| Item No.: 12 | \$\frac{12}{3 2024 NOV}



October 30, 2024

Office of the Secretary

Sangguniang Panlalawigan New Provincial Capitol Leyte Provincial Complex West Bypass Road, Brgyl Guindapunan, 6501 Palo, Leyte

Greetings:

The undersigned, for himself, and for and in behalf of other respondents in a case captioned as Leah Empleo et. al., vs. Miguel Jorge P. Tan et. al., with case no. IC-OV-APR-24-0204, is respectfully submitting their Verified Answer before the Office of the Secretary of the Sangguniang Panlalawigan of the Provincial Government of Leyte.

Attached herewith are the following:

- 1. The verified answer with its Exhibits with proof of service to DILG, Office of the Provincial Governor and the counsel of the complainants; and
- 2. CD containing the scanned copy of the verified answer and its exhibits.

Thank you.

Very respectfully yours,

RESURRECCION C. CAPANAS

REPUBLIC OF THE PHILIPPINES OFFICE OF THE SANGGUNIANG PANLALAW GAME OF PROVINCE OF LEYTE -oOo-

LEAH O. EMPLEO, EMERITA P. IC-OV-APR-24-0204 LACNO and JERRY P. EMPLEO

Complainant,

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

- versus -

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 BULAWIT and VICTORIANO** L. GLOBA, in their capacity as SB Members:

Respondents.

VERIFIED ANSWER

Respondents, MIGUEL JORGE P. TAN, 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 VICTORIANO L. GLOBA, and to this Honorable August Body, most respectfully allege and aver, THAT:

STATEMENT OF MATERIAL DATE 1.

On October 16, 2024, respondents received an Order from the Sangguniang Panlalawigan (SP) of the Province of Leyte directing them to file an answer to the complaint of Leah O. Empleo, et al. within fifteen (15) days from receipt thereof. Attached to said Order are the following:

a) Indorsement IC-OV-APR-24-0204 Cebu City from the Office of the Ombudsman, Area Office for the Visayas dated Apr 16, 2024;

b) Compliance with Entry of Appearance as Counsel of the Complainants (In re: LETTER dated July 8, 2024) dated 2

September 2024;

c) Verified Complaint dated 2 September 2024; and

- d) Judicial Affidavit (Leah O. Empleo, Emerita P. Lacno, Jerry P. Empleo).
- 2. Thus, respondents have until October 31, 2024 within which to file the said answer.
 - 3. Hence, this compliance.

II. DENIALS AND STATEMENT OF FACTS

- 4. Respondents specifically deny the allegations in the complaint filed by Leah O. Empleo, et al. The truth of the matter are as follows:
 - i. On December 7, 2023, a complaint was filed by Sabeniano Bignay before the Office of the Sangguniang Bayan of Kananga 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 Section I, Rule IV of the 2021 Rules of Procedure of the Sangguniang Bayan of Kananga, Province of Leyte; Violation of Republic Act No. 3019 (Anti-Graft and Corrupt Practices Act) and Republic Act No. 6713 Code of Conduct and Ethical Standards for Public Officials and Employees). The said Administrative Case docketed as case no. K-ADM-2023-002 is still pending before the Office of the Sangguniang Bayan of Kananga.
 - ii. The complaint pertains to the illegal acts of the complainants in illegally partitioning and distributing the LGU Kananga-owned land to individuals as relocation site instead of a new Barangay Site as expressly indicated in the deed of donation. The land subject of this case is 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 declared under the name of Julianan Nahine, located at Brgy. Tugbong, Kananga, Leyte.

- iii. On January 26, 2024, during the scheduled Pre-Hearing/Pre-Trial Conference of K-ADM-2023-002, after the factual and legal issues have been joined, counsel of Sabeniano Bignay orally moved to place herein complainants under preventive suspension, pursuant the Rules of Procedure of the Sangguniang Bayan of Kananga in Conducting Administrative Cases.
- iv. Subsequently, on February 12, 2024, the Adhoc Committee of the Sangguniang Bayan of Kananga issued Resolution No. 2 placing Leah O. Empleo, et al. under preventive suspension. The copy of said Adhoc Committee Resolution is hereto attached as **Exhibit 1**.
- v. On February 26, 2024, the Sangguniang Bayan of Kananga during its regular session enacted and approved Resolution No. 23R.24-552 series of 2024 adopting Resolution No. 02 of the said Adhoc Committee, thereby recommending to the Municipal Mayor Manuel Vicente M. Torres to place complainants Leah Empleo, Emerita Lacno and Jerry Empleo under preventive suspension for a period of sixty (60) days which shall take effect prior to the reception of evidence on March 1, 2024. The copy of said SB Resolution is hereto attached as **Exhibit 2**.
- vi. On February 26, 2024, Mayor Manuel Vicente M. Torres issued a Preventive Suspension Order to Leah Empleo, Emerita Lacno and Jerry Empleo. The copy of the preventive suspension is hereto attached as **Exhibit 3**.
- vii. The said Preventive Suspension Order was served upon and received by the complainants on February 28, 2024.
- viii. Thereafter, the complainants served the said Preventive Suspension Order as evidenced by Hon. Eric Candido assuming the Office of the Punong Barangay of Tugbong being the next high ranking official of the barangay.
 - ix. On March 1, 2024 was the start of the formal investigation of the Sangguniang Bayan of Kananga on the administrative case filed against Leah O. Empleo, et al. On the said date, presentation of witnesses also began.
 - x. On March 8, 2024, herein complainants appealed their Preventive Suspension Order before the Office of the Governor of Leyte. The Office of the Municipal Mayor of

Kananga received a copy of the said Appeal. However, the Office of the Sangguniang Bayan of Kananga did not receive any. The copy of the Appeal is hereto attached as **Exhibit 4**.

- xi. The Office of the Mayor seasonably filed its Comment to said Appeal. Until now, the appeal has not yet been resolved. The copy of the Comment is hereto attached as **Exhibit 5**.
- xii. On the succeeding scheduled hearings of the Sangguniang Bayan of Kananga on the administrative complaint up to the present, the complainant nor its counsel did not provide any information that they have filed an appeal before the Office of the Governor of Leyte, nor furnished the said office a copy thereof.
- xiii. Sometime in April 2024, herein complainants Leah Empleo, Emerita Lacno, and Jerry Empleo assumed back to their respective offices as officials of the Barangay Tugbong after the lapse of the sixty-day (60) period of their preventive suspension.
- xiv. Until today, the administrative case docketed as case no. K-ADM-2023-002 before the Office of the Sangguniang Bayan of Kananga against herein complainants is still pending with the formal investigation ongoing.
- xv. The complainant, Mr. Sabeniano Bignay in the said case before SB, already offered his exhibits in writing. The copy of the Judicial Affidavits of the witnesses, (Mr. Proceso Tomas R. Pabio, Mrs. Susan S. Del Monte, Mr. Sylvio Y. Quillo Jr., Engr. Ruscoe Hermoso, Atty. Allan Castro and Atty. Adelito M. Solibaga Jr. of Mr. Bignay is hereto attached as Exhibits 6, 7, 8, 9, 10 and 11, respectively.

III. ISSUE

5. Are respondents guilty of violating Sec. 60, paragraph 1 (e) of Republic Act No. 7160 (Local Government Code) for Abuse of Authority?

IV. DISCUSSION AND ARGUMENTS

Respondents are NOT liable for Abuse of Authority under Sec. 60, par. I (e) of Republic Act No. 7160

- 6. Abuse of authority is not defined under Section 60, par. I (e) of R.A. No. 7160. Neither was it defined under the Civil Service rules. Thus, recourse to the opinion of the Department of Interior and Local Government is made which defined it as the "intentional or improper use of government resources. It includes but not limited to misuse of title, position or authority and tools, vehicles, etc.".
- 7. There is completely absence of any abuse of authority in this case.
- 8. First, the complainants presented no sufficient evidence to prove the alleged abuse of authority allegedly committed by the respondents. The complaint simply narrated the purported bases why the complainants should not be placed under preventive suspension.² Not a single allegation, much less any proof was shown of any abuse of authority allegedly committed by the respondents.
- 9. Second, distinction must be made between the suspension order issued by the Municipal Mayor and the resolution adopted by the respondents in recommending to the Municipal Mayor to place the complainants under preventive suspension. As stated above, the complaint disputed the issuance of the suspension order³ plain and simple. Nothing was attributed to the resolution adopted by the respondents in recommending to the Municipal Mayor to place the complainants under preventive suspension.
- 10. Third, the resolution adopted by the respondents in recommending to the Municipal Mayor to place the complainants under preventive suspension was a recommendation which may or may not be adopted by the Municipal Mayor. Put simply, the said recommendation was not a final action.
- of Procedure of the Sangguniang Bayan (SB) of Kananga on Administrative Cases provide that "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 Republic Act No. 7160). In this case, the resolution adopted by the

Please see Opinion of Hon. Wencelito T. Andanar, Undersecretary, Department of Interior and Local Government dated 26 September 2006.

² Please see Verified Complaint, pages 6-7.

³ Please see Verified Complaint, pages 6-7.

respondents in recommending to the Municipal Mayor to place the complainants under preventive suspension was based on the following:

- (a) There is reasonable ground to believe that the respondent has committed the act or acts complained of;
- (b) The evidence of culpability is strong; and
- (c) The continuance in office of the respondents could influence the witnesses or pose a threat to the safety and integrity of the records and other evidence.
- 12. Clearly, the foregoing facts are in compliance with the aforestated Rules of Procedure of the SB of Kananga.

Sections 60 to 68 of the Local Government Code of 1991 provide for the grounds and procedure for the filing of administrative case against an erring elective barangay official before the Sangguniang Panlungsod or Sangguniang Bayan.

- 13. The Local Government Code of the Philippines provides for the grounds and procedure for the filing of administrative case against erring Barangay Officials before the Sangguniang Panlungsod or Sangguniang Bayan.
 - 14. Particularly, Section 60 of the said Code provides:
 - "SEC. 60. Grounds for Disciplinary Actions. An elective local official may be disciplined, suspended, or removed from office on any of the following grounds:
 - (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 prision mayor;
 - (e) Abuse of authority;
 - (f) 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;
 - (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 this Code and other laws. An elective local official may be

removed from office on the grounds enumerated above by order of the proper court."

- 15. Further, Section 61 of the same Code also provides,
 - "SEC. 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 panlalaw igan 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." (Emphasis supplied)
- 16. Section 62 of the same Code also provides for the procedure how the concerned Sangguniang Bayan should proceed once a complaint is filed before it.
 - "SEC. 62. Notice of Hearing. (a) Within seven (7) days after the administrative complaint is filed, 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."

- 17. In consonance with the above-mentioned provisions of the Local Government Code, on February 10, 2021, the 22nd Sangguniang Bayan of the Municipality of Kananga, Leyte passed a Resolution No. 22R.21-576 which is also known as the Rules of Procedure in Administrative Cases of the Sangguniang Bayan of Kananga.
- 18. In the application to the case at bar, the herein respondents are only doing their job and complying with their duties as mandated by the Local Government Code of the Philippines and SB Resolution No. 22R.21-576.
- 19. As stated, a verified administrative complaint was filed by Mr. Bignay against the herein complainants before the Sangguniang Bayan of the Municipality of Kananga, Leyte.
- 20. In compliance with the procedure laid down by Section 61-62 of the Local Government Code and SB Resolution No. 22R.21-576, the herein complainants were served with summons and copy of the complaint and were directed to submit/file their respective verified answer.
- 21. After their verified answers were received by the Sangguniang Bayan of Kananga, Leyte, pre-trial conference was set and actually conducted, and trial ensued.

There are sufficient grounds to place the Respondents under preventive suspension.

- 22. Section 63 of the Local Government Code authorizes the Mayor to place an elective barangay official under preventive suspension. Said section states:
 - "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.

xxx" (Emphasis supplied)

- 23. Based on the foregoing, a preventive suspension may be imposed by the Mayor on an elective Barangay Official (at any time after the issues are joined), it would be enough that (a) there is reasonable ground to believe that the respondent has committed that act or acts complained of, (b) the evidence of culpability is strong, (c) the gravity of the offense so warrants, or (d) 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
- 24. To reiterate, based on the complaint of Mr. Bignay and the documentary evidence attached to it, the herein complainants (Leah P. Empleo, Emerita P. Lacno and Jerry P. Empleo) were charged for violation of Section 3, (e) of Republic Act No. 3019 also known as Anti-Graft and Corrupt Practices Act, which particularly states,
 - "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)
- 25. They were also charged with 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:

"Section I. 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

⁴ Hagad v. Gozo-dadole, GR108072, 12.12.95)

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.) <u>Dishonesty.</u> Oppression. Misconduct in Office. Gross Negligence. Dereliction of Duty:
- 4.) Commission of an offense involving moral turpitude or an offense punishable by at least prision 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." (Emphasis supplied)
- 26. It is the humble submission of the respondents that they did not gravely abuse their discretion in issuing the subject SB Resolution, which recommended the preventive suspension of the herein complainants for sixty (60) days as it complied with the following elements, to wit: (a) there is reasonable ground to believe that the respondent has committed that act or acts complained of, (b) the evidence of culpability is strong, (c) the gravity of the offense so warrants, or (d) 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.
- 27. Based on the complaint of Mr. Bignay, the herein respondents found reasonable ground to believe that the herein complainants (Leah P. Empleo, Emerita P. Lacno and Jerry P. Empleo) have committed the acts complained of or violated the laws charged/filed against them. Again, they were charged for violation of Section 3, (e) of Republic Act No. 3019 and 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.
- 28. Mr. Bignay also attached documentary evidence which strongly show/prove that the herein complainants (Leah P. Empleo, Emerita P. Lacno and Jerry P. Empleo) are culpable of the offense charged. The gravity of the

offense that the herein complainants (Leah P. Empleo, Emerita P. Lacno and Jerry P. Empleo) committed warranted the issuance of said preventive suspension.

- 29. Further, the continuance in office of the herein complainants (Leah P. Empleo, Emerita P. Lacno and Jerry P. Empleo) could influence the witnesses and pose a threat to the safety and integrity of the records and other evidence, considering that evidences, like the list of the persons that they illegally identified as their beneficiaries (which included members of the Sangguniang Barangay and other officials of the Barangay, the copy of subdivision plan of the land and the like were in their custody.
 - 30. In the case of Espiritu vs. Melgar⁵, the Supreme Court held:

"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:
- 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."
- 31. In other cases, the Supreme Court also held:

"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 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).

32. Thus, based on the foregoing, it is respectfully submitted that the subject resolution recommending to the Municipal Mayor for the preventive suspension of the herein complainants does not amount to or constitutes abuse of authority.

The appeal of the Complainants on the preventive suspension order is still

⁵ G.R. No. 100874, February 13, 1992.

PENDING before the Office of the Governor of the Province of Leyte.

- 33. The complainants are not truthful to this Honorable Office.
- 34. Respondents were not made aware that, on March 8, 2024, after they received the suspension order, Leah Empleo, Emerita Lacno, and Jerry Empleo appealed their suspension before the Office of the Governor of Leyte and that the said appeal is still pending before the Office of the Governor to this day.
- 35. In fact, in the complaint, it is alleged that the complainants filed an appeal memorandum before the Office of the Governor of Leyte.⁶
- 36. Considering that the propriety of the preventive suspension of the complainants is still *litis pendentia*, it may be prudent, with due respect, to await the decision of the Office of the Governor of Leyte on the matter to avoid the possibility of conflicting decisions which may be rendered by this Honorable Office and the said Office of the Governor.

There are fatal defects in the complaint.

- 37. Section 10, Rule XVI of Resolution No. 202-817 Revised Internal Rules of the Sangguniang Panlalawigan of Leyte provides that no complaint shall be given due course unless the same is in writing and verified and must be accompanied by the judicial affidavits of the complainant and of his/her witnesses. The present complaint is however fatally defective by reason of the following:
 - (a) The Verification was executed on 2 September 2024, the complainants attested under oath, among others, that they have read the verified complaint, the allegations are true and correct, and that the factual allegations have evidentiary support. However, in the Sworn Attestation of the Lawyer which was attached to the judicial affidavit of Leah Empleo, paragraph 1, the lawyer attested under oath that she was the one who conducted the examination of the witness, Leah Empleo on 4 September 2024 and yet the same was executed on 2 September 2024 and notarized on the same day;
 - (b) It is clearly perjurious on the part of Leah Empleo to state under oath in her judicial affidavit that the conduct of her examination happened on 2 September 2024 when the lawyer who executed the sworn attestation contradicted it and stated that the

⁶ Please see Verified Complaint, page 3.

- examination upon her happened on 4 September 2024;
- (c) It is highly impossible for that lawyer to attest to have conducted the examination on 4 September 2024 when the attestation was executed and notarized two (2) days before the said date;
- (d) False certification against forum shopping there is no statement of the pending appeal on the propriety of the suspension order elevated by the complainants before the Office of the Governor of Leyte.
- 38. Thus, in view of the foregoing fatal defects, the complaint cannot be given due course, with due respect.
- 39. This is without prejudice to the criminal liabilities of the witness and of the lawyer for perjury under Article 183 of the Revised Penal Code.
- 40. In Union Bank of the Phils. v. People, G.R. No. 192565, (28 February 2012), 683 Phil 108-127, the Supreme Court mentioned of the historical background of the crime of perjury which includes an execution of an affidavit that contained a falsity and held in the following wise:

"Under the circumstances, Article 183 of the RPC is indeed the applicable provision; thus, jurisdiction and venue should be determined on the basis of this article which penalizes one who "make[s] an affidavit, upon any material matter before a competent person authorized to administer an oath in cases in which the law so requires." The constitutive act of the offense is the making of an affidavit; thus, the criminal act is consummated when the statement containing a falsity is subscribed and sworn before a duly authorized person."

Complainants' attempt to mislead this Honorable Office.

41. The complainants were **trying to mislead** this Honorable Office that the Office of the provincial Prosecutor, Province of Leyte has already dismissed the case against complainant in criminal case for illegal use of public funds of property (violation of Article 220 of the Revised Penal Code filed by the Municipality of Kananga, Leyte through its Mayor Manuel Vicente M. Torres. This is very misleading. The complainants miserably failed to inform this Honorable Office that the Regional Prosecutor's Office of Region VIII declared that Resolution of the Leyte Provincial Prosecutor is not yet final as it is subject to the approval or disapproval of the Office of the Ombudsman.

42. The Resolution of Regional State Prosecutor (RSP) VIII in said case which was docketed as NPS No. VIII-02g-INV-23J-00109 and captioned as The Municipality of Kananga, Leyte, represented by Mayor Manuel Vicente M. Torres, complainant-appellant vs. Leah O. Empleo et. al., for illegal use of public funds or property (violation of article 220 of the Revised Penal Code) promulgated on August 7, 2024, directed the Office of the Provincial Prosecutor of Leyte to forward the records of the said case to the Office of the Ombudsman in compliance with the pertinent sections of Rule 112 of the Revised Rules on Criminal Procedures and OMB-DOJ MOA dated March 29, 2012. The copy of said RSP Resolution is hereto attached as **Exhibit 12**.

By way of manifestation, LGU Kananga, Leyte filed a criminal cases against the complainants before the Office of the Provincial Prosecutor.

43. By way of manifestation, this is to respectfully manifest that in a Resolution promulgated on December 29, 2023, the Honorable Provincial Prosecutor, Hon. Arlene Hunamayor-Cordovez approved the findings of probable cause against the herein complainants for the crime charged. The dispositive portion of which is hereunder reproduced to wit:

"Finding probable cause to believe that the crime of Illegal Use 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.

XXXX

Be that as it may, the recommended bail for temporary liberty of the respondents is fixed at Eighteen Thousand Pesos (18,000.00) each.

Ormoc City, Philippines, December 21, 2023.

ERWIN JAMES B. FABRIGA Senior Assistant Provincial Prosecutor MCLE Exemption No. VII-Acad003588 Valid until April 14, 2025

Reviewed by:

MELISSA I. RUBILLOS-MACAPUGAS
Deputy Provincial Prosecutor
MCLE Compliance No. VII-0004037
Valid until April 14, 2025

Approved:

MA. ARLENE HUNAMAYOR-CORDOVEZ Provincial Prosecutor"

- 44. However, the aforementioned December 21, 2023-Resolution which was approved by the Honorable Provincial Prosecutor was **REVERSED** on February 28, 2024 which was received by the Office of the Mayor of Kananga, Leyte on March 22, 2024.
- 45. Thus, on April 5, 2024, the LGU-Kananga through its Municipal Mayor Hon. Manuel Vicente M. Torres filed a motion for reconsideration to said Resolution. On May 10, 2024, the LGU-Kananga received the April 30, 2024-Resolution denying the said motion for reconsideration.
- 46. The LGU Kananga, through Mayor Torres, seasonably filed a petition for review before the Regional State Prosecutor's Office VIII which directed the Office of the Provincial Prosecutor to forward the entire records of the case to the Office of the Ombudsman for its approval or disapproval.

PRAYER

WHEREFORE, premises considered, it is mot respectfully prayed of this Honorable Office to:

- a) DISMISS outright the complaint on the following grounds:
 - 1. Fatal defects in the verification and certification of the complaint as well as in the supporting judicial affidavit of Leah O. Empleo;
 - 2. Prematurity and the pendency of the same matter before the Office of the Governor of Leyte;

b) DISMISS the complaint for lack of merit.

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

Kananga, Leyte, (for Palo, Leyte) Philippines. October 29, 2024

Respectfully submitted: MIGUELJORGE P. Respondent Respondent ondent RESURRECE CAPANAS Respondent Respondent **RUDY B. COGAY** MINERVA M./B Respondent espondent RICHIE C. CRUZ ALLAN C. ESPINOSA Respondent Respondent VICTORIANO L. GLOBA MARY DANIELA L. CUBERO

Respondent

Respondent

VERIFICATION

We, MIGUEL JORGE P. TAN, 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. GLOBA, all of legal ages, Filipino citizens, and residents of Kananga, Leyte, Philippines, after having been duly sworn in accordance with law, hereby depose and state, THAT:

- 1. We are the respondents of the above-entitled case;
- 2. We have caused the preparation and filing of this Answer; and
- 3. We have read and understood the allegations contained therein and that the same are true and correct of my 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; and
- 5. The factual allegations therein have evidentiary support or, if specifically, so identified, will likewise have evidentiary support after a reasonable opportunity for discovery.

IN WITNESS WHEREOF, we have hereunto set our hands on in Kananga, Leyte, Philippines. MIGUEL JORGE P. TAN Respondent Respondent/ ALMA M. ORFANO RICHIEC. CRUZ Respondent Respondent **RUDY B. COGAY** lespondent Respondent ALLAN C. ESPINOSA MARY DANIEL L. CUBERO Respondent espondent RESURRECCIO MINERVA MU Respondent Respondent VICTORIANO L. GLOBA

Respondent

SUBSCRIBED AND SWORN to before me. in Kananga, Leyte, Leyte, Philippines, personally this appeared the following:

Names Miguel Jorge P. Tan Fernando M. Aseo

Competent Evidence of Identity

UMID CRN 0111-2369813-6

Driver's License H03-18-003883 (expiry: 2032/11/04)

Resurreccion C. Capanas

Driver's License G01-10-000226 (expiry:

2033/09/06)

Brenzon C. Cabintoy

Driver's License H03-99-031312 (expiry:

2034/07/22)

Alma N. Orfano

Driver's License H12-11-002273 (expiry:

2032/04/29)

Rudy B. Cogay Minerva M. Bulawit

UMID CRN 0111-3068725-3

Richie C. Cruz

TIN ID 436-081-029 SSS ID 06-2323384-3

Allan C. Espinosa

Driver's License H03-93-017891 (expiry:

2024/11/28)

Victoriano L. Globa

Driver's License

H03-15-000723

(expiry:2026/03/06)

Mary Daniela L. Cubero

PHILHEALTH ID 08-252016351-0

with their respective identification documents as shown above and avowed under penalty of law as to the truth of the contents hereof.

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

Doc. No. 203 Page No. 42 Book No. 19 Series of 2024

ATTORNE N.C. No. ORM-21-12-040-N valid until Ded 31, 20

Real St., Poblacion.

PTR No. 8439193, 1/2/2024; Leyte IBP LT No. 011676; Leyto

ATTY. ALLAN ACCASTRO

NOTARY

Copy furnished (by registered mail):

REGISTRY RECEIPT

BANZON LAW OFFICE Counsel for the complainants Unit 4, 2/F JE Tan Bldg., Cor. Rizal and A

THE PROVINCIAL GOVERNOR Province of Leyte Office of the Provincial Governor, Palo,

THE PROVINCIAL OFFICE Department of Interior and Local Gover Palo, Leyte



Post Office Le Pos VENICA OPINA REGISTRY RECEIPT Post Office

Le Preserve this receipt for reference in case of inquiry

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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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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 complained acts committed act or of the

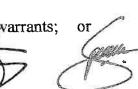
ofculpability is strong; evidence 2. When the

warrants; the offense SO When the 3.











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. RESURRECTION C. CAPANAS
SB MEMBER

ADHOC COMMITTEE CHAIRMAN

Noted by:

HON. MIGUEL JORGE P. TAN VICE MAYOR

Concurred by:

(

HON. FERNANDO M. ASEO

SB Member

HON. BRENZON C. CABINTOY
SB Member

HON. ALMAN ORFANO
SB Member

HON. RUDY B. COGAY
SB Member

HON. MINERVANDE BULAWIT

\$B Member

HON. RICHIE C. CRUZ

SB Member

HON. ALLANC. ESPINOSA
SB Member

HON. VICTOR ANO L. GLOBA Liga Ng Mga Barangay President

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

23rd SANGGUNIANG BAYAN

Sangguniang Bayan of Kananga

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









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."

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REPUBLIC OF THE PHILIPPINES PROVINCE OF LEYTE

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, Miscenduct 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).

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

Respondents.



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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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

ATTY. ALLAN

Board Se cretary (Secretary to the Sanggunian)

APPROVED BY:

HON. MIGUEL JORGEP. TAN Vice Mayor & Presiding Officer

ATTESTED BY:

HON. FERNANDO M. ASEO

SB Member/Floor Leader

ORFANO

SB Member

HON. RICHIE C. CRUZ

SB Member

HON. BRENZON C. C BINTOY

HON. RUD

SB Member

ESPINOSA HON. ALLANYC.

SB Member

SB Member/Asst, Floor Leader

HON. RESURRECTION C. CAPANAS

BULAWIT HON. MINERVA SB Member

HON. VICTORIANO L. GLOBA Liga Ng Mga Barangay President/

Ex-officid Member

HON. MARY DANIELA L. CUBERO Pambayang Pederasyon Ng Sangguniang

Kabataan President/Ex-officio Member



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REPUBLIC OF THE PHILIPPINES PROVINCE OF LEYTE

MUNICIPALITY OF KANANGA

Office of the Mayor Manuel Olecme M. Forres

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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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. Resurrecccion 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.2I-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





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.

Copy furnished:

SABENIANO BIGNAY

Brgy. Tugbong, Kananga, Leyte

LEAH O. GMPLEO 2/28/24
Brgy. Tugbong, Kananga, Leyte

Anti-P. ho 2/18/2/
EMERITA P. LACNO

EMERITA P. LACNO

Brgy. Tugbong, Kananga, Leyte

JERRY P EMPLEO

2/28/24-600 PM

Brgy. Tugbong, Kananga, Leyte

HON. RESURRECCCION C. CAPANAS 2-29-24

SB Member

Ad Hoc Committee Chairman ERIC S. CANDIDO 2-29-24

Sangguninga Barangay member

Brgy. Tugbong, Kananga, Leyte







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

Glenn Amon received by: / forthe MLGOO, Kananga, Leyte 02-29-2024

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

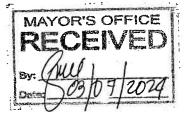
Atty. Ma. Kriska Angela H. Tumamak Atty. Gerentstein T. Banzon Banzon Law Office Unit 4, 2/F JE Tan Bldg., Cor. Rizal and Aviles St., Ormoc City Post Office REA46 507 608 ZZ

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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

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 abovementioned.
- 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;

- 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";

- 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 INAND PROPER RESPONDENTS-APPELLANTS IS CONSONANCE WITH SECTION 63 (b) OF RA 7160 AS ENUNCIATED IN SECTION 1 AND SECTION 2, RULE V OF RULES OR THE 22R.21-576 RESOLUTION NO. THE OF ADMINISTRATIVE CASES PROCEDURE INSANGGUNIANG BAYAN OF KANANGA.

ARGUMENTS AND DISCUSSIONS

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. Melgar², 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 and such 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, respondentsappellants 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:

"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

JERRY P. EMPLEO Respondent-Appellant

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

<u>VERIFICATION AND CERTIFICATION OF NON-FORUM</u> <u>SHOPPING</u>

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;

IN WITNESS WHEREOF, WE have hereunto set our hands this 6th day of March 2024 in Ormoc City, Leyte, Philippines.

LEAH OF 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. 97; Page No. 89 Book No. 01 Series of 2024, ATTY. MAI. K MSKA AT CLA BE. TUNAMAK

Maying Public for the City of Ormore

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Copy Furnished:

MANUEL VICENTE M. TORRES

Municipal Mayor Office of the Municipal Mayor Kananga, Leyte

Exhibit 5

Republic of the Philippines OFFICE OF THE PROVINCIAL GOVERNOR

PROVINCE OF LEYTE

Leyte Provincial Government Complex West Bypass Road, Brgy. Guindapunan 6501 Palo, Leyte -oOo-

APPEAL IN RE: PREVENTIVE SUSPENSION ORDER OF PUNONG BARANGAY LEAH O. EMPLEO, SANGGUNIANG BARANGAY MEMBER EMERITA P. LACNO AND SANGGUNIANG BARANGAY MEMBER JERRY P. EMLEO DATE FEBRUARY 26, 2024 ISSUED BY MANUEL M. TORRES (in his capacity as Municipal Mayor of Municipality of Kananga, Leyte)



LEAH O. EMPLEO, EMERITA P. LACNO AND JERRY P. EMPLEO,
Respondents-Appellants,

versus

MANUEL VICENTE M. TORRES,

Appellee.

VERIFIED COMMENT/OPPOSITION (to RESPONDENTS-APPELLANTS' APPEAL MEMORANDUM DATED March 5, 2024) with ENTRY OF APPEARANCE

APPELLEE, MANUEL VICENTE M. TORRES, through the undersigned counsel unto this Honorable Office, most respectfully submits this COMMENT/OPPOSITION to the Memorandum of Appeal filed by the Respondent-Appellant dated March 5, 2024 on the Preventive Suspension Order dated February 26, 2024.

MATERIAL DATES

I. On April 8, 2024, the Municipal Mayor's Office of the Municipality of Kananga, Leyte received an Order dated April 4, 2024 from the Office of the Provincial Governor of Leyte, Hon. Carlos Jericho L. Petilla, through his Provincial Administrator, Corazon M. Alvero through email directing the appellee to file his Comment or Opposition to said appeal personally within ten (10) days from receipt of said Order. Thus, the filing of this Comment/Opposition on April 15, 2024 is well within the reglementary period.

STATEMENT OF FACTS AND CASE

- 2. A complaint was filed by Sabeniano Bignay before the 23rd 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 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 and for 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. Copy of the complaint is hereto attached as **Annex "1"**.
- 3. The complaint pertains to the illegal acts of the respondents in partitioning and distributing the LGU Kananga-owned land to individuals as relocation site instead of a new Barangay Site as expressly indicated in the deed of donation. The land subject of this case is 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 declared under the name of Julianan Nahine, located at Brgy. Tugbong, Kananga, Leyte.
- 4. Pre-trial conference was conducted, and the trial of said administrative complaint is ongoing. The parties are both represented by their legal counsels.
- 5. An Ad Hoc Committee of the 23rd Sangguniang Bayan (SB) of the Municipality of Kananga, Leyte was created, which was chaired by Hon. Resurrection C. Capanas for the said administrative case.
- 6. On February 12, 2024, a Resolution No. 02 was issued by the said Adhoc Committee which granted the oral motion of complainant and after the respondents-appellants submitted their comment to said motion,

to subject the respondents-appellants under preventive suspension. Said AdHoc Committee Resolution No. 02 recommends to the SB (Plenary) for its adoption of the said resolution. It further recommends to place the respondents-appellants under preventive suspension for a period of 60 days. Copy of Resolution No. 02 is herein attached as **Annex "2"**.

- 7. Consequently, in its Resolution No. 23R.24-552 Series of 2024, the 23rd SB of Kananga, Leyte adopted the abovementioned resolution of the Ad Hoc Committee and recommend to the Office of the Mayor of Kananga, Leyte to place the respondents-appellants under preventive suspension for a period of Sixty days. The copy of said Resolution is hereto attached as **Annex** "3".
- 8. Based Section 2, Rule V of Resolution No. 22R.21-576 or the Rules of Procedure in Administrative Cases of the Sangguniang Bayan of Kananga, Leyte 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

9. Thus, on February 26, 2024, the appellee issued a preventive suspension order placing the respondents-appellants under preventive suspension for sixty (60) days. Copy of the Preventive Suspension Order is hereto attached as **Annex "4"**.

ISSUE

Whether or not the Order for Preventive Suspension issued by Honorable Mayor Manuel Vicente M. Torres of the Municipality of Kananga, Leyte placing the respondents-appellants under preventive suspension for sixty (60) days is appealable to the Office of the Provincial Governor of Leyte.

DISCUSSION

The subject Order for Preventive Suspension issued by Honorable Mayor Manuel Vicente M. Torres of the Municipality of Kananga, Leyte placing the respondents-appellants under

preventive suspension for sixty (60) days is <u>NOT SUBJECT TO APPEAL</u> to the Office of the Provincial Governor of Leyte.

- 10. The following provisions of R.A. 7160 or the Local Government Code of 1991are pertinent to the case at hand, to wit:
 - A. SECTION 63. Preventive Suspension. (a) Preventive suspension may be imposed:
 - (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.

x x x x

- B. SECTION 66. Form and Notice of Decision. (a) 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 Office of the President or the sanggunian concerned shall render a decision in writing stating clearly and distinctly the facts and the reasons for such decision. Copies of said decision shall immediately be furnished the respondent and all interested parties.
 - (b) 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 so suspended as long as he meets the qualifications required for the office.
- (c) The penalty of removal from office as a result of an administrative investigation shall be considered a bar to the candidacy of the respondent for any elective position.
- C. SECTION 67. Administrative Appeals. <u>Decisions</u> in administrative cases may, within thirty (30) days from receipt thereof, be appealed to the following:
 - (a) The <u>sangguniang panlalawigan</u>, in the case of <u>decisions</u> of the <u>sangguniang panlungsod</u> of <u>component cities and the sangguniang bayan</u>; and
 - (b) The Office of the President, in the case of decisions of the sangguniang panlalawigan and the sangguniang panlungsod of highly urbanized cities and independent component cities. (Emphasis supplied)

Preventive Suspension Order <u>is not</u> <u>considered as DECISION</u> which can be subject to appeal

- II. It can be deduced from the foregoing that a preventive suspension is imposed during the stage while the investigation is still pending. The recommendation of the Ad Hoc Committee as adopted by the Sangguniang Bayan to exercise its power to place respondents-appellants under preventive suspension is based on the ground that "the respondents-appellants continued 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".
- 12. Accordingly, an Order imposing preventive suspension against the respondents-appellants is not a **FINAL DECISION** on the merits on the case or one that finally and completely disposes a case in an administrative complaint against an elective official. It is only interlocutory in character because it does not still put an end to the proceedings. The disciplinary authority, after the imposition of preventive suspension, must still proceed to the hearing of the evidence to be presented by the other party in support of his claim or counterclaim.
- 13. In Stichon vs. Provincial Sheriff of Occidental Negros¹, the Supreme Court explained the rationale on the rule that no appeal may be taken from interlocutory order, thus:

"The reason of the law in permitting appeal only from a final order or judgment, and not from interlocutory or

¹ G.R. No. L-1853, 27 February 1948.

incidental one, is to avoid multiplicity of appeals in a single action, which must necessarily suspend the hearing and decision on the merits of the case during the pendency of the appeal. If such appeal were allowed the trial on the merits of the case should necessarily be delayed for a considerable length of time, and compel the adverse party to incur unnecessary expenses; for one of the parties may interpose as many appeals as incidental questions may be raised by him and interlocutory orders rendered or issued by the lower court."

- 14. A preventive suspension is a mere preventive measure, and not a penalty²; and hence, interlocutory in nature since it "does not terminate or finally dismiss or finally dispose of the case, but leaves something to be done by [the adjudicating body] before the case is finally decided on the merits."³.
- 15. Considering that said Preventive Suspension Order is not a FINAL DECISION, the same cannot be subject to APPEAL to the Sangguniang Panlalawigan.

IMPROPER VENUE OF APPEAL assuming that Preventive Suspension Order is appealable and the Office of the Provincial Governor lacks jurisdiction over the said appeal

16. Assuming without admitting that Preventive Suspension Order is appealable, Section 67 of the Local Government Code of 1991 is very clear, Decisions in administrative cases may be appealed within 30 days to Sangguniang Panlalawigan, NOT to the Office of the Provincial Governor, considering the latter does not have jurisdiction over the said appeal.

DILG OPINION No. 118 s. 2022 dated October 10, 2022 settles the issue that Preventive Suspension Order issued by the Sangguniang Bayan is NOT subject to appeal

17. The DILG OPINION No. 118 s. 2022 dated October 10, 2022 which was issued by Atty. Juan Victor R. Llamas, Undersecretary for

² Quimbo v. Gervacio, 503 Phil. 886, 891 [2005]

³ Metropolitan Bank & Trust Company v. CA, 408 Phil. 686, 694 [2001]; see also Banares II v. Balising, 384 Phil. 567, 577 [2000]

External, Legal and Legislative Affairs of the Department of Interior and Local Government (DILG) categorically opined:

"Also it may be well to stress that Section 67 of the Local Government Code of 1991 (which deals with administrative appeals) comes after Section 66 (which on the other hand deals with the termination of investigation and rendition of decision thereafter). In both Sections 66 and 67 of the Local Government Code of 1991, the word "decision" was mentioned.

The decision of the sangguniang bayan contemplated in Section 67 (a) of the Local Government Code of 1991, which is the proper subject of the administrative appeals to the sangguniang panlalawigan, is one which renders the judgment on the merits in the case or one that finally and completely disposes a case in an administrative complaint against an elective official.

Accordingly, the resolution or order of the Sangguniang Bayan placing Punong Barangay Cecile R. Villfuerte under preventive suspension cannot yet be appealed before the Sangguniang Panlalawigan and accordingly, the latter cannot order the stay of the preventive suspension. 4" (Emphasis supplied)

- 18. The copy of the DILG OPINION No. 118 s. 2022 dated October 10, 2022 is hereto attached of easy reference as **Annex 5**.
- 19. In application to the case at bar, the Preventive Suspension Order issued by Hon. Manuel Vicente M. Torres that placed the respondents-appellants under preventive suspension for sixty (60) days is not and cannot be subject to appeal to the Sangguniang Panlalawigan or to the Office of the Provincial Governor of Leyte.

ENTRY OF APPEARANCE

- 20. Further, the undersigned counsel hereby respectfully enters his appearance as Municipal Legal Officer-Designate for the appellee.
- 21. It is respectfully requested that the undersigned be furnished with copies of all orders and decisions which may be issued or rendered in the above-entitled case, as well as all motions and pleadings that may be filed by the parties.

⁴ Page 2 of DILG OPINION No. 118 s. 2022 dated October 10, 2022.

LGU Kananga, Leyte filed a motion for reconsideration of the Resolution of the Office of the Provincial Prosecutor in reversing her own previous Resolution finding probable cause for illegal use of public funds/properties against the respondents

- 22. On April 5, 2024, the Office of the Mayor of Kananga, Leyte received a Manifestation from the respondents-appellants that the criminal case filed against them before the Office of the Provincial Prosecutor was DISMISSED. They attached the copy of the Resolution of the Office of the Provincial Prosecutor.
- 23. This is to formally inform your good office that LGU-Kananga has seasonably filed its Motion for Reconsideration on the Resolution of the Office of the Provincial Prosecutor reversing its previous Resolution.
- 24. By way of manifestation, this is to respectfully manifest that the in a Resolution promulgated on December 29, 2023, the Honorable Provincial Prosecutor, Hon. Arlene Hunamayor-Cordovez approved the findings of probable cause against the herein respondents for the crime charged. The dispositive portion of which is hereunder reproduced to wit:

"Finding probable cause to believe that the crime of Illegal Use of Public Funds of Property (technical malversation) has been committed by all of the abovenamed 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.
- 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.

XXXX

Be that as it may, the recommended bail for temporary liberty of the respondents is fixed at Eighteen Thousand Pesos (18,000.00) each.

Ormoc City, Philippines, December 21, 2023.

ERWIN JAMES B. FABRIGA

Senior Assistant Provincial Prosecutor MCLE Exemption No. VII-Acad003588 Valid until April 14, 2025

Reviewed by:

MELISSA I. RUBILLOS-MACAPUGAS

Deputy Provincial Prosecutor MCLE Compliance No. VII-0004037 Valid until April 14, 2025

Approved:

MA. ARLENE HUNAMAYOR-CORDOVEZ

Provincial Prosecutor"

25. In a very surprising twist of events, the aforementioned December 21, 2023-Resolution which was approved by the Honorable Provincial Prosecutor was **REVERSED** on February 28, 2024 which was received by the Office of the Mayor of Kananga, Leyte on March 22, 2024. Thus, LGU Kananga through the herein appellee filed the corresponding motion for reconsideration.

PRAYER

WHEREFORE, premises, Appellee respectfully prays that the Honorable Office of the Provincial Governor of Leyte issue an ORDER denying this instant appeal.

And it is further prayed that the Municipal Legal Officer-Designate be furnished with copies of all orders, resolutions and decisions which may be issued or rendered in the above-entitled case, as well as all motions and pleadings that may be filed by the parties.

Such other relief this Honorable Offices deems just and equitable under the premises are likewise prayed for.

Done in Kananga, Leyte for the Palo, Leyte, Philippines on April 15, 2024.

Respectfully submitted:

MUNICIPAL LEGAL OFFICE

Real St., Poblacion, Kananga, Leyte

ATTY ADBLIFO M. SOLIBAGA JR.

Municipal Attorney-Designate of Complainant adelito_s@vahoo.com

NC No. ORM-22-12-038-NC issued on 01/01/2023

Valid until December 31, 2024,

PTR No. 7856400, 01/03/2024, Ormoc City

IBP No. 382627, 12/31/2023, Leyte

Roll of Attorney No. 51625

TIN 207-693-130

MCLE Compliance No. VI-0014640

Valid until April 14, 2025

Copy furnished by private courier:

LEAH O. EMPLEO Brgy. Tugbong, Kananga, Leyte

Emerita p. Lacno Brgy. Tugbong, Kananga, Leyte

Jerry P. Empleo Brgy. Tugbong, Kananga, Leyte

VERIFICATION

- I, MANUEL VICENTE M. TORRES, of legal age, Filipino, and a resident of and with postal address Brgy. Lonoy, Kananga, Leyte, Philippines, after having been duly sworn in accordance with law, hereby depose and say:
 - 1. That I am the appellee in the above-entitled case;
 - 2. That I have caused the preparation and filing of the comment/opposition in above-entitled case;
 - 3. That I have read and understood the allegations contained therein and that the same are true and correct of our own personal knowledge or based on authentic documents and records;
 - 4. The documents attached to the complaint are genuine and authentic and/or faithful reproductions of its originals;
 - 5. The pleading is not filed to harass, cause unnecessary delay, or needlessly increase the cost of litigation; and
 - 6. The factual allegations therein have evidentiary support or, if specifically, so identified, will likewise have evidentiary support after a reasonable opportunity for discovery.

IN	WITNESS	WHEREOF, _, in Ormoc City		hereunto yte. Philippin		my	hand	on
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		<i>Y</i> /	ffiar	E M. TOR	RES			
		4			APR 1	2 2024	.	

SUBSCRIBED AND SWORN to before me on ______, in the City of Ormoc, Leyte.

Doc. No. <u>57</u>; Page No. <u>33</u>; Book No. <u>7</u>; Series of 2024. Notary Public to Ve City of Ormoc Municipalitizs of Full 1ga, Matagob.

Merida and sabe!

NC No. OPM 23-12-021-NC issued on 12/18/2023

Vald until De tember 31, 2025

PTR No. 7872859, 01/02/2024

ISP No. 381434, 12/29/2023

Roll of Attoricy No. 76903

TIN: 922-420-348

MCLE Exemption Bar Watter No. 850, Sec. 3 (a)



Republic of the Philippines

Sangguniang Bayan (SB)

Municipality of Kananga,

Province of Leyte

-000-

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 I 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.

Republic of the Philippines)
City of Ormoc) S.S.

Purpose:

To prove that the witness **PROCESO THOMAS R. PABIO** is the Municipal Accountant of the Municipality of Kananga, Leyte since June 1, 2020 up to the present.

To prove that on January 24, 2019, former Mayor Rowena N. Codilla signed the release of PhP 1,400,000.00 as payment for the purchase of Lot 2 as Barangay Site of Brgy. Tugbong, Leyte, which transaction was evidenced by

Disbursement Voucher No. 2019-01-0200 and Journal Entry Voucher No. 2019-01-000200.

To prove further that on January 24, 2019, PhP 1,400,000.00 was released to Glicerio Porcare as payee for the said transaction. He will testify relevant matters and identify relevant documents.

JUDICIAL AFFIDAVIT

- I, PROCESO THOMAS R. PABIO, of legal age, Filipino, married and a resident of Kananga, Leyte, and presently the Municipal Accountant of the Local Government Unit of Kananga, Leyte, after having been duly sworn to in accordance with law, hereby deposes and states as follows:
 - Q1: Mr. witness, you said you are the Municipal Accountant of the Municipality of Kananga, Leyte, since when have you commenced your tenure as the Municipal Accountant of the Municipality of Kananga, Leyte?
 - A: Since June 1, 2020 up to the present.
 - Q2: Are you familiar with this instant case filed by Sabeniano Bignay against defendants Leah O. Empleo Emerita P. Lacno and Jerry P. Empleo?
 - A: Yes, because per our records, the subject property of the case was purchased by the Municipality of Kanangga as indicated in Disbursement Voucher No. 2019-01-0200 dated January 24, 2019 approved by then former Mayor Rowena Codilla.
 - Q3: What in particular is the property indicated in Disbursement Voucher No. 201-01-0200?
 - A: The property indicated in Disbursement Voucher No. 2019-01-0200 refers to a 10,000 square-meter portion of a parcel of land known as Lot No. 2, Pcs-19337 (Lots 10184 & 1795) located in Brgy. Tugbong Kananga, Leyte covered by TCT No. T-15094.
 - Q4: What was the purpose indicated in Disbursement Voucher No. 2019-01-0200?
 - A: Disbursement Voucher No. 2019-01-0200 was for the payment of the earlier mentioned property per Provincial Appraisal Committee Resolution No. 026-2018 and per Extrajudicial Settlement of Estate with Deed of Absolute Sale executed between the Municipality of Kananga, Leyte and the Hiers of Salomon Porcare and Juliana Nahine-Glicerio, Hermoneges and Franciso Porcare.
 - Q5: What other information were indicated in the disbursement voucher?

- A: The disbursement voucher also indicated that an amount of Php I,400,000.00 was released as payment of the earlier mentioned transaction and that said amount was received by payee Glicerio Nahine Porcare on January 24, 2019.
- Q6: I have with me a copy of Disbursement Voucher No. 2019-01-0200 dated January 24, 2019 bearing the official logo of the Municipality of Kananga marked as **Exhibit G**, are you referring to this document?
- A: Yes, I am.
- Q7: What other documents were prepared for the purchase of the said property?
- A: A Journal Entry Voucher dated January 24, 2019 was also prepared and approved to record the transaction of Disbursement Voucher No. 2019-01-0200 dated January 24, 2019.
- Q8: What were the entries made on said Journal Entry Voucher?

 A: A Debit of Php 1,400,000.00 was made for the account "Land" and a corresponding Credit of Php 1,400,000.00 was entered for the account "Cash in Bank".
- Q9: What other information were indicated in the said Journal Entry Voucher?
- A: Said voucher also indicated that it was for the payment of the procurement of real property, which particularly refers to a 10,000 square-meter portion of a parcel of land known as Lot No. 2 Pcs-19337 (Lots 10184 & 1795) located in Brgy. Tugbong Kananga, Leyte covered by TCT No. T-15094.
- Q10: I have with me a copy of a Journal Entry Voucher with reference code CDJ No. 2019-01-000200 dated January 24, 2019, marked as **Exhibit H**, were you referring earlier to this document?
- A: Yes, I am.
- Q11: I have no further questions. Do you have anything else to add or amend in your statement?
- A: None for the moment.
- 2. I have executed this Judicial Affidavit to attest to the truth of the foregoing, the same to be submitted to the Sangguniang Bayan (SB), Municipality of Kananga, in lieu of my direct testimony in a case docketed as Admin. Case No. K-ADM-2023-002 SABENIANO BIGNAY, complainant, vs. LEAH O. EMPLEO, EMERITA P. LACNO and JERRY P. EMPLEO, defendants.

3. I further sayeth naught.

IN WITNESS WHEREOF, I have hereunto affixed my signature this in Ormoc City, Philippines.

PROCESO THOMAS R. PABIO Affiant/Witness

SUBSCRIBED AND SWORN TO before me this in Ormoc City, Philippines.

Bookles Wi friga No. Beate No. Series of 2024

3

Notary Public for the City of Ormoc Municipalities of Kananga, Matag-ob

SWORN ATTES TATHONIY-23-09-013-NC issued on 11/03/2023 Valid until December 31, 2024

PTR No. 7872858, 01/02/2024, Ormoc City

I, **DENNIS L. HIBAYA**, Filipino of legalBage, 39137-1940 2004, LegalBage address at Solibaga Law Office, J. Navarro St. Commoc City Rell of Attorney No. 76594, sworn to oath in accordance with law, hereby his positional Backgraph and Sec. 3 (a)

- I. I faithfully recorded the questions I asked of and the corresponding answers that PROCESO THOMAS R. PABIO gave;
- 2. Neither I nor any other person then present or assisting him coached PROCESO THOMAS R. PABIO regarding the latter's answers.

IN WITNESS WHEREOF, I have hereunto affixed my signature on ____in Ormoc City, Philippines.

> DENNIS . HIBAYA

SUBSCRIBED AND **SWORN** TO before me

in Ormoc City, Philippines.

Dat Na. .. Page Ma. 15 Series of <u>7074</u> Notary Public for the City of Ormoc Municipalities of Kananga, Matag-ob, Mevida and Isabel

NC No. ORM-23-09-013-NC issued on 11/03/2023 Valid until December 31, 2024, PTR No. 7872858, 01/02/2024, Ormoc City IBP No. 301277, 01/02/2024, Leyte Roll of Attorney No. 76594

TIN: 400-275-868 MCLE Exemption Bar Matter No. 850, Sec. 3 (a)

Barron Law Office - Que 4/11/24



Annex 24



Republic of the Philippines PROVINCE OF LEYTE AMANICIPALITY OF KANANGA

1/24/2019

GENERAL FUND

	MUNICIPAL	II Y OF KA	INANGA		GENERAL FUND	
	DISBURSEM	ENT VOUC	HER		No. 2019 - 01	0200
Mode of Rayment	check	☐ C:	ash	П	Other	
Payae	GLICERIO NAHINE PORCARE	TIN/Employe	ee No.	00 HU E-	Obligation Request No).
Address:	SITIO PUNAY, BGY. TUGBONG,	Office/Unit/Project		Responsibili	ty Center Code	
, , , , , , , , , , , , , , , , , , , ,	KANANGA, LEYTE	t				
	EXPLANATION	ΟŅ			Ámo	unt .
	To payment for the procurement of real RC) PCS-19337(Lots 10184 & 1795) with an area of 10,000 square meters local apprecised market value by the Province P140,000 per square meter per Resolut Extrajjudicial Settlement of Estate with Debuveen the Municipality of Kananga are and Juliana Nahine - Glicerio , Hermografic	th FCT N0. 1 ted at Barang lal Appraisal don No. 026-2 edd of Absolu the heirs o	5094 containly gay Tugbong value of Committee at 2018 and per ate Sale executif Salomen Po	ng with ted rcare		1,400,000.00
		F	Amount:Due	→	P	1,400,000.00
A. Certifi	ed: Allotment obligated for the purpose as indicated a Supporting documents complete.	bove.	B. Certified	k Funds Avai	iable	
Signature	Zm ©	540	Signature .			,
Printed .	JOSEFINA G. FOGARTY	Date 1/24/19	Printed Name	2	n s. Delmonte	Date .
Position	Municipal Accountant		Position	Mu	nicipal Treesurer'	OIC ·
C. Appro	vad for Payment			ed Payment		
'Signature	Frecolt			Bunk Name	An	
Printed' Name	HON ROWENA N. CODILLA	Dalo	Signature Printed Name	Girce.	MI SALL For	care Date
Position	Municipal-Mayer .	•	OA/Other Docu	ments	JEV Ho.	Dale



Journal Entry Voucher MUNICIPALITY OF KANANGA		Fund: G	F - Proper			CDJ No. 2019-01	-000200
		Transaction Type: D	isbursement - DISB03	6		Date January 24	4, 2019
Responsibility	y	Accoun	t Title		Account	Debit	Credit
Center					Code		
	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			18
TOŢAL						1,400,000.00	1,400,000.00
Supporting Do	ocuments		······································		·		
Date		Description	n	-2			
01/24/2019	Check				0001533886		
01/24/2019	Disbursement Vo	ucher			100-2019-01-200		
01/24/2019	Obligation Reque	est (OBR)		1.00000383	100-2019-01-012	9	

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

Exhibit 7

Republic of the Philippines

Sangguniang Bayan (SB)

Municipality of Kananga,

Province of Leyte

-oOo-

SABENIANO BIGNAY,

Complainant,

Admin Case No. K-ADM-2023-002

FOR:

- versus -

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,

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

Respondents.

X------X

Republic of the Philippines)
City of Ormoc) S.S.

To prove that the witness Municipal Treasurer SUSAN S. DEL MONTE is the Municipal Treasurer of the Municipality of Kananga, Leyte since November 9, 2012 up to the present. To prove that an amount of Php 1,400,000.00 was released to Glicerio Porcare per Disbursement Voucher No. 2019-01-0200 on January 24, 2019. She will testify relevant matters and identify relevant documents.

SE SECRETARY OFFICE
REACEIVED

By M

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Purpose:

JUDICIAL AFFIDAVIT

- I, **SUSAN S. DEL MONTE**, of legal age, Filipino, widow and a resident of Brgy. Poblacion, Kananga, Leyte, and presently the Municipal Treasurer of the Municipality of Kananga, Leyte, after having been duly sworn to in accordance with law, hereby deposes and states as follows:
 - Q1: Ms. Witness, you mentioned you are the Municipal Treasurer of the Municipality of Kananga, Leyte, since when have you commenced your tenure as the Municipal Treasurer of the Municipality of Kananga, Leyte?
 - A: Since year November 9, 2012 up to the present.
 - Q2: Are you familiar with this instant case filed by Sabeniano Bignay against defendants Leah O. Empleo Emerita P. Lacno and Jerry P. Empleo?
 - A: Yes, because per the records of our office, the property subject of this case was purchased by the Municipality of Kananga as contained in Disbursement Voucher No. 2019-01-0200 dated January 24, 2019 which was approved by then former Mayor Rowena Codilla.
 - Q3: What was the transaction as indicated in the said Disbursement Voucher?
 - A: The said voucher was for the payment of a 10,000 square-meter portion of a parcel of land known as Lot No. 2 Pcs-19337 (Lots 10184 & 1795) located in Brgy. Tugbong Kananga, Leyte covered by TCT No. T-15094 per Resolution No. 026-2018 and per Extrajudicial Settlement of Estate with Deed of Absolute Sale executed between the Municipality and Kananga and the Hiers of Salomon Porcare and Juliana Nahine-Glicerio, Hermoneges and Franciso Porcare.
 - Q4: Who was the payee as indicated in the said voucher?
 - A: A certain Glicerio Nahine Porcare was indicated as payee for the said Disbursement Voucher who received an amount of Php 1,400,000.00 on January 24, 2019.
 - Q5: I have with me a copy of Disbursement Voucher No. 2019-01-0200 dated January 24, 2019 marked as **Exhibit G**, are you referring to this document?
 - A: Yes, I am.
 - Q6: After the said Disbursement Voucher No. 2019-01-0200 dated January 24, 2019 was checked as complete with supporting documents by the Municipal Accounting Office, and approved for payment by the Municipal Mayor, what happened next?

- A: Our Office, the Municipal Treasurer's Office (MTO) issued the corresponding check reflecting the purchase amount of the subject land.
- Q7: Now, after issuing the check, what happened next?
- A: Based on the said Disbursement Voucher, the payee, Glicerio Porcare was able to receive the payment as shown by his signature on said Voucher.
- Q8: What else did your office do in so far as the release of the said amount to the payee of the said Disbursement Voucher is concerened?
- A: I issued a Certification on October 16, 2023 certifying the payment of PhP 1,400,000.00 for the purchase of Lot No. 2 (LRC) PCS-19337 (Lots 10184 & 1795) with TCT No. 15094.
- Q9: I have with me a copy of the Certification dated October 16, 2023 marked as **Exhibit FF**, are you referring to this one?
- A: Yes, that is the one.
- Q10: I have no further questions. Do you have anything else to add or amend in your statement?
- A: None for the moment.
- 2. I have executed this Judicial Affidavit to attest to the truth of the foregoing, the same to be submitted to the Sangguniang Bayan (SB), Municipality of Kananga, in lieu of my direct testimony in a case docketed as Admin. Case No. K-ADM-2023-002 SABENIANO BIGNAY, complainant, vs. LEAH O. EMPLEO, EMERITA P. LACNO and JERRY P. EMPLEO, defendants.
 - 3. I further sayeth naught.

IN WITNESS WHEREOF, I have hereunto affixed my signature this in Ormoc City, Philippines.

SUSANS DEL MONTE
Affiant/Witness

SUBSCRIBED AND SWORN TO before me this in Ormoc City, Philippines.

181 38 IL

2024

Notary Public furths City of Ormoc Municipalities of Louinga, Matag-ob, Merida at Isabel

NC No. ORM-2 -12-021 NC issued on 12/18/2023

Velid Intil December 31, 2025

PTR No. 7872 559, 01/02/2024

IBP No. 381434, 12/29/2023

Roll of thoriey No. 76903

TIN: 522-420-348

MCLE Exemption Bar Matter No. 850, Sec. 3 (a)

3

SWORN ATTESTATION

I, **DENNIS L. HIBAYA**, Filipino, of legal age, married with office address at Solibaga Law Office, J. Navarro St., Ormoc City, after having been sworn to oath in accordance with law, hereby depose and state, THAT:

- I. I faithfully recorded the questions I asked of and the corresponding answers that SUSAN S. DEL MONTE gave;
- Neither I nor any other person then present or assisting him coached SUSAN S. DEL MONTE regarding the latter's answers.

IN WITNESS WHEREOF, I have hereunto affixed my signature on in Ormoc City, Philippines.

DENNIS L. HIBAYA

SUBSCRIBED AND SWORN TO in Ormoc City, Philippines.

before me on

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panzon Law Office - 800 4-24-24

Notation for the City of Ormoc.

Notation of Kananga, Matagob,

Merida and Isabel

Merida



ANNOX 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







WENT TO

Republic of the Philippines

1/24/2019

	PROVINCE MUNICIPAL	FOF LEYTE	NANGA		GENERAL FUND	
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	DISBURSEM	ENT VOUCH	HER		No. 2019 - 01	- B20V
Mode of Rayment	check	☐ Ca	ash		Other	V S
Payee	GLICERIO NAHINE PORCARE	TIN/Employe	e No.		Obligation Request No). 1 1
	SITIO PUNAY, BGY. TUGBONG,			Responsibilit		
Address:	KANANGA, LEYTE	Office/Unit/Project			Code	
	EXPLANATI	NO			Ámo	unt .
* E	an area of 10,000 square meters local appraised market value by the Province P140,00 per square meter per Resolution in the Province P140,00 per square meter per Resolution in the Province P140,00 per square meter per Resolution in the P140,00 per Square meters in the P140,00 per Square meter per Resolution in the P140,00 per	dal Appraisal don No. 026-2 eed of Absolu d the heirs o	Committee at 2018 and per ite Sale execu of Salomen Po	ted :		1,400,000.00
			Amount Due	→	.b	1,400,000.00
A. Certific	ed: Allotment obligated for the purpose as indicated a Supporting documents gospilete.	above.	B. Certifie	d: Funds Avai	fable	8
Signature .	(77) (C)	993	Signature .			
Printed	JOSEFINA G. FOGARTY	Date 1/24/19	Printed Name		N S. DELMONTE	
Position	Municipal Accountant	-11	Position	Mu	nicipal Treasurer	voic · ·
10.	ved for Payment			ed Payment		
Signature	a all		Check No	Bank-Naiisa	All	
Printed'	HON ROWENA N. CODILLA	Date	Signature Printed Name	Glice	MY SIXLY For	Care Date
Position	. Municipal-Mayor	•	OR/Other Doc	iments	JEV No.	·- Date

Exhibit 8

Republic of the Philippines

Sangguniang Bayan (SB)

Municipality of Kananga,

Province of Leyte

-000-

Soc. 4, fule 6
Procedural Rules
in admin cases
filed before SI ce
Kenanga

SABENIANO BIGNAY,

Complainant,

Admin Case No. K-ADM-2023-002

FOR:

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

Republic of the Philippines)
City of Ormoc) S.S.

X-----/

Purpose:

To prove that he is the Municipal Budget Officer of the Municipality of Kananga, Leyte since February 3, 2014 up to the present.

To prove that PhP 1,400,000.00 was appropriated via supplemental appropriation ordinance for the purchase of Lot 2 as barangay Site of Brgy. Tugbong, Kananga, Leyte which was intended for the New Barangay Site of

said Barangay. That said appropriated fund was actually utilized to purchases said lot. He will testify relevant matters and identify relevant documents.

JUDICIAL AFFIDAVIT

- I, SYLVIO Y. QUILLO, JR. I, of legal age, Filipino, married and a resident of Kananga, Leyte, and presently the Municipal Budget Officer of the Local Government Unit of Kananga, Leyte, after having been duly sworn to in accordance with law, hereby deposes and states as follows:
 - Q1: Mr. witness, you said you are the Municipal Budget Officer of the Municipality of Kananga, Leyte, since when have you become the Municipal Budget Officer of the Municipality of Kananga, Leyte?
 - A: Since year February 3, 2014 up to the present.
 - Q2: Are you familiar with this instant case filed by Sabeniano Bignay against defendants Leah O. Empleo Emerita P. Lacno and Jerry P. Empleo?
 - A: Yes, because the subject property of the case was indicated in a Purchase Request No. 2018-12-37 dated August 6, 2018 prepared and approved by then former Mayor Rowena Codilla.
 - Q3: What in particular is the property indicated in the Purchase Request prepared and approved by the former mayor Codilla?
 - A: To be precise, the property indicated in PR refers to a 10,000 square-meter portion of a parcel of land known as Lot No. 2 Pcs-19337 located in Brgy. Tugbong Kananga, Leyte covered by TCT No. T-15094.
 - Q4: Other than the subject property, what else was indicated in the said Purchase Request if any?
 - A: The Purchase Request (PR) expressly stated that the purpose of the purchase is for "Barangay Site of Barangay Tugbong, Kananga, Leyte".
 - Q5: After the PR was prepared what happened next?
 - A: It was forwarded to me in December 2018 for my certification that there was available fund for the purchase of said land.
 - Q6: What happened next after it was forwarded to you?
 - A: I verified the allotment of the PR as there was supplemental appropriation ordinance passed by SB on September 10, 2018.

- Before the said Supplemental Ordinance was passed by SB, what action did your Office make in so far as the said supplemental appropriation ordinance is concerned?
- I prepared the Statement of Supplemental Appropriation CY A: 2018 (Supplemental Budget No. 2) in which the Procurement of Lot at Brgy. Tugbong, Kananga, Leyte for Php 1,400,000.00 was proposed as Capital Outlay . Supplemental Budget No. 2 was later approved by then Mayor Rowena N. Codilla.
- I have with me a copy of Statement of Supplemental Q8: Appropriation CY 2018 (Supplemental Budget No. 2) marked as Exhibit GG, are you referring to this document?
- A: Yes, I am.
- Q9: What other documents were prepared for the procurement of the said property?
- As I mentioned earlier, on September 10, 2018, the **A**: Sangguniang Bayan under the former Vice Mayor Codilla, also passed a Supplemental Appropriation Ordinance No. 21L.18-048 series of 2018 which budgeted an amount of Php 1,400,000.00 for the purchase of subject property. The supplemental appropriation ordinance paved way for the eventual purchase of the subject property. The said Sangguniang Bayan, prior to the approval of said supplemental appropriation ordinance, passed Resolution No. 21R.18-455 approving the Supplemental Annual Investment Plan for Year 2018 which adopted Development Council Resolution No. 2, Series of 2018.
- Q10: I have with me a copy of a Supplemental Appropriation Ordinance No. 21L.18-048 series of 2018 marked as Exhibit **HH**, are you referring to this document?
- A: Yes, I am.
- Q11: Do you have other documents showing that Php 1,400,000.00 was indeed appropriated for the procurement of the said lot?
- Yes. To support my statement, I have executed a Certification A: signed by me in my capacity as Municipal Budget Officer of the Municipality of Kananga, Leyte. Said certificate certifies that Php 1,400,000.00 was duly appropriated for the procurement of a lot at Brgy. Tugbong, Kananga, Leyte and other relevant details.
- Q12: If same document is shown to you, can you identify it? A: Yes, sir.

- Q13: I have here with me a Certification marked as Exhibit II, signed by you as the Municipal Budget Officer of Municipality of Kananga dated October 16, 2023 stating that PhP 1,400,000.00 was appropriated via supplemental budget for the for the procurement of a lot at Brgy. Tugbong, Kananga, Leyte and other relevant details, is this the same document that you are referring?
- Yes, that is the same document. A:
- 2. I have executed this ludicial Affidavit to attest to the truth of the foregoing, the same to be submitted to the Sangguniang Bayan (SB), Municipality of Kananga, in lieu of my direct testimony in a case docketed as K-ADM-2023-002 **SABENIANO** BIGNAY, No. Case complainant, vs. LEAH O. EMPLEO, EMERITA P. LACNO and **JERRY P. EMPLEO, defendants.**
 - 3. I further sayeth naught.

IN WITNESS WHEREOF, I have hereunto affixed my signature this in Ormoc City, Philippines.

Affiant/Witness

SUBSCRIBED AND SWORN TO before me this in Ormoc City, Philippines.

Notary Public for the City of Ormoc Municipalities of Vaninga, Matag-ob, Merida and Isabel

SWORN ATTESTATION. ORM 23-12-020-IC issued on 12/18/2023 Valid until December 31, 2025.

I, DENNIS L. HIBAYA, Filipino, of legal age, in acried with politice address at Solibaga Law Office, J. Navarro St., Ormocological states fraving been sworn to oath in accordance with law, herebymdepose and state of a THAT:

- I. I faithfully recorded the questions I asked of and the corresponding answers that SYLVIO Y. QUILLO, JR. Igave;
- 2. Neither I nor any other person then present or assisting him coached SYLVIO Y. QUILLO, JR. I regarding the latter's answers.

IN WITNESS WHEREOF, I have hereunto affixed my signature on in Ormoc City, Philippines.

DENNIS L. HIBAYA

Doc No. Page No. Book No. Series of 20 SUBSCRIBED AND SWORN TO before me on _ in Ormoc City, Philippines.

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Series of 202L

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ISP No. 301277, 01/02/2024, Legue
Rail of Attorney No. 76504
TIN: 460-278-868
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Prepared by

Approved

ROWENA N. CODILLA

SYLVIO Y. QUICLO JR. I Municipal Budget Officer ±



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21" SANGGUNIANG BAYAN

EXCERPTS FROM THE MINUTES OF THE REGULAR SESSION HELD BY THE SAMEGUINANG BAYAN OF KANANGA ON SEPTEMBER 10, 2013 AT THE SESSION HALL.

Prezent: Honorable Elmer C. Ccellia

Honorabia Macerio V. Lumangtad, Jr.

Honorebis Marciano L. Nehine

Honorable Resumedoin C. Capanes

Honorable Edita P. Laono Henerable Lerenzo M. Aseo Horarabia Procesa T. Beguio Honorable Mariguita C. Sanchez

Honorabia Edward C. Campos

Herarabia Jeffacor G. Curson

Vice-Mayor/Presiding Officer

SB Mamber /Floor Leader

SB Member

Slà 1/1 amber/Assistent Ficor Leader

SB Member SB Member SB Member

\$8 Wambar

SB Mamber

SK P14 President ex-office member

Alegaria: Homorable Illia GonzagarOn Official Travelli

ACO President, ex Officia Mamber

ORCHANGE NO. 241.46-647 (Series of 2013)

AN ORDINANCE APPROPRIATING THE SUM OF SIXTY SEL MILLION FOUR Hundred twenty two thousand one hundred seventy four pesos and 1/103 (P56,422,174.01) endodied under sui plemental budget no. 2 OY 2012 FOR THE CONTINUED OF BRATION OF THE MUNICIPAL GOVERNMENT of Kananga, leyte for the period from Latuary 4 to december 34. YEAR 2018, AND FOR OTHER PURPOSES.

TYMEREAS, the Local Chief Executive in pursuance of the provider of Section 444 (8) (8) of Republic Act No. 7160, has caused the preparation of Supplemental Budget No. 02 cuilining therein the Budgetary Requirements for the continued delivery of basic sanites, facilities, other functions of the Local Governor and under Scotton 17 of the sold Coda:

WHEREAS, the Sangguniang Beyan through the Octomities on Pudget and Finance. In the exercise of its power under the Local Government Code ins considered the proposed Supplemental Budget, reviewed evaluated and root amended the approval of the ordinance embodying the proposed eppropriation for the Supplemental Budget No. 02 for Oalendar Year 2018.

NOWTHERSFORE, considering the above cited promises: be it or arrail by the 21% Sangguttiang Bayan of Kananga, Layle on a regular species duly essentible on this 10% day of September 2018 and upon rection of SB Member Process 1. Begula, seconded by SB Member Capanes, to with

> Section 1 Appropriation of Funds - It is horsely appropriated the sum of Stay Six Million Four Hundred Taienty Two Thousead One Fundsed Seventy Four Resos and 1/100 (P66.422.174.01).

Section 2. Source of Funds - Sevings from the Related Estrings as of December 31, 2017.

Section 3. Object of Expanditures with the governanding emount hardin below

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Section 4. Expenditure Component – Except by ear of the Sengguniang Bayan, no obanges or modification shall be made on the expenditure items culticrated in the ordinance as detailed in the LBP Form 9 duly signed by the Municipal Budget Officer and the Local Chief Executive.

Any changes or modifications in the expanditure items in violation of this shall subject the enting official or ampleyes to appropriate official and administrative executions as maybe provided under evisting laws.

Soction 5. Use of Savings and Ausmonitetion. In conordance with Section 333 of Republic Act No. 7180, the Local Government Code o. 1391, the Municipal Mayor and the Presiding Officer of the Sagguniang Bayon are at the fixed to augment any item in the approved annual budget for their respective offices from savings in other items within the same exponse class of their respective appropriations

For this purpose, "savings" refer to portions or belances of any programmed appropriation free from any obligation or encumbrance still available after the satisfactory completion on the unavoidable discontinuance or shandonment of the work, satisfactory complete for which the appropriation is suit orized or arising from unpoid compensation and related costs pertaining to vacant positions and logical of absences without pay.

"Augmentation" implies the existence in the budges of an item, project or activity or purpose with an appropriation which, upon implementation or subsequent evaluation of needed resources, is determined to be deficient.

Section 6. <u>Separability Clause</u> — If, for any recoun, any item of expenditure appropriated in this ordinance is declared unlauful nor invalid, other items of the appropriations which are not otherwise effected shall a clinus in full force and effect.

Section 7. Sitestivity Clause - This Ordinance shall to a effect upon caprova

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UNANIMOUSLY APPROVED.

APPROVED BY THE SANGGUNIANG BAYAN OF KANANGA AT ITS REGULAR SESSION ON SEPTEMBER 10, 2018.

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AYES: (09) NAYS: (0)	1 a Canac
HON. MACARIO V. LUMANGTAD, JR. Sangguniang Bayan Memberi Ficor Leader	HON RESUM DECGION 8-CAPANAS Sangguniano Bayan Member Asst. Floor Leader
HON, MARCIANO L. NAHINE Sengguniang Beyan Member	HON, LORE IZO III. ASEO Sanggunian (Gayan Mamber A DA ANA HON, PROCESA T. BAGUIO
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Sanggulouzing Bayan Member (on official troval) HON, NILO GONZAGA	Sanggunlang gayeri Member (1 ³) HON. JEFFSAOR G. CUIZON SK Fed. P/Hillant. Ex-Officio Membor
ABC President, Ex-Officio Mamber HEREBY CERTIFY to the corre	otness of the all, e-quoted Ordinance. TTY, ALLAN R. CASTRO (Board Seprelary V)
and the same of th	Secressy to the Sansgeriang Bayan

ATTESTED:

ELMER C. CODILLA Vice-Meyor, Presiding Officer

APPROVED

ROWENA N. CODILLA Municipal Mayor

(Date)

2 Thomas 2 T





Municipality of Kananga Office of the Municipal Budget Officer Brgy, Poblacion, Kananga, Leyie 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. 21L.18-048

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 QUILLO JR. I Municipal Budget Officer





Mind Exhibit 9

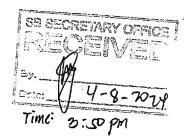
Republic of the Philippines

Sangguniang Bayan (SB)

Municipality of Kananga,

Province of Leyte

-oOo-



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 I 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. LACNO, EMPLEO,	AND	JERRY	P.
•		Responder	its.
	. 截 超旋 對漢 雷查 穿额等 西言 效益	医直侧骨坏疽 新时期 对语词 就就	~X
Republic of City of Orm	noc) S.S.		

Purpose:

To prove that the witness **Engr. ROSCOE HERMOSO** is the Municipal-Assessor-designate of the Municipality of Kananga, Leyte since January 16, 2023 up to the present.

To prove that the Municipal Assessor's Office of Municipality of Kananga, Leyte requested for the conduct of the appraisal/assessment of Lot 2, (LRC), Pcs-19337 being a portion of the consolidation-subdivision of Lots 10184 and

1795 of Cadastral Survey of Ormoc, LRC Cad. No. 1795 located in Brgy. Tugbong intended for "Proposed (New) Barangay site of Tugbong at the Provincial Appraisal Committee in 2018.

He will testify relevant matters and identify relevant documents.

JUDICIAL AFFIDAVIT

- I, ROSCOE HERMOSO, of legal age, Filipino, married and a resident of Kananga, Leyte, and presently the Municipal-Assessor-designate of the Municipality of Kananga, Leyte, after having been duly sworn to in accordance with law, hereby deposes and states as follows:
 - QI: Mr. Witness, you mentioned you are the Municipal-Assessor-designate of the Municipality of Kananga, Leyte, since when have you commenced your tenure as the Municipal Accountant of the Municipality of Kananga, Leyte?
 - A: Since January 16, 2023 up to the present.
 - Q2: Are you familiar with this instant case filed by Sabeniano Bignay against defendants Leah O. Empleo Emerita P. Lacno and Jerry P. Empleo?
 - A: Yes, because per our records, our office, the Office of the Municipal Assessor of the Municipality of Kananga, thru the former Municipal Assessor, Engr. Virgilio T. Tiu sent a letter to the Provincial Appraisal Committee requesting the latter to conduct an appraisal/ assessment of the subject property of the instant case.
 - Q3: What exactly is the purpose of the assessment according to the letter request?
 - A: Based on the office records, sometime in 2018, the Local Government of Kananga, Leyte under the administration of former Mayor Rowena Codilla planned to purchase Lot 2, (LRC), Pcs-19337 being a portion of the consolidation-subdivision of Lots 10184 and 1795 of Cadastral Survey of Ormoc, LRC Cad. No. 1795 located in Brgy. Tugbong, hence it requested the required assessment from Provincial Appraisal Committee.
 - Q4: According to the letter addressed to the Provincial Appraisal Committee, what was the subject property intended for?
 - A: Based on the said letter, it was stated that the subject property was intended for the proposed (new) Barangay Site of Tugbong.
 - Q5: What other information were contained in the letter request?

- A: The letter also stated an initial information that 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 with attached Tax Declaration and Title of the property.
- Q6: I have with me a copy of letter bearing the official logo of the Municipality of Kananga, Leyte dated August 8, 2018 signed by then Municipal Assessor Engr. Virgilio T. Tiu, marked as **Exhibit B**, with copy of its attachments Tax Declaration No. 21023-00836 (R13) and Transfer Certificate of Title No. T-15094 all under the name of Juliana Nahine, marked as **Exhibit AA and Exhibit BB** respectively, are you referring to these documents?
- A: Yes, I am.
- Q7: What happened to the letter request by the former Municipal Assessor Virgilio Tiu to the Provincial Appraisal Committee as regards the subject property?
- A: Based on the records of the Municipal Assessor's Office, the Provincial Appraisal Committee conducted an ocular inspection of the said land, and thereafter, issued Resolution No. 026-2018 dated August 9, 2018 which provides the following:
 - 1. That the property is declared in the name of Juliana Nahine:
 - 2. That the property is located at Brgy. Tugbong, Kananga, Leyte;
 - 3. That the property contains an area of 1.00 hectares under TD No. 2103-00636 R13, Lot 2, (LRC) PCS-19337 (lots 10184 and 1795) with Title No. T-15094;
 - 4. That the area acquired is 10,000 square meters;
 - 5. That the LGU Kananga Leyte intends to purchase the property for the Proposed (New) Barangay Site of Tugbong;
 - 6. That the amount of One Hundred Forty Pesos per square meter (Php 140.00 sq.m.) is just and reasonable)
- Q8: I have with me a copy of Resolution No. 026-2018 bearing the official logo of the Appraisal Committee dated August 9, 2018, marked as **Exhibit C**, were you referring earlier to this document?
- A: Yes, I am.
- Q9: I have no further questions. Do you have anything else to add or amend in your statement?
- A: None for the moment.

- 2. I have executed this Judicial Affidavit to attest to the truth of the foregoing, the same to be submitted to the Sangguniang Bayan (SB), Municipality of Kananga, in lieu of my direct testimony in a case docketed as SABENIANO K-ADM-2023-002 No. Case complainant, vs. LEAH O. EMPLEO, EMERITA P. LACNO and JERRY P. EMPLEO, defendants.
 - 3. I further sayeth naught.

IN	WITNESS	WHEREOF,	I have	hereunto	affixed	my	signature	this
		in Ormo	c City, f	Philippines.				

AFR 0 8 2024 ROSCOE HERMOSO Affiant/Witnes

SUBSCRIBED AND SWORN TO before me this in Ormoc City, Philippines.

Dec No. 56 Page Mo. 14 šeck No. __ Carles of 2024

MITY. ANJEL S/BALTAZAR Notary Pul.c for the City of Ormoc Municipalities of Kananga, Matag-ob, Merige and Isabel

SWORN ATTEST ATTOM 13-NC issued on 11/03/2023 Valid until December 31, 2024,

PTR No. 7872858, 01/02/2024, Ormoc City

I, DENNIS L. HIBAYA, Filipino, of legal lage, What redewith office address at Solibaga Law Office, J. Navarro St., Ormocassitys after having been sworn to oath in accordance with law, Merebyndepose and state;0下时名下

- I. I faithfully recorded the questions I asked of and the corresponding answers that ROSCOE HERMOSO gave;
- 2. Neither I nor any other person then present or assisting him coached ROSCOE HERMOSO regarding the latter's answers.

IN WITNESS WHEREOF, I have hereunto affixed, my signature on APR 0 8 2024 in Ormoc City, Philippines.

IS L. HIBAYA

AND **SWORN** before SUBSCRIBED in Ormoc City, Philippines.

Dec No. . Page No. 14 Boots No. ____ Series of 1024_

ATTY. ANELS. SALTAZAR Notary Pal. For the City of Ormoc Municipalities of Kananga, Matag-ob, Merida and Isabel NC No. ORM-23-09-013-NC issued on 11/03/2023

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Republic of the Philippines Province of Leyte SIUNICIPALITY OF KANANGA

OFFICE OF THE MUNICIPAL ASSESSOR

August 8, 2018

MTS. MILACROS F. ROBLEDO, REA Provincial Assessor Chairman, Frovincial Appreioal Committee Province of Leyte

Door Madem:

Greetings

The Local Government Unit of Kananga, Leyte has planned to purchase Lot 2, (LRC) Pos-19337 being a portion of the consolidation-subdivision of Lots 10164 & 1795 both of the Cedestral Survey of Ormoc, LRC Ced. 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. Rowene N. Codilla, instructed the undersigned to request the Provincial Appreliasi Committee that you challed to conduct appraisal/essessment of the above-mentioned lot, as required.

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

With sincere thanks,

Municipal Ass

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Republic of the Milippines PROVINCE OF LEYTE Tacloban City -000-



Office of the Provincial Assessor

-000-

PROVINCIAL APPRAISAL COMMITTEE August 9, 2018

EXCERPTS FROM THE MINUTES OF THE MRETING 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;

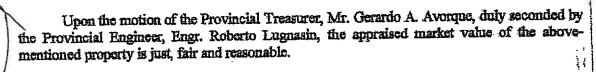
2. That the property is located at Brgy. Tugbong, Kananga, Leyte,

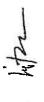
3. That the property contains an area of 1.0000 hectare under Tax Declaration No. 21023-00636 R13, Lot 2, (LRC) Pcs-19337 (Lots 10184 & 1795) with Title No. T-15094;

That the area to be acquired is 10,000 square meters;

 That the Local Government Unit of Kananga Leyte intends to purchase of the property for the Proposed (New) Barangay Site of Tugbong;

That the amount of One Hundred Forty pesos per square meter (F140.00/SQM.)
is just fair and Reasonable.







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. VIRCILIO R. NAYRA, REA

ENGR. LYNDOND GO, REA

LOLITA C. CORREGIDOR, REA

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Judicial Form No. 169-D (Revised September, 1954)

MV 2895590 REPUBLIC OF THE PHILIPPINES

Land Registration Commission REGISTRY OF DEEDS FOR THE PROVINGE OF LAYER

Transfer Certificate of Citle

30. T-19094

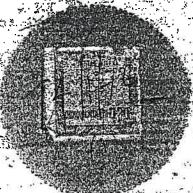
IT IS SERVEY CERTIFIED that certain land situated in the Historian of Lands

The composition-subdivinion survey of Lot 19154 and Lot 1816 and Lot 1

is registered in accordance with the provisions of the Land Registration Act in the name of the light like the name of the light like the colonism land.

It is received that said land was originally registered on the day of TOURNES, in the year nineteen hundred and to the Registration Book of the Office of the Register of Deeds of Volume page as Original Certificate of Title No. pursuant to Decree No. insued in T.R.C. Calland Record No.

This certificate is a transfer from Office Certificate of Title No. which is cancelled by intrine hereof in so far as the above-described land is concerned.



ATTEST:

MEMORANDUM OF ENCUMBRANCES

(When necessary use this page for the continuation of the technical description)

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Exhibit 10

SICION

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

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 I 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

Republic of the Philippines)
City of Ormoc) S.S.

Purpose:

To prove that the witness Atty. ALLAN CASTRO, is the Sangguniang Bayan Secretary of the Municipality of Kananga, Leyte since January 16, 2006 up to the present.

To prove that on September 10 2018, the Sangguniang Bayan of the Municipality of Kananga, Leyte under the former Vice Mayor Elmer Codilla

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passed a Supplemental Ordinance No. 21L.18-048, Series of 2018 which budgeted an amount for the purchase of the land subject of the instant case.

To prove that 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 the same parcel of land intended for Barangay Site of Barangay Tugbong Kananga, Leyte.

To prove that 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 intended as Barangay site of Barangay Tugbong, not as Relocation Site.

He will testify relevant matters and identify relevant documents.

JUDICIAL AFFIDAVIT

- I, Atty. ALLAN CASTRO, of legal age, Filipino, married and a resident of Poblacion, Kananga, Leyte, and presently Sangguniang Bayan Secretary of the Municipality of Kananga, after having been duly sworn to in accordance with law, hereby deposes and states as follows:
 - Q1: Mr. witness, you mentioned that you are the Sangguniang Bayan Secretary of the Municipality of Kananga, since when have you commenced your tenure as the Sangguniang Bayan Secretary of the Municipality of Kananga?
 - A: Since year January 16, 2006 up to the present.
 - Q2: Are you familiar with this instant case filed by Sabeniano Bignay against defendants Leah O. Empleo Emerita P. Lacno and Jerry P. Empleo?
 - A: Yes, because in my capacity as the Sangguniang Bayan Secretary of the Municipality of Kananga, I safe keep the official documents passed by the Sangguniang Bayan of the Municipality of Kananga. The parcel of land subject of the instant case was also the subject of the Resolution and Ordinances previously passed by the Sangguniang Bayan Municipality of Kananga.
 - Q3: What in particular are the documents official passed by the Sangguniang Bayan of the Municipality of Kananga which pertains to the land subject of the instant case?
 - A: On September 10 2018, the Sangguniang Bayan of the Municipality of Kananga, Leyte 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 the land subject of the instant case.

Q4: I have a copy of Supplemental Ordinance No. 21L.18-048, Series of 2018 marked as **Exhibit GG**, are you referring to this document?

A: Yes, Atty.

Q5: After Supplemental Ordinance No. 21L.18-048, Series of 2018 was passed by Sangguniang Bayan of the Municipality of Kananga, was there another document passed by the same body which pertains to the property subject of the same case?

A: Yes, 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 same parcel of land.

Q6: I have a copy of Sangguniang Bayan Resolution No. 21R.18-523, Series of 2018 marked as **Exhibit D**. Are you referring to this document?

A: Yes, Atty.

Q7: After the said SB Resolution authorizing the former Mayor to purchase said land, what else did the previous Sannguniang Bayan do pertaining to said land?

A: 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.

Q8: I have a copy of Sangguniang Bayan Resolution 21R.19-629 series of 2019 marked as **Exhibit I**. Are you referring to this document?

A: Yes, Atty

Q9: What in particular is the property indicated in the Ordinance/Resolutions you previously mentioned?

A: The property indicated in the said Ordinance and/or Resolutions that I mentioned, refers to 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 located in Brgy. Tugbong, Kananga, Leyte covered by TCT No. T-15094.

Q10: In the Resolutions passed by the Sangguniang Bayan of the Municipality of Kananga that you mentioned earlier, what was the purpose of the subject land?

A: The Resolutions passed by the Sangguniang Bayan of the Municipality of Kananga expressly stated that the procured property was intended as Barangay Site of Barangay Tugbong.

Q11: I have no further questions. Do you have anything else to add or amend in your statement?

A: None for the moment.

2. I have executed this Judicial Affidavit to attest to the truth of the foregoing, the same to be submitted to the Sangguniang Bayan (SB), Municipality of Kananga, in lieu of my direct testimony in a case docketed as Admin. Case No. K-ADM-2023-002 SABENIANO BIGNAY, complainant, vs. LEAH O. EMPLEO, EMERITA P. LACNO and JERRY P. EMPLEO, defendants.

3. I further sayeth naught.

IN WITNESS WHEREOF, I have hereunto affixed my signature this _____ in Ormoc City, Philippines.

MAY 15 2024

Atty. ALLAN CASTRO
Affiant/Witness

SUBSCRIBED AND SWORN TO before me this in Ormoc City, Philippines.

252 48 1124

SWORN ATTESTATION

I, DENNIS L. HIBAYA, Filipino, of legal age, married with office address at Solibaga Law Office, J. Navarro St., Ormoc City, after having been sworn to oath in accordance with law, hereby depose and state, THAT:

I. I faithfully recorded the questions I asked of and the corresponding answers that Atty. ALLAN CASTRO gave;

2. Neither I nor any other person then present or assisting him coached Atty. ALLAN CASTRO regarding the latter's answers.

IN WITNESS WHEREOF, I have hereunto affixed my signature on in Ormoc City, Philippines.

MAY 1 5 2024

DENNIS LAMBAYA

SUBSCRIBED AND SWORN TO before me on in Ormoc City, Philippines.

73 17 2024

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Notary Diblifor the City of Ormoc

March and Isrbal

NO. CRM-03 (40 C) Linc issued on 11/03/2023

Valid will Electricia 31, 2024,

PTR No. 287, 856, 01.02/7024, Ormoc City

189 No. 361277, 01/02/2024, Leyte

Roll of Attorney No. 76594

TIN: 400-275-868

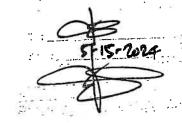
MCLE Exemption Bar Matter No. 850, Sec. 3 (a)

Barron Law Office - John 5-15-24

andannana natan or vananda Municipal Ordinance No. 21L.18-048



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



Sangguniang Bayan of Kananga

21st SANGGUNIANG BAYAN

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

Present: Honorable Elmer C. Codilla

Honorable Macario V. Lumangtad, Jr.

Honorable Marciano L. Nahine

Honorable Resurreccion C. Capanas

Honorable Edita P. Lacno Honorable Lorenzo M. Aseo Honorable Procesa T. Baguio Honorable Mariquita C. Sanchez

Honorable Edward C. Campos

Honorable Jeffsbor G. Cuizon

Vice-Mayor/Presiding Officer

SB Member /Floor Leader

SB Member

SB Member/Assistant Floor Leader

SB Member

SB Member

SB Member

SB Member

SB Member

SK Fed. President, ex-officio member

Absent: Honorable Nilo Gonzaga(On Official Travel)

ABC President, ex Officio Member

ORDINANCE NO. 21L.18-048

(Series of 2018)

AN ORDINANCE APPROPRIATING THE SUM OF SIXTY SIX MILLION FOUR HUNDRED TWENTY TWO THOUSAND ONE HUNDRED SEVENTY FOUR PESOS AND 1/100 (P66,422,174.01) EMBODIED UNDER SUPPLEMENTAL BUDGET NO. 2 CY 2018 FOR THE CONTINUED OPERATION OF THE MUNICIPAL GOVERNMENT OF KANANGA, LEYTE FOR THE PERIOD FROM JANUARY 1 TO DECEMBER 31, YEAR 2018, AND FOR OTHER PURPOSES.

WHEREAS, the Local Chief Executive, in pursuance of the provision of Section 444 (3) (ii) of Republic Act No. 7160, has caused the preparation of Supplemental Budget No. 02 outlining therein the Budgetary Requirements for the continued delivery of basic services, facilities, other functions of the Local Government under Section 17 of the said Code;

WHEREAS, the Sangguniang Bayan through the Committee on Budget and Finance, in the exercise of its power under the Local Government Code, has considered the proposed Supplemental Budget, reviewed evaluated and recommended the approval of the ordinance embodying the proposed appropriation for the Supplemental Budget No. 02 for Calendar Year 2018.

NOWTHEREFORE, considering the above cited premises; be it enacted by the 21st Sangguniang Bayan of Kananga, Leyte on a regular session duly assembled on this 10th day of September 2018 and upon motion of SB Member Procesa T. Baguio, seconded by SB Member Capanas, to wit:

Section 1. Appropriation of Funds - It is hereby appropriated the sum of Sixty Six Million Four Hundred Twenty Two Thousand One Hundred Seventy Four Pesos and 1/100 (P66,422,174.01).

Section 2. Source of Funds - Savings from the Retained Earnings as of December 31, 2017.

Section 3. Object of Expenditures with the corresponding amount herein below enumerated:

2 |21st Sanggunlang Bayan of Kananga Municipal Ordinance No. 21L.18-048

	No. 21L.18-048	Object of	SISTER
nplementing Office	Particulars/Purpose	Expenditures	Amount
Office			
Municipal	Personal Services (100)	PS	₱ 227,016.00
Mayor's	Salaries & Wages - Casual		48,000.00
	Personnel Economic Relief Allowance (PERA)	PS	
Office	Personnier Loorionier Touropce	PS	37,000.00
1011	Clothing/Uniform Allowance	PS	15,000.00
	Productivity Incentive Allowance(PEI)	PS	18,918.00
	Year End Bonus	PS	10,000.00
	Cash Gift		1
	Pag-IBIG Contributions	PS	2,400.00
	Pag-IBIG Contributions	PS	30,000.00
	PhilHealth Contributions	PS	250,000.00
ä	Terminal Leave Benefits	. •	₽ 638,334.00
	Sub-total		P 636,334.00
	Maintenance and Other Operating Expenses		
	Wallterlance and Other opening.	MOOE	₱ 3,000,000.00
	Electricity Expenses		
	Other Maintenance & Operating Expenses	MOOF	2,000,000.00
	Socio-Cultural Activities	MOOE	600,000.00
	Honorarium of BHW and BNS	MOOE	330
	1	MOOE	150,000.00
	PLEB		₱ 5,750,000.00
	Sub-total		
	Capital Outlay	c.0	₱ 4,650,000.00
	Procurement of Two (2) Unit Dump Truck	4	1,350,000.00
	Procurement of One (1) Unit Vehicle (Pick-up)	C.O	
	Land (Survey, Titling etc.)	C.O	263,000.00
	Procurement and Installation of CCTV	C.O	300,000.00
	Procurement and installation of Count System	C.O	50,000.00
	Procurement and Installation of Sound System	1	
	Procurement of Lot @ Brgy. Natubgan,	C.O	1,000,000.00
	Kananga, Leyte Procurement of Lot @ Brgy. Tugbong,	C.O	1,400,000.00
	Kananga, Leyte Procurement of Rescue Vehicle Brgy.	c.o	1,390,000.00
	Tongonan, Kananga, Leyte		
	Procurement of Stainless Municipal Logo Signage	C.O	35,000.00
	Sub-total		₱ 10,438,000.00
	Sub-rotai		
Municipal	Personal Services (100)	PS	₽ 27,000.00
Vice-Mayor's	Clothing/Uniform Allowance	PS	11,000.00
Office	Philhealth Contributions		₱ 38,000.00
1,021	Sub-total		50,000.00
	Maintenance and Other Operating Expenses		- 400 000 00
	Travelling Expenses	MOOE	₱ 400,000.00
		Į.	₱ 400,000.00
	Sub-total		
	Capital Outlay	C.0	90,000.00
	Furniture and Fixture	0.0	90,000.00
	Sub-total		90,000.00
	Burnal Sandage (100)		
Sangguniang	Personal Services (100)	PS	₱ 4,000.00
Bayan	Clothing/Uniform Allowance	· -	₱ 4,000.00
Secretary's	Sub-total	+	1,120
_		1	1
Office	Conital Outlay		
1022	Capital Outlay	C.O	₹ 80,000.00
1	Procurement of 1 unit Desktop Computer	C.O	10,000.00
-	Procurement of 2 units Computer Tables	0.0	90,000.00
	Sub-total	1	90,000.00
_		6:	
Municipal	Personal Services (100) d Clothing/Uniform Allowance	PS	₱ 7,000.00
	d Clothing/Uniform Allowance	/ /	

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3 |21st Sangguniang Bayan of Kananga Municipal Ordinance No. 21L.18-048

Matholbai Oramanoo i	110, 2 (2,10 0 10		No.	
Development	Sub-total	3 2024	7,000.00	
Office				
Registrar's Office	Personal Services (100) Clothing/Uniform Allowance Sub-total	PS	₱ 6,000.00 ₱ 6,000.00	
1051	Maintenance and other Operating Expenses Office Supplies Expenses Sub-total	MOOE	7,000.00 7,000.00	
Municipal General Services Office 1061	Personal Services (100) Clothing/Uniform Allowance Philhealth Contributions Sub-total	PS PS	₱ 29,000.00 2,000.00 ₱ 31,000.00	
1001	Capital Outlay Procurement of 2 units Aircondition	C.O	P 100,000.00	
Municipal Budget Office 1071	Personal Services (100) Clothing/Uniform Allowance Philhealth Contributions Sub-total	PS PS	₱ 3,000.00 1,600.00 ₱ 4,600.00	
	Capital Outlay Procurement of 1 unit Aircondition	C.O	₱ 35,000.00	
Municipal Accounting Office 1081	Personal Services (100) Salaries & Wages - Casual Clothing/Uniform Allowance Year End Bonus Philhealth Contributions Sub-total	PS PS PS PS	₱ 23,100.00 17,000.00 3,500.00 1,500.00 ₱ 45,100.00	\
	Maintenance and other Operating Expenses Office Supplies Expenses Sub-total	MOOE	₱ 65,000.00 ₱ 65,000.00	Sapar
	Capital Outlay Procurement of One (1) unit Heavy Duty Digital Full Color Copier Procurement of Heavy Duty Electronic Stapler Sub-total	C.O C.O	₱ 330,000.00 21,600.00 ₱ 351,600.00	Dr. Dus
Municipal Treasurer's Office 1091	Personal Services (100) Clothing/Uniform Allowance Philhealth Contributions Sub-total	PS PS	₱ 11,000.00 1,700.00 ₱ 12,700.00	7
	Capital Outlay Procurement of One (1) unit Water Dispenser Sub-total	c.0	₱ 10,000.00 ₱ 10,000.00	(
Municipal Assessor's Office 1101	Personal Services (100) Clothing/Uniform Allowance Philhealth Contributions Sub-total	PS PS	₱ 6,000.00 1,000.00 ₱ 7,000.00	
Municipal Administrator Office	Personal Services (100) Clothing/Uniform Allowance Sub-total	PS PS	₱ 5,000.00 ₱ 5,000.00	

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4 |21st Sangguniang Bayan of Kananga Municipal Ordinance No. 21L.18-048

nicipal Ordinance	e No. 21L.18-048	+-	<u> </u>
		3-224	
Municipal	Personal Services (100)		
Health	Clothing/Uniform Allowance	PS	₱ 22,000.00
Office	Philhealth Contributions	PS	1,000.00
4411	Sub-total		₱ 23,000.00
			_
	Maintenance and Other Operating Expenses	MOOE	₹ 3,000.00
	Drugs and Medicines Expenses	MOOL	₹ 3,000.00
	Sub-total		0,000.00
	7 (Complete (400)		
Kananga	Personal Services (100) Clothing/Uniform Allowance	P\$	₱ 19,000.00
Municipal	Sub-total		₱ 19,000.00
Hospital	Sup-total		
4422			
Municipal	Personal Services (100)	50	₱ 7,000.00
\griculture	Clothing/Uniform Allowance	PS	7,000.00 1,000.00
Office	Philhealth Contributions	PS	
8711	Sub-total		₱ 8,000.00
Municipal	Personal Services (100)	PS	₱ 38,718.00
ngineering	Salaries & Wages - Regular	PS	6,000.00
Office	Personnel Economic Relief Allowance (PERA)	PS	21,000.00
8751	Clothing/Uniform Allowance	PS	12,906.00
	Year End Bonus	PS	5,000.00
	Cash Gift Retirement and Life Insurance Contribution	PS	4,900.00
	Retirement and Life insulance contributions	PS	300.00
	Pag-IBIG Contributions	PS	3,000.00
	Philhealth Contributions		₱ 91,824.00
	Sub-total		
	Capital Outlay		₱ 1,000,000.00
	Construction of Tombs	C.O	1,000,000.00
	Repair & Improvement of Buildings	C.O	650,000.00
	Construction of Footbridge @ Sitio Codilla	C.O	650,000.00
	Brov. Rizal, Kananga, Leyte	0.0	760,047.89
	Construction of Open Court/Sports Facility	C.O	7,00,047.00
	@ Sitio Cogay, Brgy. Rizal, Kananga, Leyte	C.O	563,517.00
	Road Concreting @ New Site, Brgy. Rizal	C.O	1,000,000.00
	Road Concreting @ Brgy. Proper, Brgy.	0.0	
	Montebello, Kananga, Leyte	C.O	500,000.00
	Construction of Footbridge @Zone Jupiter, Brgy. Montebello, Kananga, Leyte		
	Construction of Riprap/Slope Protection @	C.O	335,752.51
	Sitio Boski 1, Brgy. San Isidro, Kananga Leyte		500 F74 00
	Construction of Access Road to Brgy. Hall,	C.O	582,574.00
	Broy San Isidro, Kananga, Leyte		
	Road Concreting @ OCCCI, Brgy. Libongao,	C.O	844,026.00
	Kananga, Leyte 1.2 KM. Road Surfacing @ Sitio Busay to	C.O	2,166,761.00
	Sitio Bana-ao, Brgy. Libongao, Kananga,Leyte		
N.	Construction of Pathway @ Sitio Buga,	C.O	127,146.94
1	Brgy. Libertad, Kananga, Leyte		.== 200.00
/	Construction of Footbridge @ Sitio Laray,	C.O	450,000.00
,	Brgy. Libertad, Kananga, Leyte	2.2	916,152.00
$\overline{}$	Road Concreting @ Brgy. Site,	C.O	910,102.00
	Broy Libertad, Kananga, Leyte	00	535,460.00
7	Road Concreting to Brgy. Hall @ Sitio Pikas,	C.O	000,400.00
- X	Brgy, Tagaytay, Kananga, Leyte	C.O	900,000.00
	Tire Path @ Sitio Camborja	0.0	
	Brgy. Tagaytay, Kananga, Leyte	C.O	1,290,148.90
	Road Concreting @ Sitio Valencia,	1	1

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5 |21st Sangguniang Bayan of Kananga Municipal Ordinance No. 21L.18-048

pal Ordinance No.	21L.18-048	2000	- 5
	Brgy. Cacao, Kananga, Leyte	100	559,657.00
į.	Road Concreting @ Brgy. Cacao (101/1), Narianga	4	840,025.84
	Construction of Pathway @ Sitio Estraga \		040,020.01
V.	Curva & Talisay, Brgy. Kawayan, Kananga	c.0	250,000.00
	Construction of Tanod Outpost @ Brgy.	0.0	220,000
	Kawayan Kananga, Leyte	00	893,224.90
	Construction of Open Court Sports Facility	C.O	000,22
	@ Bray Hiloctogan, Kananga, Leyte	0.0	804,304.03
	Construction of Tirepath @# Sitio Pikas	C.O	004,004.00
	Broy Hiloctogan, Kananga, Leyte		800,000.00
i	Construction of Open Court Sports Facility	C.O	800,000.00
	@ Brgy. Natubgan, Kananga, Leyte	_	700,000,00
4	Road Concreting at Sitio Laray	C.O	720,000.00
}	Bray Maghalin Kananga, Leyte		
	Road Concreting going to Sitio Canlutao,	C.O	500,000.00
V)	Broy Naghalin, Kananga, Leyte		800,000.00
V	Repair Renovation of Barangay Hall @	C.O	000,000.00
	Brgy. Tugbong, Kananga, Leyte		1,361,638.00
35.7	Construction of Tire Path @ Sitio	C.O	1,361,030.00
	Mahogany-Anagasi, Brgy, Montealegre		700,000.00
1	Binran @ Broy, Hall, Broy, Lim-ao, Kananga	C.O	427,730.00
	Concrete Topping of Basketball Court @	C.O	427,730.00
	Brgy. Sto. Domingo, Kanang, Leyte		3,500,000.00
	Road Concreting going to Dumpsite @	C.O	3,500,000.00
	Poblacion, Kananga, Leyte		705 600 00
	Flood Control @ Zone IV, Brgy. Lonoy	C.O	705,600.00
	Kananga, Leyte (Counterpart)		746 400 00
1	Construction of Concrete Box Culvert	C.O	716,100.00
	Brgy. Lonoy, Kananga, Leyte		500,000,00
	Construction of Steel Foot Bridge	C.O	500,000.00
1	Brgy, Lonoy, Kananga, Leyte		004 450 00
	Replace of Damage Cross Drainage &	C.O	264,150.00
	Concrete Pavement @ Zone VI, Brgy. Lonoy		
	Road Concreting at Sitio San Agustin,	C.O	500,000.00
	Brgy. Poblacion, Kananga, Leyte		. == 000 00
	Repair and Improvement of Conventional Boiler	C.O	150,000.00
	Improvement of Water System Municipalwide), U.U	15,000,000.00
	of MPE @ Sitio Napagasan,	C.O	171,000.00
1	Brgy. Poblacion, Kananga, Leyte (Counterpart))	000,000,00
	Construction of Municipal Boundary Welcome	C.O	300,000.00
			77.040.04
	Signage		₱ 44,085,016.01
	Sub-total		
11	(400)		10 000 00
Kananga	Personal Services (100)	PS	₱ 13,000.00
Municipal	Clothing/Uniform Allowance	PS	1,000.00
Waterworks	Philhealth Contributions		₱ 14,000.00
System	Sub-total Sub-total	Ý.	
-	(400)		
Public	Personal Services (100)	PS	₽ 2,000.00
Market	Clothing/Uniform Allowance	PS	1,000.00
8811	Philhealth Contributions		₱ 3,000.00
	Sub-total	1	
Municipal	Personal Services (100)	PS	₱ 4,000.00
Slaughterhous	Clothing/Uniform Allowance	PS	500.00
8812	Philhealth Contributions		₱ 4,500.00
0012	Sub-total		
	·	1	
Mun. Busines:	Personal Services (100)	PS	1,000.0
	Clothing/Uniform Allowance	PS	500.00
Permit Licensing	Philhealth Contributions	Lo	₽ 1,500.0
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6 21st Sangguniang Bayan of Kananga Municipal Ordinance No. 21L.18-048

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Mun. Social Development Office	Personal Services (100) Clothing/Uniform Allowance Philhealth Contributions Sub-total	PS PS	•	4,000.00 500.00 4,500.00
	Maintenance and Other Operating Expenses Donations-DSWD Program (AICS)	MOOE	P	1,000,000.00
Human Resources & Management Office	Personal Services (100) Clothing/Uniform Allowance Philhealth Contributions Sub-total	PS PS	P	3,000.00 500.00 3,500.00
Mun. Circuit Trial Court	Maintenance and Other Operating Expenses Other Professional Services	MOOE	P	18,000.00
Mun. Disaster Risk Reduction & Management Office	Personal Services (100) Clothing/Uniform Allowance Philhealth Contributions Sub-total	PS PS	P	10,000.00
Mun. Livelihood & Cooperative Office	Personal Services (100) Clothing/Uniform Allowance Philhealth Contributions Sub-total	PS PS	P	1,000.00
TOTAL APPROPRIATION				3,422,174.01

Section 4. Expenditure Component - Except by act of the Sangguniang Bayan, no changes or modification shall be made on the expenditure items authorized in the ordinance as detailed in the LBP Form 9 duly signed by the Municipal Budget Officer and the Local Chief Executive.

Any changes or modifications in the expenditure items in violation of this shall subject the erring official or employee to appropriate criminal and administrative sanctions as maybe provided under existing laws.

Section 5. Use of Savings and Augmentation. In accordance with Section 336 of Republic Act No. 7160, the Local Government Code of 1991, the Municipal Mayor and the Presiding Officer of the Sagguniang Bayan are authorized to augment any item in the approved annual budget for their respective offices from savings in other items within the same expense class of their respective appropriations.

For this purpose, "savings" refer to portions or balances of any programmed appropriation free from any obligation or encumbrance still available after the satisfactory completion or the unavoidable discontinuance or abandonment of the work, activity or purpose for which the appropriation is authorized or arising from unpaid compensation and related costs pertaining to vacant positions and leaves of absences without pay.

"Augmentation" implies the existence in the budget of an item, project or activity or purpose with an appropriation which, upon implementation or subsequent evaluation of needed resources, is determined to be deficient.

Section 6. Separability Clause - If, for any reason, any item of expenditure appropriated in this ordinance is declared unlawful nor invalid, other items of the appropriations which are not otherwise affected shall continue in full force and effect.

Section 7. Effectivity Clause - This Ordinance shall take effect upon approval.

UNANIMOUSLY APPROVED.

APPROVED BY THE SANGGUNIANG BAYAN OF KANANGA AT ITS REGULAR SESSION ON SEPTEMBER 10, 2018.

AYES: (09)

NAYS: (0)

HON. MACARIO V. LUMANGTAD, JR.

Sangguniang Bayan Member/ Floor Leader

HON. MARCIANO L. NAHINE Sangguniang/Bayan Member

HON. EDITAP. LACYO Sangguniang Bayan Member

HON. MARIQUITA C. SANCHEZ Sangguniang Bayan Member

(on official travel) **HON. NILO GONZAGA**ABC President, Ex-Officio Member

HON. RESURRECCION C. CAPANAS Sangguniang Bayan Member/Asst. Floor Leader

HON. LORENZO M. ASEO Sangguniang Bayan Member

HON. PROCESA T. BAGUIO Sangguniang Bayan Member

HON. EDWARD C. CAMPOS
Sangguniang Bayan Member

HON. JEFFSBOR G. CUIZON SK Fed. President, Ex-Officio Member

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

(Board Secretary V)

Secretary to the Sangguniang Bayan

ATTESTED:

ELMER C. CODILLA
Vice-Mayor/Presiding Officer

APPROVED:

ROWENA N. CODILLA

Municipal Mayor

(Date)



Republic of the Principle Province of Layte Maligally of Karanga -aOa-

Sangguniang Bayan of Kananga

21ST SANGGUNIANG BAYAN

EXCERPTS FROM THE MINUTES OF THE REGULAR SESSION WILLD BY THE SANGGUNIANG BAYAN OF KANANGA ON MAY 15, 2019 AT THE 19 SESSION HALL.

Present: Honorable Elmer C. Codilla

Honorable Macario V. Lumengtad, In-

Honorable Marciono L. Nabina Honorable Lorenzo M. Aseo

Honorable Resurrection C. Copanas

Honorable Edita P. Lacno Honorable Procesa T. Bogulo Honorable Edward C. Campos

Honorable Mariquita C. Sanchoz Honorable Nilo Gonzaga Honorable Jeffsbor G. Cuizon

Gresiding Officer/Vice-Mayor Floor Leader/SB Member

SB Member

SB Mamber SB Member

SB Mambar

SB Mamber

SB Member

SB Member ADC Crosident, ex Officio Member

SN (1) I. Pres. /Ex-officio Member

RESOLUTION NO. 21R.19 (29) 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 LIND Lot No. 2 (LRC) PCS-19337, LOCATED IN BARANGAY TUGBONG, KANANGA 1 SYTE.

WHEREAS, the Local Government Unit of Kananga had approprieted limits for the procurement of fot in Barongay Tugirong, Kananga, Leyte which is int. Bad as baranguy site of the said berangay;

WHEREAS, after the verification of lot and the production of the the lived documents including the Resolution of the Provincial Appraisal Committee, if it is No. 2, (LRC) Pos-19337. signated in Barongay Tugliong, Kananga, Leyte containing on area of Ten Thousand (10,000) square meters covered by Transfer Certification of Title No. T-15694 was finally acquired by the LGU Kanenga as evidenced in the Deed of Extrajudicial Settlement of Estate With Deed of Absolute Sale dated J. 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 Born pay Tugbong for the reason that the barangey is the benefitial user of the said proper-

NOW THEREFORE, on motion of SB Member Resurrection C. Capanas - ruly seconded an malse, be

RESOLVED, as it is horeby resolved, to authorize the Municipa. We are of Kananga, Honorable Remains N. Codilla to denate to Barangay Tughong, Karmann, Leyte the LGU-acquired parcel of land Lot No. 2 (LRC) Pos-19837, located in Colongay Tugbong, Kenanga. LEVIE.

CARRIED UNANIMOUSLY.

I HEREBY CERTIFY to the correctness of the afair.

ATTY. MLAN R. GASTRO Beard Segretary D

to the Spreng Enlang Payan)

ATTESTED: ELMZŔ C. CODILLA

APPROVED

ROWENA N. CODILLA

Municipal Mayoff 5/24/1:1

(Date)





Republic of the Philippines Province of Leyte Municipality of Kanonga -aΩo-

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

Honorable Macario V. Lumangtad, Jr.

Honorable Marciano L. Nahina Honorable Lorenzo M. Aseo

Honorable Resurrection C. Capanas

Honorable Edita P. Lacno Honorable Procesa T. Baguio

Honorable Edward C. Campos Honorable Mariquita C. Sanchez

Honorable Nilo Gonzaga

Hancrable Jeffsbor G. Cuizon

Presiding Officer/Vice-Mayor

Floor Leader/SB Member

SB Mamber SB Member

SB Mambar

SB Mamber

SB Mambar

SB Member

SB Member

ABC Fresident, ex Officio Member 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,

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 barongays 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 Let 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 Nahina.

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

NOW THEREFORE, on motion of SB Member Marciana L. Nahine, duly seconded by SB Member

Edward C. Campos, BE IT: RESOLVED, as it is hereby resolved, to authorize the Municipal Mayor Honorable Rowens N. Codilla to negotiate, enter into contract, sign documents and to purchase Lot No. 2 -Pcs-19337 located in Barangay Tugbong, Kananga, Leyta 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 Berangay Tugbong, Kananga, Leyte.

CARRIED UNANIMOUSLY.

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

ATTY. ALLAN R. CASTRO

Board Secretary W (Secretary to the Sansguntary Bayan)

ATTESTED:

ELMER C. CODILLA-Vice Mayor/Presiding Officer

APPROVED.

ROWENA N. CODILLA icipal Mayors

(Date)





Exhibit 11

Republic of the Philippines

Sangguniang Bayan (SB)

Municipality of Kananga,

Province of Leyte

-000-

JB 2024 4:25 Pm

SABENIANO BIGNAY,

Complainant,

Admin Case No. K-ADM-2023-002

FOR:

Dishonesty, Oppression, Office, Misconduct Gross in 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

Republic of the Philippines)
City of Ormoc) S.S.

Purpose:

To prove that the witness Atty. ADELITO M. SOLIBAGA, JR. is the Municipal Legal Officer-Designate of the Municipality of Kananga, Leyte since May 5, 2021 up to the present.

To prove that on August 24, 2023, the Municipal Mayor Hon. Manuel M. Torres, sent a Formal Notice of Revocation/ Cancellation of Deed of

Donati on and Demand to Vacate addressed to the defendant Leah Empleo through the Municipal Legal Officer-designate.

To prove further that the demand to vacate and to demolish the improvements was not heeded by the identified occupants. He will testify relevant matters and identify relevant documents.

JUDICIAL AFFIDAVIT

- I, Atty. ADELITO M. SOLIBAGA, JR., of legal age, Filipino, married and a resident of Brgy. Lonoy, Kananga, Leyte, and presently the Municipal Legal Officer-Designate of the Local Government Unit of Kananga, Leyte, after having been duly sworn to in accordance with law, hereby deposes and states as follows:
 - QI: Mr. witness, you mentioned that you are the Municipal Legal Officer-Designate of the Municipality of Kananga, Leyte, since when have you commenced your tenure as the Municipal Legal Officer-Designate of the Municipality of Kananga, Leyte?
 - A: Since May 5, 2021 up to the present.
 - Q2: Are you familiar with this instant case filed by Sabeniano Bignay against defendants Leah O. Empleo, Emerita P. Lacno and Jerry P. Empleo?
 - A: Yes, because in my capacity as the Municipal Legal Officer-Designate of the Municipality of Kananga, Leyte, I formally demanded the identified occupants of the land subject of the instant case to vacate and to demolish all improvements found thereon. I also sent Formal Notice of Revocation/Cancellation of Deed of Donation and Demand to Vacate to the Punong Barangay of said Barangay who is one of the respondents in this case.
 - Q3: What in particular is the property indicated your demand letter?
 - A: The property indicated in the demand letter refers to 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 located in Brgy. Tugbong Kananga, Leyte covered by TCT No. T-15094.
 - Q4: What was the reason for issuing to the identified occupants of the area, the demand to vacate and to demolish and Notice of Revocation/Cancellation of Deed of Donation and Demand to Vacate that you sent to the Punong Barangay?

- A: As stated in the demand letter, the Committee of the Whole of the present SB conducted an investigation and 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 prevailing laws;
 - b. The deed of donation executed by Rowena Codilla went 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 was 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 Sangguiniang Barangay who accepted and actually introduced improvements thereon without legal basis.
 - Q5: You mentioned that you sent notice demand letters, who are these individuals who were served with demand letters?
- A: The following persons were identified as the area's occupants and were served with the demand letter:
 - a. Alejandro Nadonza
 - b. Kieven Wenceslao
 - e. Danilo Guisando
 - d. Marian Rafolz
 - e. Danilo Rafolz
 - f. Florabelle Cabalejo
 - g. Mercidita Dasal
 - 竹. Amy Abilong
 - i Analyn Moana
- Q6: I have with me a copy of demand letter dated September 4, 2023 addressed to the persons you have identified earlier and marked as **Exhibits N** to **Exhibit V**, are you referring to these documents?
- A: Yes, I am.
- Q7: After the demand letter were sent to the identified occupants, what happened next?
- A: The demand to vacate and to demolish the improvements was not heeded by the occupants.

I have no further questions. Do you have anything else to add or amend in your statement?

None for the moment. A:

- 2. I have executed this Judicial Affidavit to attest to the truth of the foregoing, the same to be submitted to the Sangguniang Bayan (SB), Municipality of Kananga, in lieu of my direct testimony in a case docketed as K-ADM-2023-002 BIGNAY. SABENIANO No. Case complainant, vs. LEAH O. EMPLEO, EMERITA P. LACNO and IERRY P. EMPLEO, defendants.
 - 3. I further sayeth naught.

IN WITNESS WHEREOF, I have hereunto affixed my signature this in Ormoc City, Philippines.



SUBSCRIBED AND SWORN TO before me this in Ormoc City, Philippines.

200 2024

SWORN ATTESTATION

R No. 7872659, 61/02/2024 P 104 381434, 12/29/2023 Roll of Attorney No. 76903 I, DENNIS L. HIBAYA, Filipino, of legal age, married with office address at Solibaga Law Office, J. Navarro St., Ormoc City, after having been sworn to oath in accordance with law, hereby depose and state, THAT:

- I. I faithfully recorded the questions I asked of and the **ADELITO** that Atty. answers corresponding SOLIBAGA, JR gave;
- 2. Neither I nor any other person then present or assisting him coached Atty. ADELITO M. SOLIBAGA, JR regarding the latter's answers.

IN WITNESS WHEREOF, I have hereunto affixed my signature on in Ormoc City, Philippines.

> SWORN Public of the before AND SUBSCRIBED ___ in Ormoc City, Philippines

DOINTON LOW Office - SON NO. ORN 23-09-013-NC issue for 11/03/26
T-8-79/alid until December 31/2024.
PTR No. 7872858, 01/02/2024, Ormoc City

ISP No. 301277, 01/02/2024, Leyte

Roll of Accorney No. 76594

TIN: 400-275-868 - De- Morana Ala ORA Ras 2 /al







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 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.

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. 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. 21L18-048, Series of 2018 which budgeted an amount for the purchase of said land.



1 HOPOMER



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 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 inconformity 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. Agelito M. Solibaga Jr. Municipal Legal Officer-designate







MUNICIPAL LEGAL OFFICE

Real St., Poblacion, Kananga, Leyte

September 4, 2023

Mr. Kieven Wenceslao Barangay Tubgong,

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 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.

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. 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.

KANANGA

KIEVEN WEDGESTA



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 <u>intended for Barangay Site</u> 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 <u>Barangay Site of Barangay Tugbong</u>, 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 inconformity 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









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 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.

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

- 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.



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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 <u>Barangay Site of Barangay Tugbong</u>, not a <u>Relocation Site</u>. The copy of said SB Resolution is hereto attached as <u>Annex E</u>.
- 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 inconformity 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:

- 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,

Mety. Adelito M. Solibaga jr. Municipal Legal Officer designate









MUNICIPAL LEGAL OFFICE

Real St., Poblacion, Kananga, Leyte

September 4, 2023

Mr. Marian Rafolz Barangay Tubgong, Kananga, Leyte

Subject: Demand to Vacate

Dear Mrs. 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 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.

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. 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.

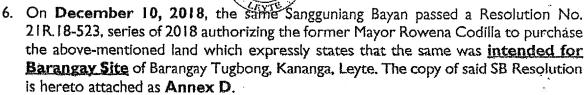
On **September 10, 2018**, the 21st Sangguniang Bayan under the former Vice Mayor, Elmer Codilla passed a Supplemental Ordinance No. 21L18-048, Series of 2018 which

budgeted an amount for the purchase of said land.



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MAYOR



- 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 <u>Barangay Site of Barangay Tugbong</u>, 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 inconformity 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 ypurs,

Mety. Melico M. Solibaga Jr. Municipal Legal Officer-designate









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 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.

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. 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.



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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 inconformity 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



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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, REVOKED/CANCELLED the void-from-the-very-beginning DEED OF DONATION, which was illegally and hastily executed by Rowena Codillaton 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.

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. 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 abovementioned 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 21 Sanggunlang 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

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9. This is contrary to, and not inconformity 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

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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,

Acty Mael to M. Solibaga Jr. Municipal Legal Officer-designate



MAYOR





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 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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- 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 21 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 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 inconformity 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.

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Respectfully yours,

<u>Dety. Adelito M. Solibaga Jr.</u> Municipal Legal Officer-designate









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 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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5. On **September 10, 2018**, the 21 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 <u>intended for Barangay Site</u> 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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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**.

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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.

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Respectfully, yours,

Municipal Legal Officer-designate



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MAYOR MAI



Annex Y

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 Godilla 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.

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. 1-15094, tax declared under the name of Juliana Nahine and located in Brgy, Tugoong, 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, 20, 8 (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 21" 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 inconformity 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





Republic of the Philippines Department of Justice NATIONAL PROSECUTION SERVICE REGIONAL PROSECUTION OFFICE VIII

Bulwagan ng Katarungan, Tacloban City Tel. No. (053) 832-2988



THE MUNICIPALITY OF KANANGA, LEYTE, represented by Mayor Manuel Vicente M. Torres,

Complainant-Appellant,

NPS NO. VIII-02g-INV-23J-00109

For: Illegal Use of Public Funds or Property (Violation of Article 220 of the **Revised Penal Code**)

versus -

LEAH O. EMPLEO, EMERITA P. LACNO, BEATRIZ C. NAHINE, ALIPIO C. CABALEJO, JR., GERARDO D. ODAN, JERRY P. EMPLEO, ELMER S. RUADO and ROWENA N. CODILLA

Respondent-Appellees.

Date Assigned: June 10, 2024 Date Resolved: June 18, 2024 Promulgated: _______ 0 7 AUG 2024

RESOLUTION

This resolves the petition for review of the Resolution on Motion for Reconsideration of the Provincial Prosecutor of Leyte dismissing the above-entitled complaint, for lack of probable cause.

Records show that one of the respondent-appellees, Rowena N. Codilla, is a former Municipal Mayor of Kananga, Leyte. She is being charged in connection with performance of duties while still Mayor, which position has a salary grade of 27, making the complaint Sandiganbayan cognizable.

After evaluation of the petition and its attachment, it appears to us that the assailed resolution has been promulgated without authority from the relevant Office of the Ombudsman (OMB).

In *Honasan II vs. Panel of Investigating Prosecutors*, ¹ the Supreme Court, citing Sections 2 and 4, Rule 112 of the Revised Rules on Criminal Procedure (RRCP), held:

[RRCP] confirm the authority of the DOJ prosecutors to conduct preliminary investigation of criminal complaints filed with them for offenses cognizable by the proper court within their respective territorial jurisdictions, including those offenses which come within the original jurisdiction of the Sandiganbayan; but with the qualification that in offenses falling within the original jurisdiction of the Sandiganbayan, the prosecutor shall, after their investigation, transmit the records and their resolutions to the Ombudsman or his deputy for appropriate action. Also, the prosecutor cannot dismiss the complaint without the prior written authority of the Ombudsman or his deputy, nor can the prosecutor file an Information with the Sandiganbayan without being deputized by, and without prior written authority of the Ombudsman or his deputy. (Emphasis in Original)

It is clear in *Honasan II* that while OMB and Department of Justice (DOJ) have concurrent jurisdiction, for offenses falling within the original jurisdiction of the Sandiganbayan, the procedure in Section 4 of the RRCP is that the investigating DOJ Prosecutor "shall" transmit the record of the case and his resolution to the Ombudsman or his deputy for appropriate action. And in paragraph 3 Section 4 of the RRCP, the prosecutor cannot dismiss the complaint without the prior written authority of the Ombudsman or his deputy.

The pertinent section of Rule 112 of the RRCP reads:

SEC. 4. Resolution of investigating prosecutor and its review. - If the investigating prosecutor finds cause to hold the respondent for trial, he shall prepare the resolution and information, He shall certify under oath in the information that he, or as shown by the record, an authorized officer, has personally examined the complainant and his witnesses; that there is reasonable ground to believe that a crime has been committed and that the accused is probably guilty thereof; that the accused was informed of the complaint and of the evidence submitted against him; and that he was given an opportunity to submit controverting evidence. Otherwise, he shall recommend the dismissal of the complaint.

Within five (5) days from his resolution, he shall forward the record of the case to the provincial or city prosecutor or chief state prosecutor, or to the Ombudsman or his deputy in cases of offenses cognizable by the Sandiganbayan in the exercise of its original jurisdiction. They shall act on the resolution within ten (10) days from their receipt thereof and shall immediately inform the parties of such action.



¹ G.R. No. 159747, April 13, 2004

No complaint or information may be filed or dismissed by an investigating prosecutor without the prior written authority or approval of the provincial or city prosecutor or chief state prosecutor or the Ombudsman or his deputy.

Where the investigating prosecutor recommends the dismissal of the complaint but his recommendation is disapproved by the provincial or city prosecutor or chief state prosecutor or the Ombudsman or his deputy on the ground that a probable cause exists, the latter may, by himself file the information against the respondent, or direct another assistant prosecutor or state prosecutor to do so without conducting another preliminary investigation.

If upon petition by a proper party under such rules as the Department of Justice may prescribe or motu proprio, the Secretary of Justice reverses or modifies the resolution of the provincial or city prosecutor or chief state prosecutor, he shall direct the prosecutor concerned either to file the corresponding information without conducting another preliminary investigation, or to dismiss or move for dismissal of the complaint or information with notice to the parties. The same Rule shall apply in preliminary investigations conducted by the officers of the Office of the Ombudsman. (Emphasis supplied)

Moreover, OMB has primary jurisdiction over cases falling within the jurisdiction of the Sandiganbayan, and it may take over those cases at any stage of the investigation. OMB asserted this primary jurisdiction in its Memorandum of Agreement (MOA) with DOJ dated 29th March 2012. And in recognition of the OMB's primary jurisdiction, the DOJ committed in the aforesaid MOA, as follows:

- 1. The OMB has primary jurisdiction in the conduct of preliminary investigation and inquest proceedings over complaints for crimes cognizable by the Sandiganbayan.
- 2. If, upon the filing of a complaint, the prosecution office of the DOJ determines that the same is for a crime falling under the exclusive jurisdiction of the Sandiganbayan, it shall advise the complainant to file it directly with the OMB: Provided, That in case a prosecution office of the DOJ receives a complaint that is cognizable by the Sandiganbayan, it shall immediately endorse the same to the OMB. Provided further, That in case where there are multiple respondents in a single complaint and at least one respondents falls within the jurisdiction of the Sandiganbayan, the entire records of the complaint shall be endorsed to the OMB.

Apparently, a crucial step in the investigation has been overlooked by the office a quo — it failed to transmit the records of the complaint and the assailed resolution to the Ombudsman or his deputy, for appropriate action.



Thus, going by the aforecited mandatory provisions of the RRCP, and the OMB-DOJ MOA, the assailed resolution is unauthorized, and has no force and effect.

At this instance, the complainant-appellant's remedy against the assailed resolution has not yet ripen, making the subject petition premature.

WHEREFORE, the foregoing considered, the petition is hereby **DISMISSED**, for being **PREMATURE**. The office a quo is hereby directed to comply with the pertinent sections of Rule 112 of the RRCP and OMB-DOJ MOA dated 29th March 2012.

SO ORDERED.

Regional Prosecutor

Copy furnished:

THE PROVINCIAL PROSECUTOR OF LEYTE Bulwagan ng Katarungan Tacloban City

ATTY. ADELITO M. SOLIBAGA, JR. Municipal Attorney-Designate of Complainant-appellant Municipal Legal Office LGU- Kananga, Leyte

ATTY. RUBEN LL. PALOMINO ATTY. NORBERTO B. ROBEL, JR. Counsel for Respondent-appellees Leyte Academic Center Brgy. Pawing Palo, Leyte

MAYOR MANUEL VICENTE M. TORRES
Complainant-appellant
Brgy. Lonoy
Kananga, Leyte

LEAH O. EMPLEO Respondent-appellee Brgy. Tugbong Kananga, Leyte

EMERITA P. LACNO Respondent-appellee Brgy. Tugbong Kananga, Leyte

NPS NO. VIII-02g-INV-23J-00109 Torres vs. Empleo et al. For: Illegal use of Public Funds/Property

BEATRIZ C. NAHINE Respondent-appellee Brgy. Tugbong Kananga, Leyte

ALIPIO C. CABALEJO, JR. Respondent-appellee Brgy. Tugbong Kananga, Leyte

GERARDO D. ODAN Respondent-appellee Brgy. Tugbong Kananga, Leyte

JERRY P. EMPLEO Respondent-appellee Brgy. Tugbong Kananga, Leyte

ELMER S. RUADO Respondent-appellee Brgy. Tugbong Kananga, Leyte

ROWENA N. CODILLA Respondent-appellee Brgy. Poblacion Kananga, Leyte

g.,