation of Republic Act No.
3019 (Anti-Graft and
Corrupt Practices Act), R.A.
6713 (Code of Conduct and
Ethical Standards for Public
Officials and Employees).

**LEAH O. EMPLEO, EMERITA
P. LACNO and JERRY P.
EMPLEO**

Defendants.

X-----X

COMMENT

(To the Oral Motion filed by Complainant to subject
Respondents to Preventive Suspension)

COMES NOW, Respondents, by and through the
undersigned counsels, unto this Honorable Ad Hoc
Committee, most humbly and respectfully file this Comment
on the oral motion filed by Complainant to subject

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[Signature] **LEAH O. EMPLEO**
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Municipalities of Kananga, Matag-ob, Merida and Isabel, Leyte
Commission No. CRM-22-09-018-NC Until December 31, 2024
Roll of Attorney's No. 82440
IRP No. 329701/12/17/2023/ Leyte Chapter
PTR No. 782599/01/03/2021/ Ormoc City
MCI# (Newly Admitted to the Bar May 30, 2022)
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Respondents to Preventive Suspension and in support thereof, aver that:

1. That on January 26, 2024, after the pre-hearing conference of this instant case, complainant's counsel moved that respondents be preventively suspended invoking Section 1, Rule V of the 2021 Rules of Procedure of the Sangguniang Bayan of the Municipality of Kananga, Leyte.
2. Sec. 1, Rule V of the 2021 Rules of Procedure of the Sangguniang Bayan of the Municipality of Kananga, Leyte provides, to wit:

Section 1. Preventive suspension may be imposed at any time after the issues are joined, when the evidence of guilt is strong, and given the gravity of the offense, there is great probability that the continuance in office of the respondent could influence the witnesses or pose a threat to the safety and integrity of the records and other evidence: Provided, That, any single preventive suspension of local elective officials shall not extend beyond sixty (60) days: Provided, further, That in the event that several administrative cases are filed against an elective official, he cannot be preventively suspended for more than ninety (90) days within a single year on the same ground or grounds existing and known at the time of the first suspension. (Section 63 (b) of RA 7160).

3. Section 63 (a) (3) of RA 7160 also provides:

Section 63. Preventive Suspension.-

(a) Preventive suspension may be imposed:

xxx

(3) By the mayor, if the respondent is an elective official of the barangay,

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4. In the case of *Espiritu vs. Melgar*¹, the Supreme Court held that:

"Clearly, the provincial governor of Oriental Mindoro is authorized by law to preventively suspend the municipal mayor of Naujan at anytime after the issues had been joined and any of the following grounds were shown to exist:

1. When there is reasonable ground to believe that the respondent has committed the act or acts complained of;

2. When the evidence of culpability is strong;

3. When the gravity of the offense so warrants; or

4. When the continuance in office of the respondent could influence the witnesses or pose a threat to the safety and integrity of the records and other evidence."

5. In the instant case, the Office of the Sangguniang Barangay of barangay Tugbong clearly made a request for a Barangay Relocation Site and that the same was acted upon by the Sangguniang Bayan of Kananga.

6. Given the foregoing, all the elements that would justify the preventive suspension of respondents are absent.

7. Respondents cannot be faulted upon and commit the acts complained of on the ground that their request to acquire the land subject of the deed of donation was for the intended purpose of barangay relocation site. Moreover, respondents relied in good faith that the acquisition up to the execution of the Deed of

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¹ G.R. no. 100874, February 13, 1992

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Roll of Attorneys No. 82140

IBP No. 329704/ 12/17/2023/ Leyte Chapter
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3

donation was regularly prepared, considering that it was prepared and notarized by a lawyer.

8. In addition, the evidence presented by the complainant is not strong as to implicate respondents of the subject deed of donation entered into by then Mayor Rowena Codilla and Respondent Leah Empleo in behalf of BLGU-Tugbong, Kananga, Leyte, the latter merely relied on the regularity of the transaction as it was authorized by the LGU of Kananga and BLGU-Tugbong.
9. Lastly, respondents' continuance in their office could not influence the witnesses or pose a threat to the safety and integrity of the records and other evidence. The witnesses of complainant are employees of the LGU-Kananga who are occupying high positions in the government and cannot be subject to any influence, either directly or indirectly by the respondents who are mere officials of the barangay Tugbong. Also, the records and other evidences of the instant case are actually in the possession of the Sangguniang Bayan and offices under the LGU-Kananga since the transactions are entered into by the LGU-Kananga themselves.
10. The filing of this instant case against respondents was motivated by partisan political considerations not favourable to herein respondents. The power to suspend preventively a local elective official could be prone to abuse, hence, frustrating the will of the electorate. If and when the respondents would be subjected to preventive suspension despite the absence of any of the elements therein, then clearly abuse of authority is committed.

PRAYER

WHEREFORE, in the light of the foregoing premises, it is respectfully prayed to this Honorable Office/ Ad Hoc Committee that the Oral Motion filed by Complainant to subject Respondents to Preventive Suspension be DENIED and that respondents be allowed to continue exercising their power to their respective offices.

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Commission No. ORM-22 09-018-NCT until December 31, 2024
Roll of Attorney's No. 32140
IBP No. 329704/ 12/17/2023/ Leyte Chapter
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Contact No. 0967-324-6663


Other reliefs just and equitable under the premises are likewise prayed for.

Done this 30th day of January 2024 in Ormoc City (for Kananga), Leyte, Philippines.

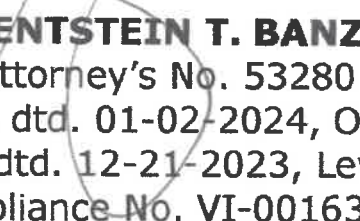
Most respectfully submitted:

BANZON LAW OFFICE
(Counsel for the Respondents)
Unit 4, 2/F JE Tan Bldg.
Cor. Rizal and Aviles Sts. Ormoc City


By:


ATTY. MA. KRISKA ANGELA H. TUMAMAK
Roll of Attorney's No. 82440
IBP O.R. No. 329704, dated 12/17/2023
PTR No. 7872599, dated 01/02/2024, Ormoc City
MCLE Compliance- Newly Admitted 05/30/2022)
Office Tel. No: (053) 561-0529
E-mail address: kriskatumamak@yahoo.com

And by:


ATTY. GERENTSTEIN T. BANZON
Roll of Attorney's No. 53280
PTR No. 7872598, dtd. 01-02-2024, Ormoc City
IBP O.R. No. 370599, dtd. 12-21-2023, Leyte Chapter
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Valid Until April 14, 2025
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ATTY. MA. KRISKA ANGELA H. TUMAMAK
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Member, Council of Bar Supervisors, Merida and Isabel, Leyte
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REQUEST

**OFFICE OF THE SANGGUNIANG BAYAN
KANANGA, LEYTE**

Greetings:

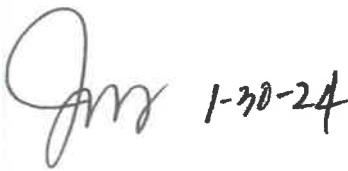
Kindly submit the foregoing COMMENT (To the Oral Motion filed by Complainant to subject Respondents to Preventive Suspension) for consideration of the Honorable Office immediately upon receipt hereof.

Thank you very much.



ATTY. MA. KRISKA ANGELA H. TUMAMAK

Copy furnished:

DENNIS HIBAYA
Solibaga Law Office
Ormoc City, Leyte


Jm 1-30-24

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Commission No. ORM-22-09-018 NC-1 and December 31, 2024
Roll of Attorney's No. S2130
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REPUBLIC OF THE PHILIPPINES
PROVINCE OF LEYTE

EXHIBIT "E"

MUNICIPALITY OF KANANGA
SANGGUNIANG BAYAN OF KANANGA

ADHOC COMMITTEE FOR CASE NO. K-ADM-2023-002

SABENIANO BIGNAY
Complainant,

Administrative Case No.: **K-ADM-2023-002**

Dishonesty, Oppression,
Misconduct in Office, Gross
Negligence, Dereliction of Duty,
Abuse of Authority under Sec. 1,
Rule IV of the 2021 Rules of
Procedure of the Sangguniang
Bayan of the Municipality of
Kananga, Province of Leyte,
Philippines.

Violation of Republic Act No. 3019
(Anti-Graft and Corrupt Practices
Act), R.A. 6713 (Code of Conduct
and Ethical Standards for Public
Officials and Employees).

LEAH O. EMPLEO,
EMERITA P. LACNO, and
JERRY P. EMPLEO
Respondents.

X-----X

RESOLUTION NO. 02

This resolves the Oral Motion of the complainant, thru counsel, to place the herein respondents Leah O. Empleo, Emerita Lacno and Jerry P. Empleo under Preventive Suspension.

On 26 January 2024, during the scheduled Pre-Hearing/Pre-Trial Conference of this instant case, after the factual and legal issues have been joined, complainant's counsel asked that, in view of the violations as alleged in the complaint, the respondents will be subjected to preventive suspension, pursuant to the Rules of Procedure of the Sangguniang Bayan of Kananga in Conducting Administrative Cases. For the Ad Hoc Committee to rule on the motion, the Presiding Officer gave the period of five (5) days for the respondents within which to file their comments.

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Commission No. GRM-12-09-014-NC-1 (not December 11, 2024)
Roll of Attorney's No. 8211
329701/ 12/17/2023/ Leyte Chapter
7972599/ 01/07/2017/ Leyte Chapter
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On January 31, 2024, the respondents, thru counsel, filed their Comment.

Rule V, Section 1 of Resolution No. 22R.21-576 or the Rules of Procedure in Administrative Cases of the Sangguniang Bayan of Kananga, provides –

“SECTION 1. Preventive suspension may be imposed at any time after the issues are joined, when the evidence of guilt is strong, and given the gravity of the respondent could influence the witnesses or pose a threat to the safety and integrity of the records and other evidence. Provided, that, any single preventive suspension of local elective officials shall not extend beyond sixty (60) days: Provided, further, that in the event that several administrative cases are filed against an elective official, he cannot be preventively suspended for more than ninety (90) days within a single year on the same ground or grounds existing and known at the time of the first suspension. (Section 63(a) (3) of RA 7160)

SECTION 1 (a) Suspension Without Hearing- A respondent may be suspended once issues are joined and before charges against him are heard as the circumstances may warrant even before giving him an opportunity to prove his innocence (Espiritu vs. Melgar, 206 SCRA 256).”

In the above-cited jurisprudence, Espiritu vs. Melgar, the Supreme Court held, that:

“Clearly, the provincial governor of Oriental Mindoro is authorized by law to preventively suspend the municipal mayor of Naujan at anytime after the issues had been joined and any of the following grounds were shown to exist:

1. When there is reasonable ground to believe that the respondent has committed the act or acts complained of;
2. When the evidence of culpability is strong;
3. When the gravity of the offense so warrants; or
4. When the continuance in office of the respondent could influence the witnesses or pose a threat to the safety and integrity of the records and other evidence.

There is nothing improper in suspending an officer before the charges against him are heard and before he is given an opportunity to prove his innocence (Nera v. Garcia and Elicano, 106 Phil. 1031) Preventive suspension is allowed so that the respondent may not hamper the normal course of the investigation through the use of his

ATTY. MA. KRISTINA H. TUMAMAK

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influence and authority over possible witnesses (Lacson v. Roque, 92 Phil. 456).”

As gleaned from the records, the respondents are charged of the acts complained of, particularly as follows:

1. Dishonesty,
2. Oppression,
3. Misconduct in Office,
4. Gross Negligence,
5. Dereliction of Duty,
6. Abuse of Authority under Sec. 1, Rule IV of the 2021 Rules of Procedure of the Sangguniang Bayan of the Municipality of Kananga, Province of Leyte, Philippines.
7. Violation of Republic Act No. 3019 (Anti-Graft and Corrupt Practices Act),
8. Violation of R.A. 6713 (Code of Conduct and Ethical Standards for Public Officials and Employees).

The documentary evidences submitted by the complainant consist Exhibits “A” to “FF” and there are eight (8) witnesses the complainant sought to be presented.

On the part of the respondents, they argued in their comment, that:

“5. In the instant case, the Office of the Sangguniang Barangay of barangay Tugbong clearly made a request for a Barangay Relocation Site and that the same was acted upon by the Sangguniang Bayan of Kananga.

6. Given the foregoing, all the elements that would justify the preventive suspension of respondents are absent.

7. Respondents cannot be faulted upon and commit the acts complained of on the ground that their request to acquire the land subject of the deed of donation was for the intended purpose of barangay relocation site. Moreover, respondents relied in good faith that the acquisition up to the execution of the Deed of Donation was regularly prepared, considering that it was prepared and notarized by a lawyer.

8. In addition, the evidence presented by the complainant is not strong as to implicate respondents of the subject deed of donation entered into by then Mayor Rowena Codilla and Respondent Leah Empleo in behalf of BLGU-Tugbong, Kananga, Leyte, the latter merely relied on the regularity of the transaction as it was authorized by the LGU of Kananga and BLGU-Tugbong.

9. Lastly, respondents' continuance in their office could not influence the witnesses or pose a threat to the safety and integrity of the records and other evidence. The witnesses of complainant are employees of the

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Barangay Tugbong, Kananga, Leyte

Contact No. 0967-324-0000

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LGU-Kananga who are occupying high positions in the government and cannot be subject to any influence, either directly or indirectly by the respondents who are mere officials of the barangay Tugbong. Also, the records and other evidences of the instant case are actually in the possession of the Sangguniang Bayan and offices under the LGU-Kananga since the transactions are entered into by the LGU-Kananga themselves.

10. The filing of this instant case against respondents was motivated by partisan political considerations not favourable to herein respondents. The power to suspend preventively a local elective official could be prone to abuse, hence, frustrating the will of the electorate. If and when the respondents would be subjected to preventive suspension despite the absence of any of the elements therein, then clearly abuse of authority is committed.”

As to the comment in item No. 5, the Sangguniang Bayan has no record that the Sangguniang Barangay of Tugbong requested for a Relocation Site. What was acted upon by the Sangguniang Bayan was the request of the former Mayor for an authority to purchase a parcel of land located in Barangay Tugbong, Kananga, Leyte for the Barangay Site of Barangay Tugbong, Kananga, Leyte, which this body granted thru SB Resolution No. 21R. 18-523, dated December 10, 2018.

Without passing upon the weight of the evidences submitted, however, each of them may have relevance to the instant case, the same could not be ignored and have to be scrutinized in the course of the trial.

With such volume of evidences submitted, there is reasonable ground to believe that the respondents have committed the act or acts complained of.

The premise that “the witnesses of complainant are employees of the LGU-Kananga who are occupying high positions in the government and cannot be subject to any influence, either directly or indirectly by the respondents who are mere officials of the barangay Tugbong” might be considered true, and might as well, be considered whimsical and imaginary.

In the letters of the afore-stated case of Espiritu vs. Melgar, it says:

“Clearly, the provincial governor of Oriental Mindoro is authorized by law to preventively suspend the municipal mayor of Naujan at anytime after the issues had been joined and any of the following grounds were shown to exist:

1. When there is reasonable ground to believe that the respondent has committed the act or acts complained of
2. When the evidence of culpability is strong.
3. When the gravity of the offense so warrants, or

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Commission No. CRM-2-09-018-NC, Unit December 31, 2024
Roll of Attorneys No. 87140
IBP No. 329/04/12/11/023/ Leyte Chapter
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4. When the continuance in office of the respondent could influence the witnesses or pose a threat to the safety and integrity of the records and other evidence.” *Underscoring is supplied for emphasis.*

All the members of the Ad Hoc Committee present during its deliberation of February 12, 2024 found out the existence of grounds number 1, 2, and 4. And, whenever any of the above-enumerated ground is present, it is sufficient basis to place the respondents under preventive suspension.

Thus, for the conduct of this administrative case, this body must consider all extents that the law provides, so as not to frustrate the end of justice. Succinctly put, the continuance of the respondents in their office has the tendency to influence the witnesses or pose a threat to the safety and integrity of the records and other evidence.

WHEREFORE, premises considered, the oral motion of complainant to subject the respondents to preventive suspension is hereby **granted** pursuant to Rule V, Section 1 of Resolution No. 22R.21-576 or Rules of Procedure in Administrative Cases of the Sangguniang Bayan of Kananga and the applicable jurisprudence. This Ad Hoc Committee for Admin Case No. NO. K-ADM-2023-002 recommends to the Sangguniang Bayan (Plenary) to adopt this resolution and recommend to the Honorable Mayor Manuel Vicente M. Torres to place the respondents Leah O. Empleo, Emerita P. Lacno and Jerry P. Empleo under Preventive Suspension for a period of SIXTY (60) DAYS, preferably to commence prior to the start of the reception of evidence on March 1, 2024.

SO ORDERED.


February 12, 2024, Kananga, Leyte.


HON. RESURRECCION C. CAPANAS
SB MEMBER
ADHOC COMMITTEE CHAIRMAN

Noted by :


HON. MIGUEL JORGE P. TAN
VICE MAYOR

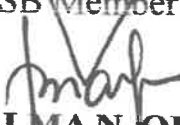
Concurred by:



HON. FERNANDO M. ASEO
SB Member


ATTY. MA. KRISTINA H. TUMAMAK
Notary Public for the City of Ormoc
Municipalities of Kananga, Maragob, Mendab and Isabel, Leyte
Commission No. (CRM) 02-09-054-NG Until December 31, 2024
IBP No. 327-01/17-023/ Leyte Chapter
P.L.R. No. 2932509/01-03/2024/ Ormoc City
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HON. BRENZON C. CABINTOY
SB Member


HON. ALMA N. ORFANO
SB Member



HON. RUDY B. COGAY
SB Member


HON. MINERVA M. BULAWIT
SB Member


HON. RICHIE C. CRUZ
SB Member


HON. ALLAN C. ESPINOSA
SB Member


HON. VICTORIANO L. GLOBA
Liga Ng Mga Barangay President


HON. MARY DANIELA L. CUBERO
Pambayang Pederasyon ng Sangguniang
Kabataan President


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Municipalities of Katingal, Matagob, Menda and Isabel, Leyte
Commission No. ORMS-12-09-018-NC Until December 31, 2024

Roll of Attorneys No. 82440

IBP No. 129704/12/17/2023/Levite Chapter

PIR No. 7872599_01703_2024/Ormoc City

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Sangguniang Bayan of Kananga

23rd SANGGUNIANG BAYAN

**RESOLUTION NO. 23R.24-552
Series of 2024**

A RESOLUTION ADOPTING THE RESOLUTION NO. 02, DATED FEBRUARY 12, 2024 OF THE AD HOC COMMITTEE FOR CASE NO. K-ADM-2023-002 AND RECOMMENDING TO THE HONORABLE MAYOR MANUEL VICENTE M. TORRES TO PLACE THE RESPONDENTS IN ADMIN CASE NO. K-ADM-2023-002, LEAH O. EMPLEO, EMERITA P. LACNO AND JERRY P. EMPLEO, UNDER PREVENTIVE SUSPENSION FOR A PERIOD OF SIXTY (60) DAYS, WHICH THE SAME SHALL TAKE EFFECT PRIOR TO THE HEARING ON THE RECEPTION OF EVIDENCE ON MARCH 1, 2024.

WHEREAS, on February 12, 2024, the Ad Hoc Committee for Case No. K-ADM-2023-002 convened to resolve the motion of the complainant thru counsel to place the respondents under preventive suspension while the trial is going-on on the account that the respondents are incumbent barangay officials of Barangay Tugbong, Kananga, Leyte;

WHEREAS, the Ad Hoc Committee for Case No. K-ADM-2023-002 approved its Resolution No. 2, dated February 12, 2024, which the dispositive portion states, that:

"WHEREFORE, premises considered, the oral motion of complainant to subject the respondents to preventive suspension is hereby granted pursuant to Rule V, Section 1 of Resolution No. 22R.21-576 or Rules of Procedure in Administrative Cases of the Sangguniang Bayan of Kananga and the applicable jurisprudence. This Ad Hoc Committee for Admin Case No. NO. K-ADM-2023-002 recommends to the Sangguniang Bayan (Plenary) to adopt this resolution and recommend to the Honorable Mayor Manuel Vicente M. Torres to place the respondents Leah O. Empleo, Emerita P. Lacno and Jerry P. Empleo under Preventive Suspension for a period of SIXTY (60) DAYS, preferably to commence prior to the start of the reception of evidence on March 1, 2024.

SO ORDERED."

WHEREAS, in determining whether the respondents may be preventively suspended by reason of the administrative case, the Ad Hoc Committee for Case No. K-ADM-2023-002 based its ruling on the Decision of the Supreme Court, particularly the case of Espiritu versus Melgar, G.R. No. 100874, February 13, 1992, which provides, that:

"Clearly, the provincial governor of Oriental Mindoro is authorized by law to preventively suspend the municipal mayor of Naujan at anytime after the issues had been joined and any of the following grounds were shown to exist:

1. When there is reasonable ground to believe that the respondent has committed the act or acts complained of;
2. When the evidence of culpability is strong;
3. When the gravity of the offense so warrants; or
4. When the continuance in office of the respondent could influence the witnesses or pose a threat to the safety and integrity of the records and other evidence.

There is nothing improper in suspending an officer before the charges against him are heard and before he is given an opportunity to prove his innocence (Nera v. Garcia and Elicaño, 106 Phil. 1031). Preventive suspension is allowed so

penaf

ORIGINAL
PRESENTED

Municipality of Kananga, Province of Leyte
Committee No. ORM-22-09-018-NC Until December 31, 2024
Roll of Attorneys No. 52300
JRP No. 207047/2023/ Leyte Chapter
JRP No. 2072599/2023/ Leyte City
MCLP (Newly Admitted to the Bar) 2022
Pinak, J/P J.J. Tan Bldg. 2nd Floor, Kananga, Leyte
Email: lask@kananga.gov.ph
Contact No. 0967 324-600

that the respondent may not hamper the normal course of the investigation through the use of his influence and authority over possible witnesses (Lacson v. Roque, 92 Phil. 456)."

WHEREAS, the conjunction used in the enumerated grounds for preventive suspension is "or", which means the existence of any grounds may warrant the preventive suspension of the respondents;

WHEREAS, in this case, all the Members of the Ad Hoc Committee found out the existence of three (3) grounds, namely: 1. There is reasonable ground to believe that the respondent has committed the act or acts complained of, 2. The evidence of culpability is strong, and, 3. The continuance in office of the respondent could influence the witnesses or pose a threat to the safety and integrity of the records and other evidence.

WHEREAS, under Rule V, Section 1 of Resolution No. 22R.21-576 or the Rules of Procedure in Administrative Cases of the Sangguniang Bayan of Kananga, it is provided, that:

"SECTION 1. Preventive suspension may be imposed at any time after the issues are joined, when the evidence of guilt is strong, and given the gravity of the respondent could influence the witnesses or pose a threat to the safety and integrity of the records and other evidence. Provided, that, any single preventive suspension of local elective officials shall not extend beyond sixty (60) days: Provided, further, that in the event that several administrative cases are filed against an elective official, he cannot be preventively suspended for more than ninety (90) days within a single year on the same ground or grounds existing and known at the time of the first suspension.";

WHEREAS, Section 63 of Republic Act No. 7160, otherwise known as the Local Government Code of 1991, provides that:

"SEC. 63. Preventive Suspension. - (a) Preventive suspension may be imposed:

- (1) By the President, if the respondent is an elective official of a province, a highly urbanized or an independent component city;
- (2) By the governor, if the respondent is an elective official of a component city or municipality; or
- (3) By the mayor, if the respondent is an elective official of the barangay.

(b) Preventive suspension may be imposed at any time after the issues are joined, when the evidence of guilt is strong, and given the gravity of the offense, there is great probability that the continuance in office of the respondent could influence the witnesses or pose a threat to the safety and integrity of the records and other evidence: Provided, That, any single preventive suspension of local elective officials shall not extend beyond sixty (60) days: Provided, further, That in the event that several administrative cases are filed against an elective official, he cannot be preventively suspended for more than ninety (90) days within a single year on the same ground or grounds existing and known at the time of the first suspension.

CERTIFIED TRUE AND
FAITHFUL COPY OF THE
ORIGINAL WHEN
PRESENTED

Municipalities of Kananga, Malag-oh, Merida and Isabela, Leyte
Commission No. ORM-22-09-018-NC Until December 31, 2024
Roll of Attorney's No. 82440
RPN No. 22704/12/17/2023/ Leyte Chapter
RPN No. 2072-21/01-02/2024/ Ormsay
MCLB (Newly Admitted to the Bar May 30, 2024)
Unit 4, 2/F, J.E. Tan Bldg, corner Rizal and A. Reyes Streets
Email: luisfernandomak@cmo.gov.ph
Contact No. 0967-324-6453

NOW THEREFORE, on motion of SB Member Resurreccion C. Capanas, duly seconded by all SB Members present, be it:

RESOLVED, as it is hereby resolved, to adopt the Resolution No. 02, dated February 12, 2024, of the Ad Hoc Committee for Case No. K-ADM-2023-002.

RESOLVED FURTHER, to recommend to the Honorable Mayor Manuel Vicente M. Torres to place the Respondents in Admin Case No. K-ADM-2023-002, Leah O. Empleo, Emerita P. Lacno and Jerry P. Empleo, under Preventive Suspension for a period of Sixty (60) days, which the same shall take effect prior to the Hearing on the Reception of Evidence on March 1, 2024.

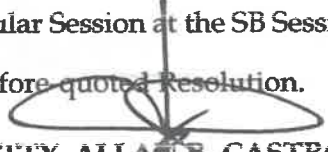
RESOLVED FURTHERMORE, to furnish copies of this resolution to the Office of the Municipal Mayor of this Municipality, Office of the MLGOO of the DILG in Kananga, the parties to the case of Bignay versus Empleo, et. al. docketed as Case No. K-ADM-2023-002 before this Sangguniang Bayan, and all others concerned.

UNANIMOUSLY APPROVED.

Voting Results: *In favor: 10* *Against: None*

Adopted and Approved on February 26, 2024 during SB Regular Session at the SB Session Hall.

I HEREBY CERTIFY to the correctness of the afore-quoted Resolution.


ATTY. ALLAF R. CASTRO
Board Secretary V
(Secretary to the Sanggunian)

APPROVED BY:


HON. MIGUEL JORGE P. TAN
Vice Mayor & Presiding Officer

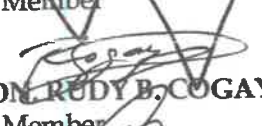
ATTESTED BY:


HON. FERNANDO M. ASEO
SB Member / Floor Leader


HON. BRENZON C. CABINTOY
SB Member



HON. RESURRECCION C. CAPANAS
SB Member / Asst. Floor Leader


HON. ALMA N. ORFANO
SB Member



HON. RUDY B. COGAY
SB Member


HON. MINERVA M. BULAWIT
SB Member


HON. RICHIE C. CRUZ
SB Member


HON. ALLAN C. ESPINOSA
SB Member


HON. VICTORIANO L. GLOBALA
Liga Ng Mga Barangay President/
Ex-officio Member


HON. MARY DANIELA L. CUBERO
Pambayang Pederasyon Ng Sangguniang
Kabataan President / Ex-officio Member


ATTY. MA. KRISKA ANGELA H. TUMAMAK
Notary Public for the City of Ormoc
Municipalities of Kananga, Matag-ob, Merida and Isabel, Leyte
Commission No. ORM-22-09-018-NC Until December 31, 2024
Roll of Attorney's No. 82440
IBP No. 329704 / 12/17/2023 / Leyte Chapter
PTR No. 7872599 / 01/02/2024 / Ormoc City
MCLB (Newly Admitted to the Bar May 30, 2022)
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Contact No. 0967-324-6663

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FAITHFUL COPY OF THE
ORIGINAL WHEN
PRESENTED



REPUBLIC OF THE PHILIPPINES
PROVINCE OF LEYTE
MUNICIPALITY OF KANANGA

Office of the Mayor Manuel Vicente M. Torres

DATE : February 26, 2024

TO : Punong Barangay Leah O. Empleo
SB member Emerita P. Lacno
SB member Jerry P. Empleo
Barangay Hall, Barangay Tugbong, Kananga, Leyte

SUBJECT. : **PREVENTIVE SUSPENSION ORDER**

Case Title: Sabeniano Bignay vs. Lea O. Empleo, Emerita P. Lacno, Jerry P. Empleo filed at the 23rd Sangguniang Bayan (SB) of the Municipality of Kananga, Leyte

Case No. : Administrative Case No. K-ADM-2023-002

For : Dishonesty, Oppression, Misconduct in Office, Gross Negligence, Dereliction of Duty, Abuse of Authority under Section I, Rule IV of the 2021 Rules of Procedure of the Sangguniang Bayan of the Municipality of Kananga, Province of Leyte, Philippines.
Violation of Republic Act No. 3019 (Anti-Graft and Corrupt Practices Act) and R.A. 6713 (Code of Conduct and Ethical Standards for Public Officials and Employees).

PREVENTIVE SUSPENSION ORDER

This pertains to the complaint filed by Sabeniano Bignay before Sangguniang Bayan (SB) of the Municipality of Kananga, Leyte, Province of Leyte against Leah O. Empleo, incumbent Punong Barangay of Brgy. Tugbong, Kananga Leyte, Jerry P. Empleo and Emerita P. Lacno, both members of the Sangguniang Barangay of Barangay Tugbong, Kananga, Leyte.

Herein respondents were charged for violation of Section 3, (e) of the Republic Act No. 3019 otherwise known as Anti-Graft and Corrupt Practices Act and for Dishonesty, Oppression, Misconduct in Office, Gross Negligence, Dereliction of Duty, Abuse of Authority under Sec. I Rule IV of the 2021 Rules of Procedure of the Sangguniang Bayan of the Municipality of Kananga, Province of Leyte, Philippines.

At heart of the complaint lies the question of propriety and legality of the utilization of a 10,000 square meter portion of a parcel of land known as Lot No. 2 being a portion of the consolidation-subdivision survey of Lot 10184 and Lot 101986 covered by TCT No. T-15094 which is also tax

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ATTY. MA. KRISTINA M. CRUZ
 Roll of Attorneys No. 92950
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declared under the name of Juliana Nahine, located in Brgy. Tugbong, Kananga, Leyte.

To be more precise, the crux of the issue is whether or not the respondents violated existing laws in allegedly utilizing the aforementioned property as Relocation Site, subsequently subdividing and distributing it among nine individuals as their beneficiaries.

The distribution is contrary to the purpose for which the funds were allocated for the acquisition of said parcel of land, originally intended as Barangay Site of Barangay Tugbong, Kananga and not as a Relocation Site.

An Ad Hoc Committee chaired by Hon. Resurreccion C. Capanas was created for the instant administrative case. Said Ad Hoc Committee then resolved to grant the motion of the complainant to place the Respondents under preventive suspension while the trial is ongoing.

Consequently, in its Resolution No. 23R.24-552 Series of 2024, the Sangguniang Bayan of Kananga adopted the abovementioned resolution of the Ad Hoc Committee recommending to this Office to place the respondents under preventive suspension for a period of Sixty days which shall take effect prior to the hearing on the reception of evidence. The copy of said Resolution is hereto attached as **Annex A**.

Relatedly, Section 2, Rule V of Resolution No. 22R.21-576 or the Rules of Procedure in Administrative Cases of the Sangguniang Bayan of Kananga provides that:

XXX

“It shall then be the ministerial on the part of the mayor to issue an order to impose a preventive suspension of the respondent once recommended by the Sanggunian.”

XXX

In view of the foregoing recommendations of the Ad Hoc Committee as adopted by the Sangguniang Bayan, considering further that the respondents continued to stay in the office and may influence potential witnesses and may prejudice the case filed against them due to their continued access to documentary evidence relative thereto, this Office exercises its power to place respondents under preventive suspension.

WHEREFORE, pursuant to Section 2, Rule V of Resolution No. 22R.21-576 or the Rules of Procedure in Administrative Cases of the Sangguniang Bayan of Kananga, **LEAH O. EMPLEO**, incumbent Punong Barangay of Brgy. Tugbong, Kananga, Leyte, **JERRY P. EMPLEO** and **EMERITA P. LACNO**, both members of the Sangguniang Barangay of

CERTIFIED TRUE AND FAITHFUL COPY OF THE ORIGINAL WHEN PRESENTED

ATTY. MA. KRISKA J. ANAPLE TOMAMAK
Municipal Office of Kananga, Municipality of Kananga, Leyte
Roll of Attorney's No. 52180
IBP No. 329704/ 12/17/ 2023/ Leslie Chapter
PTR No. 7872599/ 01/02/2024/ Ormoc City
MCLC (Newly Admitted to the Bar May 30, 2022)
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Contact No. 0967-324-6663





Barangay Tugbong, Kananga, Leyte are hereby placed under **PREVENTIVE SUSPENSION for SIXTY (60) DAYS**. The period of preventive suspension shall be effective upon service to the respondents of a copy of this Order.

Further, Sangguniang Barangay Member, **Honorable ERIC S. CANDIDO** who is the first-ranking Sangguniang Barangay member, is directed to assume as **Acting Punong Barangay** of Barangay Tugbong, Kananga, Leyte during the period that respondent Leah O. Empleo is serving her preventive suspension.

SO ORDERED.

Municipality of Kananga, Leyte, Philippines, February 26, 2024.

MANUEL VICENTE M. TORRES
Mayor

Copy furnished:

SABENIANO BIGNAY
Brgy. Tugbong, Kananga, Leyte

LEAH O. EMPLEO *2/28/24*
Brgy. Tugbong, Kananga, Leyte

emerita p. lacno *2/28/24*
EMERITA P. LACNO
Brgy. Tugbong, Kananga, Leyte

JERRY P. EMPLEO
Brgy. Tugbong, Kananga, Leyte

HON. RESURRECCION C. CAPANAS
SB Member
Ad Hoc Committee Chairman

ERIC S. CANDIDO
Sangguniang Barangay member
Brgy. Tugbong, Kananga, Leyte

[Signature]
ATTY. MA. KRISKA ANGEL H. TUMAMAK
Notary Public for the City of Ormoc
Municipalities of Kananga, Malagob, Merida and Isabel, Leyte
Commission No. ORM-22-09-018-NC Until December 31, 2024
Roll of Attorneys No. 83400
BFP No. 329704/1717/2023/ Leyte Chapter
PTR No. 2812599/01/02/2024/ Ormoc City
MCTE (Newly Admitted to the Bar: May 30, 2022)
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Email: kriskatumamak@yahooinc.com
Contact No. 0967-328-6663

CERTIFIED TRUE AND CORRECT COPY OF THE ORIGINAL WHEN PRESENTED





Hon. Miguel Jorge P. Tan
Vice Mayor
Office of the Vice Mayor, Kananga, Leyte

Glenn Amon
MLGOO, Kananga, Leyte

Atty. Dennis L. Hibaya
Atty. Ariel S. Baltazar
Counsels for the Complainant
617 Ground Floor, CCM Bldg.,
J. Navarro St., Ormoc City, Philippines
Tel. # (053) 255-7586

Atty. Ma. Kriska Angela H. Tumamak
Atty. Gerentstein T. Banzon
Banzon Law Office
Unit 4, 2/F JE Tan Bldg.,
Cor. Rizal and Aviles St., Ormoc City

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PRESENTED


ATTY. MA. KRISKA ANGELA H. TUMAMAK

Notary Public for the City of Ormoc
Municipalities of Kananga, Masag-ob, Merida and Isabel, Leyte
Commission No. ORM-22-09-018-NC Until December 31, 2024
Roll of Attorneys No. 92440
IBP No. 329704/ 12/17/2023/ Leyte Chapter
P.I.R. No. 7812509/ 01/02/2024/ Ormoc City
M.C.L.F. (Newly Admitted to the Bar May 30, 2022)
Unit 4, 2/F J.J. Tan Bldg. corner Rizal and Aviles Streets
Email: law@bansonzonabanzon.com
Contact No. 0967-324-6663





Annex A

Sangguniang Bayan of Kananga

23rd SANGGUNIANG BAYAN

RESOLUTION NO. 23R.24-552
Series of 2024

A RESOLUTION ADOPTING THE RESOLUTION NO. 02, DATED FEBRUARY 12, 2024 OF THE AD HOC COMMITTEE FOR CASE NO. K-ADM-2023-002 AND RECOMMENDING TO THE HONORABLE MAYOR MANUEL VICENTE M. TORRES TO PLACE THE RESPONDENTS IN ADMIN CASE NO. K-ADM-2023-002, LEAH O. EMPLEO, EMERITA P. LACNO AND JERRY P. EMPLEO, UNDER PREVENTIVE SUSPENSION FOR A PERIOD OF SIXTY (60) DAYS, WHICH THE SAME SHALL TAKE EFFECT PRIOR TO THE HEARING ON THE RECEPTION OF EVIDENCE ON MARCH 1, 2024.

WHEREAS, on February 12, 2024, the Ad Hoc Committee for Case No. K-ADM-2023-002 convened to resolve the motion of the complainant thru counsel to place the respondents under preventive suspension while the trial is going-on on the account that the respondents are incumbent barangay officials of Barangay Tugbong, Kananga, Leyte;

WHEREAS, the Ad Hoc Committee for Case No. K-ADM-2023-002 approved its Resolution No. 2, dated February 12, 2024, which the dispositive portion states, that:

"WHEREFORE, premises considered, the oral motion of complainant to subject the respondents to preventive suspension is hereby granted pursuant to Rule V, Section 1 of Resolution No. 22R.21-576 or Rules of Procedure in Administrative Cases of the Sangguniang Bayan of Kananga and the applicable jurisprudence. This Ad Hoc Committee for Admin Case No. NO. K-ADM-2023-002 recommends to the Sangguniang Bayan (Plenary) to adopt this resolution and recommend to the Honorable Mayor Manuel Vicente M. Torres to place the respondents Leah O. Empleo, Emerita P. Lacno and Jerry P. Empleo under Preventive Suspension for a period of SIXTY (60) DAYS, preferably to commence prior to the start of the reception of evidence on March 1, 2024.

SO ORDERED."

WHEREAS, in determining whether the respondents may be preventively suspended by reason of the administrative case, the Ad Hoc Committee for Case No. K-ADM-2023-002 based its ruling on the Decision of the Supreme Court, particularly the case of Espiritu versus Melgar, G.R. No. 100874, February 13, 1992, which provides, that:

"Clearly, the provincial governor of Oriental Mindoro is authorized by law to preventively suspend the municipal mayor of Naujan at anytime after the issues had been joined and any of the following grounds were shown to exist:

1. When there is reasonable ground to believe that the respondent has committed the act or acts complained of;
2. When the evidence of culpability is strong;
3. When the gravity of the offense so warrants; or
4. When the continuance in office of the respondent could influence the witnesses or pose a threat to the safety and integrity of the records and other evidence.

There is nothing improper in suspending an officer before the charges against him are heard and before he is given an opportunity to prove his innocence (Nera v. Garcia and Elicano, 106 Phil. 1031). Preventive suspension is allowed so

CERTIFIED TRUE AND CORRECT COPY OF THE ORIGINAL WHERE PRESENTED

(Handwritten signatures and stamps)

Notary Public for the Province of Leyte
Municipality of Kananga, Mag-06, Merida and Isabel, Leyte
Commission No. ORM-22-09-018-NC Until December 31, 2024
Roll of Attorney's No. 82440
PTR No. 12704/12/17/2023/ Leyte Chapter
MCI (News Admitted to the Bar May 30, 2019)
E-mail: cas@notarykananga.lego.com
Contact No. 0967-324-6663

that the respondent may not hamper the normal course of the investigation through the use of his influence and authority over possible witnesses (Lacson v. Roque, 92 Phil. 456)."

WHEREAS, the conjunction used in the enumerated grounds for preventive suspension is "or", which means the existence of any grounds may warrant the preventive suspension of the respondents;

WHEREAS, in this case, all the Members of the Ad Hoc Committee found out the existence of three (3) grounds, namely: 1. There is reasonable ground to believe that the respondent has committed the act or acts complained of, 2. The evidence of culpability is strong, and, 3. The continuance in office of the respondent could influence the witnesses or pose a threat to the safety and integrity of the records and other evidence.

WHEREAS, under Rule V, Section 1 of Resolution No. 22R.21-576 or the Rules of Procedure in Administrative Cases of the Sangguniang Bayan of Kananga, it is provided, that:

"SECTION 1. Preventive suspension may be imposed at any time after the issues are joined, when the evidence of guilt is strong, and given the gravity of the respondent could influence the witnesses or pose a threat to the safety and integrity of the records and other evidence. Provided, that, any single preventive suspension of local elective officials shall not extend beyond sixty (60) days: Provided, further, that in the event that several administrative cases are filed against an elective official, he cannot be preventively suspended for more than ninety (90) days within a single year on the same ground or grounds existing and known at the time of the first suspension.";

WHEREAS, Section 63 of Republic Act No. 7160, otherwise known as the Local Government Code of 1991, provides that:

"SEC. 63. *Preventive Suspension.* - (a) Preventive suspension may be imposed:

- (1) By the President, if the respondent is an elective official of a province, a highly urbanized or an independent component city;
- (2) By the governor, if the respondent is an elective official of a component city or municipality; or
- (3) By the mayor, if the respondent is an elective official of the barangay.

(b) Preventive suspension may be imposed at any time after the issues are joined, when the evidence of guilt is strong, and given the gravity of the offense, there is great probability that the continuance in office of the respondent could influence the witnesses or pose a threat to the safety and integrity of the records and other evidence: Provided, That, any single preventive suspension of local elective officials shall not extend beyond sixty (60) days: Provided, further, That in the event that several administrative cases are filed against an elective official, he cannot be preventively suspended for more than ninety (90) days within a single year on the same ground or grounds existing and known at the time of the first suspension."

CERTIFIED TRUE AND CORRECT COPY OF THE ORIGINAL WHEN PRESENTED

ATTY. MA. KRISKA ANTONIO PUMAMAK
Notary Public for the City of Ormoc
Municipalities of Kananga, Malag-oh, Merida and Isabel, Leyte
Commission No. ORM-22-09-018-NC Until December 31, 2024
Roll of Attorneys No. 82440
IBP No. 328247-12/22-2024/ Leyte Chapter
PTR No. 387499/01/02/2024/ Ormoc City
MCLP (Newly Admitted to the Bar May 31, 2022)
Unit 4, 2/F J.E. Tan Bldg. corner Rizal and Santa Ana Sts
Email: kuslumamak@yahp.com
Contact No. 0967-324-6663

NOW THEREFORE, on motion of SB Member Resurreccion C. Capanas, duly seconded by all SB Members present, be it:

RESOLVED, as it is hereby resolved, to adopt the Resolution No. 02, dated February 12, 2024, of the Ad Hoc Committee for Case No. K-ADM-2023-002.

RESOLVED FURTHER, to recommend to the Honorable Mayor Manuel Vicente M. Torres to place the Respondents in Admin Case No. K-ADM-2023-002, Leah O. Empleo, Emerita P. Lacno and Jerry P. Empleo, under Preventive Suspension for a period of Sixty (60) days, which the same shall take effect prior to the Hearing on the Reception of Evidence on March 1, 2024.

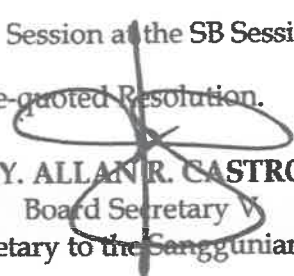
RESOLVED FURTHERMORE, to furnish copies of this resolution to the Office of the Municipal Mayor of this Municipality, Office of the MLGOO of the DILG in Kananga, the parties to the case of Bignay versus Empleo, et. al. docketed as Case No. K-ADM-2023-002 before this Sangguniang Bayan, and all others concerned.

UNANIMOUSLY APPROVED.

Voting Results: *In favor: 10* *Against: None*

Adopted and Approved on February 26, 2024 during SB Regular Session at the SB Session Hall.

I HEREBY CERTIFY to the correctness of the afore-quoted Resolution.


ATTY. ALLAN R. CASTRO
Board Secretary V
(Secretary to the Sanggunian)

APPROVED BY:


HON. MIGUEL JORGE P. TAN
Vice Mayor & Presiding Officer

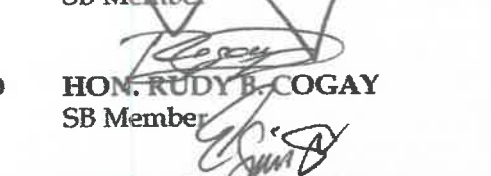
ATTESTED BY:


HON. FERNANDO M. ASEO
SB Member/Floor Leader


HON. BRENZON C. CABINTOY
SB Member


HON. RESURRECCION C. CAPANAS
SB Member/Asst. Floor Leader


HON. ALMA N. ORFANO
SB Member



HON. RUDY B. COGAY
SB Member


HON. MINERVA M. BULAWIT
SB Member



HON. RICHIE C. CRUZ
SB Member

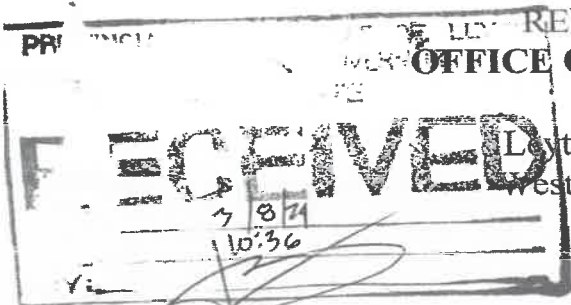

HON. ALLAN C. ESPINOSA
SB Member


HON. VICTORIANO L. GLOBA
Liga Ng Mga Barangay President/
Ex-officio Member


HON. MARY DANIELA L. CUBERO
Pambayang Pederasyon Ng Sangguniang
Kabataan President/Ex-officio Member

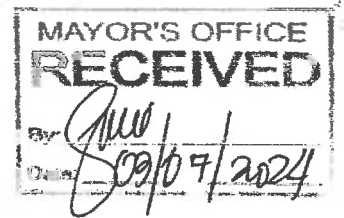
CERTIFIED TRUE AND
FAITHFUL COPY OF THE
ORIGINAL WHEN
PRESENTED


ATTY. MA. KRISKA ANGELES TUMAMAK
Notary Public for the City of Ormoc
Municipalities of Kananga, Marikob, Merida and Isabel, Leyte
Commission No. ORM-22-09-018-NC Until December 31, 2024
Roll of Attorney's No. 82140
TRP No. 329701/12/17/2023/ Leyte Chapter
PTR No. 7872599/01/02/2024/ Ormoc City
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REPUBLIC OF THE PHILIPPINES
OFFICE OF THE PROVINCIAL GOVERNOR
PROVINCE OF LEYTE

Leyte Provincial Government Complex
West Bypass Road, Brgy. Guindapunan,
6501 Palo, Leyte



APPEAL IN RE: PREVENTIVE SUSPENSION ORDER OF PUNONG BARANGAY LEAH O. EMPLEO, SANGGUNIANG BARANGAY MEMBER EMERITA P. LACNO AND SANGGUNIANG BARANGAY MEMBER JERRY P. EMPLEO DATED FEBRUARY 26, 2024 ISSUED BY MANUEL VICENTE M. TORRES (in his capacity as Municipal Mayor of Municipality of Kananga, Leyte)

LEAH O. EMPLEO, EMRITA P. LACNO AND JERRY P. EMPLEO;
Respondents-Appellants;

Versus

MANUEL VICENTE M. TORRES; Appellee

X-----X

APPEAL MEMORANDUM

1. Respondents-Appellant Leah O. Empleo is the incumbent Punong Barangay of Brgy. Tugbong, Kananga, Leyte; Emerita P. Lacno and Jerry P. Empleo are incumbent Sangguniang Barangay Members of Brgy. Tugbong, Kananga, Leyte; all of them are now under preventive suspension. Respondents-appellants may be served with summons and processes of this Honorable Office on the address above-mentioned.
2. Appellee Manuel Vicente M. Torres is the incumbent Municipal Mayor of the Municipality of Kananga, Leyte and in which he may be served with summons and processes of this Honorable Office on the Office of the Municipal Mayor, Kananga, Leyte.

NATURE OF THE APPEAL

3. This is an appeal from the Preventive Suspension Order dated February 26, 2024 issued by respondent-appellee placing respondents-appellants under preventive suspension for sixty (60) days.
4. The preventive suspension order was served and received by respondents-appellants on February 28, 2024;

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ATY. KRISKA ANGELO H. TUMAMAK
 Notary Public for the City of Ormoc
 Municipalities of Kananga, Matagob, Merida and Isabel, Leyte
 Commission No. OBM-22-09-018-NC Until December 31, 2024
 Roll of Attorney's No. 82140
 IBP No. 329704/ 12/17/2023/ Leyte Chapter
 PTR No. 7872599/ 01/02/2024/ Ormoc City
 MUE: (Newly Admitted to the Bar May 30, 2022)
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5. This appeal to the Office of the Governor is based on the right of respondents-appellants to appeal the preventive suspension issued by the Municipal Mayor as the implementing officer.
6. Section 465 (b) (1) (x) of Republic Act No. 7160 provides, to wit:

SECTION 465. The Chief Executive: Powers, Duties, Functions, and Compensation. – xxx

(b) For efficient, effective and economical governance the purpose of which is the general welfare of the province and its inhabitants pursuant to Section 16 of this Code, the provincial governor shall:

(1) Exercise general supervision and control over all programs, projects, services, and activities of the provincial government, and in this connection, shall:

x x x

(x) *Ensure that all executive officials and employees of the province faithfully discharge their duties and functions as provided by law and this Code, and cause to be instituted administrative or judicial proceedings against any official or employee of the province who may have committed an offense in the performance of his official duties;*

x x x

(2) Enforce all laws and ordinances relative to the governance of the province and the exercise of the appropriate corporate powers provided for under Section 22 of this Code, implement all approved policies, programs, projects, services and activities of the province and, in addition to the foregoing, shall:

(i) *Ensure that the acts of the component cities and municipalities of the province and of its officials and employees are within the scope of their prescribed powers, duties and functions;*

STATEMENT OF FACTS

7. That on December 7, 2023, Sabeniano Bignay filed a complaint before Sangguniang Bayan (SB), Municipality of Kananga against respondents-appellants for Dishonesty, Oppression, Misconduct in Office, Gross Negligence, Dereliction of Duty, Abuse of Authority under Sec. 1, Rule IV of the 2021 Rules of Procedure of the Sangguniang Bayan of the Municipality of Kananga, Province of Leyte, Philippines; Violation of Republic Act No. 3019 (Anti-Graft and Corrupt Practices Act) and R.A. 6713 (Code of Conduct and Ethical Standards for Public Officials and Employees). Attached herein is the copy of the complaint marked as EXHIBIT "A";

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8. Orders were subsequently issued by the SB of Kananga and herein attached as EXHIBITS "B" and "C";
9. On January 2, 2024, a formal entry of appearance as counsel for the respondents with attached verified answer was filed. Herein attached as EXHIBIT "D";
10. A comment was filed by respondents-appellants on the oral motion filed by complainant to subject the former to preventive suspension. The said comment is attached as EXHIBIT "E";
11. A copy of the Pre-trial Order dated February 12, 2024 is also attached herein as EXHIBIT "F";
12. On February 12, 2024, Resolution no. 02 was issued by the Adhoc Committee of SB of Kananga granting the oral motion of complainant to subject herein respondents-appellants to preventive suspension and thereby recommends to the SB (Plenary) to adopt the said resolution and recommends the same to Mayor Manuel Vicente M. Torres to place respondents-appellants under preventive suspension for a period of 60 days. Copy of Resolution no. 02 is herein attached and marked as EXHIBIT "G";
13. Resolution No. 23R.24-552. Series of 2024 was adopted and approved by the 23rd SB of Kananga on February 26, 2024 adopting Resolution no. 02 dated February 12, 2024. A copy of Resolution No. 23R.24-552, series of 2024 is herein attached as EXHIBIT "H";
14. Upon the adoption and approval of Resolution no. 23R.24-552, series of 2024, a preventive suspension order was issued by the Office of the Municipal Mayor of Kananga through Manuel Vicente M. Torres. Herein attached as EXHIBIT "I". Hence this appeal.

ISSUE

WHETHER OR NOT THE PREVENTIVE SUSPENSION OF RESPONDENTS-APPELLANTS IS PROPER AND IN CONSONANCE WITH SECTION 63 (b) OF RA 7160 AS ENUNCIATED IN SECTION 1 AND SECTION 2, RULE V OF RESOLUTION NO. 22R.21-576 OR THE RULES OF PROCEDURE IN ADMINISTRATIVE CASES OF THE SANGGUNIANG BAYAN OF KANANGA.

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ARGUMENTS AND DISCUSSIONS

[Signature]
ATTY. MA. KRISKA ANGELO H. TUMAMAK
 Notary Public for the City of Ormoc
 Municipalities of Kananga, Matig-ob, Merida and Isabel, Leyte
 Commission No. ORM-22-09-018-NC Until December 31, 2024
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1. Sec. 1, Rule V of the 2021 Rules of Procedure of the Sangguniang Bayan of the Municipality of Kananga, Leyte¹ provides, to wit:

Section 1. Preventive suspension may be imposed at any time after the issues are joined, when the evidence of guilt is strong, and given the gravity of the offense, there is great probability that the continuance in office of the respondent could influence the witnesses or pose a threat to the safety and integrity of the records and other evidence: Provided, That, any single preventive suspension of local elective officials shall not extend beyond sixty (60) days: Provided, further, That in the event that several administrative cases are filed against an elective official, he cannot be preventively suspended for more than ninety (90) days within a single year on the same ground or grounds existing and known at the time of the first suspension. (Section 63 (b) of RA 7160).

2. Section 63 (a) (3) of RA 7160 also provides:

Section 63. Preventive Suspension.-

- (a) Preventive suspension may be imposed:

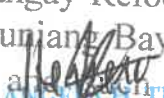
xxx

- (3) By the mayor, if the respondent is an elective official of the barangay.

3. In the case of *Espiritu vs. Melgar*², the Supreme Court held that:

“Clearly, the provincial governor of Oriental Mindoro is authorized by law to preventively suspend the municipal mayor of Naujan at anytime after the issues had been joined and any of the following grounds were shown to exist:

1. When there is reasonable ground to believe that the respondent has committed the act or acts complained of;
2. When the evidence of culpability is strong;
3. When the gravity of the offense so warrants; or
4. When the continuance in office of the respondent could influence the witnesses or pose a threat to the safety and integrity of the records and other evidence.”

4. In the instant case, the Office of the Sangguniang Barangay of barangay Tugbong clearly made a request for a Barangay Relocation Site and that the same was acted upon by the Sangguniang Bayan of Kananga under a valid ordinance, among others a  other


¹ EXHIBIT “J”

² G.R. no. 100874, February 13, 1992

documents relative to the valid purchase of the subject property up to the implementation of the same. Documents relative thereto are attached to the complaint and answer which are attached in this appeal.

5. Respondents-Appellants cannot be faulted upon and commit the acts complained of on the ground that their request to acquire the land subject of the deed of donation was for the intended purpose of barangay relocation site. Moreover, respondents-appellants relied in good faith that the acquisition up to the execution of the Deed of donation was regularly prepared, considering that it was prepared and notarized by a lawyer. Hence, there is no reasonable ground to believe that respondents-appellants had committed the acts complained of.
6. In addition, the evidences presented by the complainant are not strong as to implicate respondents-appellants of the subject deed of donation entered into by then Mayor Rowena Codilla and Respondent Leah Empleo in behalf of BLGU-Tugbong, Kananga, Leyte, the latter merely relied on the regularity of the transaction as it was authorized by the LGU of Kananga and BLGU-Tugbong. Clearly, the deed of donation executed by LGU-Kananga through then Mayor Rowena Codilla clearly provides that the said subject property is for Barangay relocation site. Considering that the language of the deed of donation was clear and made and prepared by the LGU-Kananga, the same was valid and relied upon the respondent-appellant Leah O. Empleo. Moreover, respondents-appellants Emerita P. Lacno and Jerry P. Empleo were not parties to the deed of donation. Undoubtedly, evidence of culpability on the part of respondents-appellants is not strong. In fact, respondents-appellants did not commit any offense to begin with.
7. Lastly, respondents-appellants' continuance in their office could not influence the witnesses or pose a threat to the safety and integrity of the records and other evidence. The witnesses of complainant are employees of the LGU-Kananga who are occupying high positions in the government and cannot be subject to any influence, either directly or indirectly by the respondents-appellants who are mere officials of barangay Tugbong. Also, the records and other evidences of the instant case are actually in the possession of the Sangguniang Bayan and offices under the LGU-Kananga since the transactions were entered into by the LGU-Kananga themselves.
8. Although Section 2, Rule V of the Rules of Procedure in Administrative Cases of the Sangguniang Bayan of Kananga provides, to wit:

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“It shall then be ministerial on the part of the mayor to issue an order to impose a preventive suspension of the respondent once recommended by the Sanggunian.”

However, the same is not absolute especially in cases where it becomes imperative in the higher interest of justice especially when the facts of the case are clear. Like in the instant case, all the grounds for the imposition of preventive suspension are absent.

9. Given the foregoing, all the elements that would justify the preventive suspension of respondents-appellants are absent.
10. The filing of this instant case against respondents-appellants was motivated by partisan political considerations not favourable to herein respondents. The power to suspend preventively a local elective official could be prone to abuse, hence, frustrating the will of the electorate. If and when the respondents would be subjected to preventive suspension despite the absence of any of the elements therein, then clearly abuse of authority is committed.

PRAYER


WHEREFORE, in the light of the foregoing premises, it is respectfully prayed to this Honorable Office that the Preventive Suspension Order dated February 26, 2024 issued by Municipal Mayor Manuel Vicente M. Torres against respondents-appellants be **REVERSE** and **SET ASIDE** and that respondents-appellants be allowed to continue exercising their power to their respective offices.

Other reliefs just and equitable under the premises are likewise prayed for.

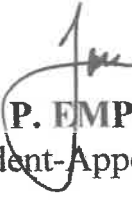
Done this 5th day of March 2024 in Ormoc City , Leyte, Philippines.


Most respectfully submitted:


LEAH O. EMPLEO
Respondent-Appellant


EMERITA P. LACNO
Respondent-Appellant

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JERRY P. EMPLEO
Respondent-Appellant


ATTY. MA. KRISKA ANGELA H. TUMAMAK
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Commission No. ORM-22-09-018-NC Until December 31, 2024
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Republic of the Philippines)
City of Ormoc)S.S.
x -----//


VERIFICATION AND CERTIFICATION OF NON-FORUM SHOPPING


WE, **LEAH O. EMPLEO, EMERITA P. LACNO and JERRY P. EMPLEO**, all of legal age, Filipino citizens and a resident of Brgy. Tugbong, Municipality of Kananga, Leyte, Philippines, after being sworn in accordance with law, hereby depose and say:


1. That we are the respondents-appellants in the instant case;
2. That we have caused the preparation of the above Appeal memorandum and we have read the same and know the contents thereof;
3. That the allegations contained therein are true and correct of our own personal knowledge and based on authentic records and documents.
4. That the Appeal is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation;
5. That the factual allegations therein have evidentiary support or, if specifically so identified, will likewise have evidentiary support after a reasonable opportunity for discovery;
6. That we further certify that: (a) we have not theretofore commenced any other action or proceeding or filed any claim involving the same issues or matter in any court, tribunal, or quasi-judicial agency and, to the best of my knowledge, no such action or proceeding is pending therein; (b) if I should thereafter learn that the same or similar action or proceeding has been filed or is pending before the Supreme Court, the Court of Appeals, or any other tribunal or quasi-judicial agency, I undertake to report such fact within five (5) days therefrom to the court or agency wherein the original pleading and sworn certification contemplated herein have been filed;
7. That I fully understand that failure on my part to comply with the foregoing requirement shall be cause for the dismissal of this request;

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IN WITNESS WHEREOF, WE have hereunto set our hands this 6th day of March 2024 in Ormoc City, Leyte, Philippines.


Notary Public for the City of Ormoc
of Kananga, Magsaysay, Menda and Isabel, Leyte
Commission No. ORM-22-09-018-NC Until December 31, 2024
Roll of Attorney's No. 82430
IBP No. 329704/ 12/17/2023/ Leyte Chapter
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LEAH C. EMPLEO
Driver's License
H012-09-000103


EMERITA P. LACNO
COMELEC I.D
3726-0136A-K1066EPL20000


JERRY P. EMPLEO
Driver's License
H03-91-014177


SUBSCRIBED AND SWORN TO before me this 6th day of March 2024 in Ormoc City, Philippines, affiants personally appeared before me and exhibited to me their competent evidence of identities as indicated above.

Doc. No. 27 :
Page No. 89 :
Book No. 01
Series of 2024


ATTY. MA. KRISKA ANGELA H. TUMAMAK
Notary Public for the City of Ormoc
Municipalities of Kananga, Matag-ob, Merida and Isabel, Leyte
Commission No. ORM-22-09-018-NC Until December 31, 2024
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Copy Furnished:

MANUEL VICENTE M. TORRES
Municipal Mayor
Office of the Municipal Mayor
Kananga, Leyte


ATTY. MA. KRISKA ANGELA H. TUMAMAK
Notary Public for the City of Ormoc
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Republic of the Republic
DEPARTMENT OF JUSTICE
OFFICE OF THE PROVINCIAL PROSECUTOR
 Province of Leyte
 Bulwagan Ng Katarungan
 Magsaysay Blvd., Tacloban City



THE MUNICIPALITY OF
 KANANGA, LEYTE
 represented by Mayor Manuel
 Vicente M. Torres,
 Complainant,

NPS Docket No. VIII-02g- INV-23J-
 0019

-versus-

LEAH O. EPLEO, EMERITA
 P. LACNO, BEATRIZ C.
 NAHINE, ALIPIO C.
 CABALEJO, JR., GERARDO
 D. ODAN, JERRY P. EMPLEO,
 ELMER S. RUADO and
 ROWENA N. CODILLA,
 Respondents.

FOR: Illegal Use of Public Funds of
 Property (Violation of Article
 220 of the Revised Penal D.
 Code)

Date MR Assigned: 01/24/24
 Date MR Resolved: 02/23/24

Date Promulgated : 28 FEB 2024

X-----X

**REVIEW RESOLUTION ON THE MOTION FOR
 RECONSIDERATION**

The dispositive portion of the questioned Resolution reads:

“Finding probable cause to believe that the crime of Illegal of
 Public Funds of Property (technical malversation) has been committed
 by all of the above-named respondents, it is respectfully recommended
 that –

1. An Information for Illegal Use of Public Funds of Property (technical malversation) as defined and penalized under Article 220 of the Revised Penal Code be filed against respondent former Mayor Rowena N. Codilla before the SANDIGANBAYAN.
2. A separate Information for the same crime be filed against respondents Leah O. Empleo (Punong Barangay) and Sangguniang Barangay Members Emerita P. Lacno, Beatriz C. Nahine, Alipio C. Cabalejo, Jr., Gerardo D. Odan, Jerry P. Empleo, and Elmer S. Ruado, before the 2nd MUNICIPAL CIRCUIT TRIAL COURT OF KANANGA-MATAG-OB.

Ab

Separate Informations would have to be filed for the following reasons: (1) pursuant to Section 4 of PD 1606, as amended by Section 2 of RA 10660, it is the Sandiganbayan that exercises original and exclusive jurisdiction over offenses or felonies committed by the public officials and employees (classified as Grade 27 and higher) in relation to their Office. The position of Mayor of Kananga, Leyte is classified as Grade 27 under the Compensation and Position Classification Act of 1989; and (2) with respect to the respondent barangay officials, aside from occupying a position classified as having a salary grade below 27, this Office finds no evidence of "conspiracy" between them and the respondent former Mayor, hence, there is no reason to lump them under one Information.

Be that as it may, the recommended bail for the temporary liberty of the respondents is fixed at Eighteen Thousand Pesos (18,000.00) each."

Aggrieved by the foregoing, respondents seek to reverse the same by raising the following grounds:

1. The Ombudsman has the primary jurisdiction over cases cognizable by the Sandiganbayan. Thus, the preliminary investigation shall be conducted before the Office of the Ombudsman.
2. The 3rd element of the crime of Illegal Use of Public Funds or Property, that is, that public funds have been appropriated by law or ordinance, is wanting; and
3. The 4th element, supra, that the respondents applied the same to a public use other than that for which such fund or property has been appropriated is also wanting.

After going through all the records of the case, the undersigned finds for the respondents and finds merit in the instant Motion for Reconsideration.

Respondents are wrong in saying that this Office has no jurisdiction to conduct the preliminary investigation of cases for the Sandiganbayan, as the same is within the jurisdiction of the Ombudsman. This has long been settled by the Supreme Court in *Honasan II v. Panel of Investigating Prosecutors of the DOJ*, G.R. No. 159747, April 13, 2004, where it ruled that the duty of the Ombudsman to conduct investigations is concurrent with other investigating bodies, hence the act of this Office in taking cognizance of the complaint filed before it, is proper.

They are however correct in saying that indeed, not all of the elements for the crime of Illegal Use of Public Funds or Property (Technical Malversation) are present. Respondents never applied the public funds or property to a public use other than that for which such fund or property has been appropriated. Thus, the fourth element of the crime is wanting.

As borne by the records, respondent former Mayor Rowena Codilla made a purchase request for the procurement of 10,000 square meters of Lot No. 2-Pcs-19337 located in Barangay Tugbong Kananga, Leyte covered by TCT No. T-15094. Thereafter the Sangguniang Bayan of Kananga resolved to authorize respondent former mayor to purchase the same for the barangay site of Barangay Tugbong, Kananga, Leyte.

On August 18, 2018, the Office of the Sangguniang Barangay of Barangay Tugbong, Kananga, Leyte headed by respondent Punong Barangay Leah O. Empleo passed Resolution No 029 series of 2018 requesting the local government unit of Kananga thru Hon. Rowena N. Codilla, Municipal Mayor, to allocate fund for the purchase of lot for Barangay Relocation Site of Barangay Tugbong, Kananga, Leyte, amounting to One Million Four Hundred Thousand Pesos (Php 1,400,000.00).

The purchase of the property came through in January 2019 and on May 15, 2019, the Sangguniang Bayan of Kananga passed Resolution No. 21R.19.629 authorizing respondent former Mayor Rowena Codilla to donate to Barangay Tugbong, Kananga, Leyte the acquired property located in their barangay intended for their Barangay Site.

On June 25, 2019, a Deed of Donation was executed by respondent former Mayor Rowena Codilla representing the LGU of Kananga, Leyte to the Barangay LGU of Tugbong, Kananga, Leyte represented by Punong Barangay Leah O. Empleo. In said Deed of Donation, it was stated that the donated property shall be exclusively used as barangay relocation site/expansion of built-up area for its residents.

After receiving said donated property, herein respondent Punong Barangay Leah Empleo used the same as a relocation site and caused the subdivision and distribution of the lot to nine (9) individuals.

Complainant avers that herein respondents made public use of the property other than that for which said property was appropriated because the property was intended for the barangay site of Brgy. Tugbong and not for a relocation site.

The undersigned thinks otherwise and is not convinced that herein respondents committed the crime they are accused of.

First and foremost, the Deed of Donation executed by respondent former Mayor Rowena Codilla states that the property is to be used exclusively for barangay relocation site/expansion of built-up area for its residents. Said statement is in accordance with the request of the Barangay LGU of Brgy Tugbong as they clearly indicated in their resolution that they wanted the property as a Barangay relocation site. Likewise, Resolution No.21R.18-523, series of 2018 passed by the Sangguniang Bayan of Kananga,



Leyte, granted authority to respondent former Mayor Rowena Codilla to purchase the property intended for the Barangay Site of Barangay Tugbong, Kananga, Leyte. They likewise included in one of their "whereas" clauses that the reason for the purchase of the property is because of the increasing population of the locality of Brgy. Tugbong giving rise to an increase in the demand for delivery of basic services as well as bigger area for government facilities. Clearly, a Barangay Relocation Site is included in the basic necessities of the barangay and is also considered a government facility.

Respondents therefore simply used the property in accordance with the purpose for which the appropriation was made and requested and therefore cannot be faulted and made criminally liable as they never used or misused the property.

WHEREFORE, foregoing premises considered, the instant Motion for Reconsideration is granted and the cases against herein respondents are **DISMISSED** for lack of probable cause.

February 28, 2024, Tacloban City for Ormoc City.


MA. ARLENE HUNAMAYOR-CORDOVEZ

Provincial Prosecutor

MCLE Comp. VII No. 0004037

Issued on July 19, 2021

Copy Furnished:

1. Mayor Manuel Vicente M. Torres
2. Rowena N. Codilla
3. Leah O. Empleo
4. Emerita P. Lacno
5. Beatriz C. Nahine
6. Alipio C. Cabalejo, Jr.
7. Gerardo D. Odan
8. Jerry P. Empleo
9. Elmer S. Ruado
10. Atty. Adelito M. Solibaga, Jr
11. Atty. Norberto B. Robel, Jr
12. Atty. Ruben LL. Palomino