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June 3, 2026

THE HONORABLE SANGGUNIANG PANLALAWIGAN OF LEYTE
 Leyte Provincial Government Complex
 Capitol Building
 Palo, Leyte

THRU: FLORINDA JILL S. UYVICO
 Secretary to the Sanggunian

BLUE RIBBON COMMITTEE

Sangguniang Panlalawigan
 Province of Leyte
RECEIVED
 Date: JUN 04 2026
 By: June 9:58am

Dear Honorable Committee;

TRANSMITTAL


Re: ADMIN CASE NO. K-ADM-2023-002 (On Appeal)

Greetings!

I respectfully submit herewith FIFTEEN (15) copies of the APPELLANT'S BRIEF in compliance with Section 47 of the Revised Internal Rules of Procedure of the Sangguniang Panlalawigan of Leyte for the Honorable Committee's consideration and appropriate action.

Respectfully yours,

TUMAMAK LAW OFFICE
JE TAN BLDG., 2ND FLR., CORNER RIZAL AND AVILES STS., ORMOC CITY


ATTY. MA. KRISKA ANGELA H. TUMAMAK
 Roll of Attorney's No. 82440
 IBP O.R. No. 595044, dated 01/15/2026
 PTR No. 8855891, dated 01/05/2026, Ormoc City
 MCLE Compliance No. VIII-0009154 valid until April 14, 2028
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Republic of the Philippines
PROVINCE OF LEYTE
OFFICE OF THE SANGGUNIANG PANLALAWIGAN
Palo, Leyte
-oOo-

Sangguniang Panlalawigan
Province of Leyte
RECEIVED

SABENIANO BIGNAY
Complainant,

Date: JUN 04 2026
By: *[Signature]*

-versus-

Admin. Case No.K-ADM-2023-
002 (*On Appeal*)
For: Dishonesty, Oppression,
Misconduct in Office, etc.

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

x-----/

Pursuant to the

Notice of this Honorable Sangguniang Panlalawigan,

RESPONDENTS-APPELLANTS

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

By counsel most respectfully submit their

APPELLANT'S BRIEF

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PHILIPPINE JURISPRUDENCE

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-

PHILIPPINE STATUTES

- Republic Act No. 7160 or The Local Government Code of 1991
- Article 18 of the New Civil Code of the Philippines
- Article 1317 of the New Civil Code of the Philippines
- Article 764 of the Ne Civil Code
-

OTHERS

- Section 1, Rule IV of the 2021 Rules of Procedure of the Sangguniang Bayan (SB) of the Municipality of Kananga, Leyte

III. ASSIGNMENT OF ERRORS

The Ad Hoc Committee of the Sangguniang Bayan of Kananga committed the error, to wit:

1. The Ad Hoc Committee erred in finding Respondents Leah O. Empleo, Emerita P. Lacno and Jerry P. Empleo guilty of dishonesty, misconduct in office, gross negligence and dereliction of duty.

2. That the decision arrived by the Ad Hoc Committee is based on its biased and partisan consideration of facts.

IV. STATEMENT OF THE CASE

1. This is an appeal¹ from the decision of the Ad Hoc Committee of the Sangguniang Bayan of Kananga for Administrative Case no. K-ADM-2023-002 denominated as Final Resolution (Resolution No. 003)² dated January 2, 2025.

2. A Verified complaint³ by complainant Sabeniano Bignay was filed on December 7, 2023 before the Office of the Sangguniang Bayan (SB) of Kananga against respondents Punong Barangay Leah O. Empleo, Barangay Kagawad Emerita P. Lacno and Barangay Kagawad Jerry P. Empleo for Dishonesty, Oppression, Misconduct in Office, Gross Negligence, Dereliction of Duty, Abuse of Authority under Section 1 Rule IV of the 2021 Rules of Procedure of the Sangguniang Bayan (SB) of the Municipality of Kananga, Province of Leyte, Philippines; Violation of Section 3 (e) of Republic Act No. 3019 also known as Anti-Graft and Corrupt Practices Act; and R.A. 6713 (Code of Conduct and Ethical Standards for Public Officials and Employees).

3. On January 2, 2024, the respondents through counsels filed a Formal entry of appearance as counsel for the respondents with attached Verified Answer⁴.

4. A preliminary conference was held on January 26, 2024. Both parties, the complainant and respondents submitted their Pre-Hearing Conference Brief/Pre-Trial Brief. The Ad Hoc Committee issued the Pre-Trial Order on February 12, 2024, as the guide in the conduct of the investigation and hearing.

5. On the same date, January 26, 2024, complainant through his counsel orally moved⁵ for the preventive suspension of respondents.

¹ Records, pp. 9-12

² Id., pp. 36-64

³ Id., pp. 442-531

⁴ Records, pp. 374-395

6. A comment (to the oral motion filed by complainant to subject respondents to preventive suspension)⁶ was filed by respondents in January 31, 2024.

7. Resolution no. 02⁷ was issued by the Ad Hoc Committee granting the oral motion of the complainant to subject respondents to preventive suspension for a period of sixty (60) days.

8. Series of hearings were conducted in the presentation of both parties' witnesses.

9. During the last day of the presentation of the last witness⁸ for the prosecution which was supposed to be the complainant himself, prosecution opted not to present him and subsequently filed their formal offer of documentary evidences.

10. Respondents presented themselves as witnesses on the administrative offenses against them. Thereafter, respondents formally offered their documentary evidences. No comment was received from the complainant to the formal offer, hence, the case was submitted for decision.

11. The dispositive portion of the Final Resolution, Resolution no. 003 dated January 2, 2025 provides, to wit:

“IN VIEW OF THE FOREGOING, this Adhoc Committee resolves as follows:

(a) Finding the three respondents, LEAH O. EMPLEO, EMERITA P. LACNO and JERRY P. EMPLEO, GUILTY of DISHONESTY, MISCONDUCT IN OFFICE, GROSS NEGLIGENCE and DERELICTION OF DUTY;

(b) Recommending that each of the three respondents, LEAH O. EMPLEO, EMERITA P. LACNO and JERRY P. EMPLEO, shall be meted with the penalty of SUSPENSION FROM OFFICE FOR A PERIOD OF SIX (6) MONTHS WITHOUT PAY;

xxx”

12. Hence, this appeal.

⁵ Id., p. 328

⁶ Id., pp. 315-320

⁷ Id., pp. 296-302

⁸ Records, Order no. 10, p. 136

IV. STATEMENT OF FACTS

1. That prior to year 2018, barangay Tugbong thru its elective barangay officials started identifying its constituents who were in dire need of a safe place for their family. Many of their constituents were affected by the road widening project of the government. Also, many were situated along the river banks and were at high risk during heavy rains because of flood.

2. That due to above-mentioned detriments, the Office of the Sangguniang Barangay of barangay Tugbong passed Resolution No. 29, series of 2018⁹ dated August 18, 2018 requesting the Local Government Unit of Kananga, Leyte to allocate fund for the purchase of lot for barangay relocation site.

3. The barangay officials then of barangay Tugbong headed by their Punong Barangay Leah Empleo were clear that their request was for the purpose of a relocation site since there is already an existing barangay site. Hence, the intent was clear.

4. Subsequently, a Deed of Donation¹⁰ dated June 25, 2019 was executed between the LGU of Kananga, Leyte and Barangay Local Government Unit (BLGU) of Tugbong, Kananga, Leyte represented by Punong Barangay Leah O. Empleo. The said Deed of Donation provided that the donated property shall be used exclusively as barangay relocation site/expansion of built-up area for its residents.

5. Moreover, Resolution No. 038 Series of 2023¹¹ was passed by BLGU of Tugbong, Kananga, Leyte ratifying and confirming all the acts of PB Leah O. Empleo relative to the deed of donation dated June 25, 2019. Among those who voted in affirmative were Sangguniang Barangay (SB) member Emerita P. Lacno, PB member Gerardo O. Odan, SB member Jerry P. Empleo, SB member Beatriz Nahine and SB member Alipio C. Cabalejo Jr.

6. Consequently, Sangguniang Bayan Committee Report No. 2023-23-08¹² of the committee as a whole and Resolution No. 23R.23-422, series of 2023¹³ authorizing Municipal Mayor Manuel Vicente M. Torres to revoke or cancel the deed of donated dated June 25, 2019 entered into by LGU Kananga and BLGU of Tugbong were issued by Sangguniang Bayan of Kananga, Leyte.

⁹ Record, p. 412

¹⁰ Id., pp. 413-414

¹¹ Record, pp. 415-416

¹² Record, pp. 469-472

¹³ Id., pp. 473-474

7. Thereafter, BLGU of Tugbong passed Resolution No. 035, series of 2023¹⁴ interposing vehement objection to the above-mentioned SB Kananga Committee Report.

V. ISSUES

A. Whether or not the Ad Hoc Committee erred in finding Respondents Leah O. Empleo, Emerita P. Lacno and Jerry P. Empleo guilty of dishonesty, misconduct in office, gross negligence and dereliction of duty.

B. Whether or not the decision arrived by the Ad Hoc Committee is based on its biased and partisan consideration of facts.

VI. ARGUMENT

A. The Ad Hoc Committee ERRED in finding Respondents Leah O. Empleo, Emerita P. Lacno and Jerry P. Empleo guilty of dishonesty, misconduct in office, gross negligence and dereliction of duty.

1. In the Decision of the Ad Hoc Committee denominated as Final Resolution, Resolution no. 003, it provides to wit:

“Under Republic Act No. 7160, the Local Government Code of 1991, Section 22 thereof provides the following:

"SEC. 22. Corporate Powers. (a) Every local government unit, as a corporation, shall have the following powers:

(1) To have continuous succession in its corporate name;

(2) To sue and be sued;

(3) To have and use a corporate seal;

(4) To acquire and convey real or personal property;

(5) To enter into contracts; and

(6) To exercise such other powers as are granted to corporations, subject to the limitations provided in this Code and other laws.

(b) Local government units may continue using, modify, or change their existing corporate seals: Provided, That newly established local government units or those without corporate seals may create their own corporate seals which shall be registered with the Department of the Interior and Local Government: Provided, further, That any change of corporate seal shall also be registered as provided herein.

(c) Unless otherwise provided in this Code, no contract may be entered into by the local chief executive in behalf of the local

¹⁴ Id., pp. 386-387

government unit without prior authorization by the sanggunian concerned. A legible copy of such contract shall be posted at a conspicuous place in the provincial capitol or the city, municipal or barangay hall."

The language of the afore-stated law is very clear that "prior authorization by the sanggunian concerned" is needed before an LGU can enter into contract, saving exceptions as provided by Republic Act No. 7160. xxx"

Second, there is nothing in the Local Government Code of 1991 which provides ratification as an exception.

Third, the Local Government Code of 1991 does not explicitly state that ratification can cure defect, much less a misconduct."

2. The interpretation of the Ad Hoc Committee is MISPLACED. If a special law is silent on the suppletory application of the Civil Code, the Civil Code applies as a suppletory law to fill in the gaps.

This principle is established under Article 18 of the Civil Code of the Philippines, which states:

"In matters which are governed by the Code of Commerce and special laws, their deficiency shall be supplied by the provisions of this Code." (Emphasis Supplied)

3. Under Philippine jurisprudence and statutory construction, the Local Government Code of 1991 or Republic Act No. 7160 is classified as a special law. Although it is a comprehensive, nationwide piece of legislation, it is considered "special" because it deals exclusively with a specific subject matter—local government units (provinces, cities, municipalities, and barangays)—outlining their structure, powers, and operations.

4. Given the foregoing, there is an error in the findings of law of the Ad hoc Committee. The Civil Code of the Philippines clearly applies suppletorily to the Local Government Code of 1991.

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

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

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

6. Based on the foregoing, the argument of herein respondents-appellants that the absence of prior authorization of the BLGU of Tugbong, Kananga to Punong Barangay Leah O. Empleo to enter in the said Deed of Donation was clearly ratified expressly by the Sangguniang Barangay of barangay Tugbong by virtue of Resolution no. 038 series of 2023 is in accord with Article 1317 of the Civil Code which applies suppletorily to the Local Government Code of 1991.

7. Moreover, there is nowhere in the provisions of the Local Government Code of 1991 which explicitly mentioned that the provisions of the Civil Code shall not be applied suppletorily. Since the Local Government Code does not cover every possible scenario regarding local governance, contracts, property ownership, and civil liability, the Civil Code steps in to fill these legal gaps or auxiliary matters.

8. To provide legal basis on this matters, the following cases decided by the Supreme Court are instructive, to wit:

In the case of *City of Manila v. Intermediate Appellate Court*¹⁵, the Court held, to wit:

“The Supreme Court explicitly overrode the local charter using the Civil Code. The Court held that Article 2189 of the Civil Code constitutes a specific statutory exception to the general rule of LGU immunity. The Court clarified that for an LGU to be held liable under civil law, the defective road or public work does not need to be owned by the LGU; it is sufficient that the LGU has control or supervision over it.”

In another case of *Guatson International Travel and Tours, Inc. v. Court of Appeals*¹⁶, the Supreme Court reiterated that under civil law, local government units are liable for damages suffered by individuals due to the defective condition of roads, bridges, and public buildings under their supervision. The Court used the Civil Code to fill the gap concerning what constitutes "municipal liability" for negligence, which the LGC broadly references but does not explicitly define.

Also in the case of *KMU v. Garcia*¹⁷ and related LGU Procurement Cases, the Supreme Court has consistently ruled that when an LGU enters into a commercial or proprietary contract (such as a lease or a joint venture agreement), it descends to the level of an ordinary citizen. Consequently, the LGU's rights and

¹⁵ G.R. No. L-71159, 1989

¹⁶ G.R. No. 115116, 1995

¹⁷ G.R. No. 115381, 1995

obligations under that contract are governed completely by the Civil Code provisions on Obligations and Contracts (Article 1156 et seq.). If an LGU breaches a contract, the private party's right to demand specific performance or rescind the contract is adjudicated using Civil Code grounds, as the LGC is silent on contract enforcement mechanisms.

Moreover, in the case of *D.M. Consunji, Inc. v. Court of Appeals*¹⁸, it shows that while this specific case involved a different special law (the Worker's Compensation Act), the Supreme Court meticulously laid down the rule for Article 18. The Court ruled that where a special law provides a remedy or a regulatory framework but is silent on specific civil definitions or defenses, the Civil Code operates as the primary supplementary law to fill those "defects."

9. Given the foregoing, the acts of the respondents are in accordance with the provisions of the Civil Code which applies suppletorily to the Local Government Code of 1991. Hence, they cannot be held guilty of dishonesty, misconduct in office, gross negligence and dereliction of duty.

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

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

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

13. Gross negligence on the other hand has been defined as the want of even slight care and diligence. xxx. Such negligence as amounts to a reckless disregard of the safety of persons or properties.

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

¹⁸ G.R. No. 137873, 2001

15. Based on the definition and scope of the administrative offenses implicated to herein respondents-appellants, respondents did not commit any acts which constitute dishonesty, misconduct in office, gross negligence or even dereliction of duty.

16. The act of respondent-appellant Leah Empleo was within the authority vested by her by the Sangguniang Barangay of barangay Tugbong which was in accordance with the deed of donation executed by the LGU-Kananga.

17. In fact the witnesses for the prosecution affirm that respondents had no participation as to the process of acquisition of the LGU of Kananga to the owner thereof and internal processes within the offices of said LGU. This fact is attested by the witnesses of the prosecution.

18. During the cross-examination of their 1st witness Sylvio Y. Quillo¹⁹, it provides, to wit:

xxx

Atty. Ma. Kriska Angela Tumamak: Okay, so you mention in your judicial affidavit respecting this purchase request no.2018-12-37 approved by former Mayor Rowena Codilla.

Sylvio Y. Quillo: O

Atty. Ma. Kriska Angela Tumamak: So, I assume that you are familiar this purchase order, you are familiar with this purchase order?

Sylvio Y. Quillo: O

Atty. Ma. Kriska Angela Tumamak: So, you will agree with me that in so far as the said purchase request is concerned it was requested and approve by the Mayor Rowena Codilla, right?

Sylvio Y. Quillo: O

xxx

Atty. Ma. Kriska Angela Tumamak: Okay, so you will also agree with me that in so far as the respondents in this case Leah Empleo, Emerita Lacno and Jerry Empleo are concerned, they did not have anything to do with respect to the purchase request, correct?

Sylvio Y. Quillo: Correct

Atty. Ma. Kriska Angela Tumamak: So, you also mentioned about the Supplemental Budget No.2 which was actually prepared by you, correct?

Sylvio Y. Quillo: Correct

Atty. Ma. Kriska Angela Tumamak: Okay, the same was also approve by the Mayor Rowena Codilla, correct?

Sylvio Y. Quillo: Correct

¹⁹ Records, pp. 270-275

Atty. Ma. Kriska Angela Tumamak: Okay, there's also a Supplemental Appropriation Ordinance which budgeted an amount of 1.4 million for the purchase of the subject property and you have mention it in your judicial affidavit, correct?

Sylvio Y. Quillo: Correct

Atty. Ma. Kriska Angela Tumamak: So, you will also agree with me that the purchase of the said subject property was actually base on a valid ordinance, correct?

Sylvio Y. Quillo: Correct

Atty. Ma. Kriska Angela Tumamak: Of all these documents you have mention and attach on your judicial affidavit, you will agree with me that the respondents in this case are actually not parties.

Sylvio Y. Quillo: Correct

Atty. Ma. Kriska Angela Tumamak: So, you will also agree with me that the respondents in this case did not participate starting from making of the request of the purchase amount, the approval of the same and even from the release of the said budget, correct?

Sylvio Y. Quillo: Correct

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19. Another witness in the name of Engr. Roscoe Hermoso²⁰ will also affirm the non-participation of herein respondents, when cross-examined, he stated, to wit:

Atty. Ma. Kriska Angela Tumamak: So, will you also agree with me that in so far as the said request letter of the LGU Kananga thru your office address to the provincial appraisal committee is concerned. The party initiated the said letter was basically the LGU Kananga thru with the municipal assessor office correct?

Engr. Roscoe Hermoso: Yes your honor.

Atty. Ma. Kriska Angela Tumamak: So, in so far as the respondents in this case are concerned you will agree with me that they do not have any participation with respect to that correct?

Engr. Roscoe Hermoso: Yes your honor.

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20. Another witness in the name of Proceso Thomas R. Pabio²¹, also testified and when cross-examined, stated to wit:

²⁰ Record, p. 241

²¹ Id., pp. 244-245

Atty. Ma. Kriska Angela Tumamak: So, based on the records attach on your judicial affidavit you will agree with me Mr. Witness that in so far as this documents are concerned the parties involve for the preparation of this documents were actually then Mayor Rowena Codilla, the Municipal Accountant during that time, the Municipal Treasurer and Glicerio Porcare who was the representative of the owner of the lot subject of this disbursement voucher correct?

Processo Thomas R. Pabio: Yes correct

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Atty. Ma. Kriska Angela Tumamak: Actually Mr. Witness you actually identified of the disbursement voucher so you mention that the signatories therein where actually the previous Municipal Accountant, as well as the Municipal Treasurer during that time. So, aside from them who else are the signatory of the said disbursement voucher?

Processo Thomas R. Pabio: It is the payee.

Atty. Ma. Kriska Angela Tumamak: Who is the payee?

Processo Thomas R. Pabio: Stated in the document he is Glicerio Elpedio Porcare.

Atty. Ma. Kriska Angela Tumamak: So, you will agree with me Mr. Witness that in this disbursement voucher that you have identified and even this journal entry voucher the name of the respondents were nowhere to be found correct?

Processo Thomas R. Pabio: Yes correct

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21. Moreover, Susan S. Del Monte²² when cross-examined also confirm, to wit:

Atty. Ma. Kriska Angela Tumamak: Okay, so you will agree with me Ms. Witness that in so far as may respect to this disbursement of the procurement the subject property, the respondent in this case which you have mentioned are Leah Empleo, Emerita Lacno and Jerry Empleo are concerned they do not have any participation with this correct?

Susan S. Delmonte: They do not have any participation Attorney.

22. Based on the statements made by the witnesses of the prosecution, it shows that respondents-appellants are in good faith with respect to their

²² Records, p. 201

participation in receiving the said donated property in favor of BLGU of Tugbong, Kananga.

23. Assuming arguendo that barangay Tugbong through respondent Leah Empleo did not comply the condition stated in the donation, the act of Sangguninang Bayan authorizing Mayor Torres to revoke the said deed of donation has already prescribed.

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

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

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

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

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

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

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

B. The decision arrived by the Ad Hoc Committee is based on its biased or partisan consideration of facts.

1. To reiterate, the instant complaint filed against respondents-appellants is politically motivated.

2. The biased nature of this case can be gleaned in its findings, to wit:

“The execution and submission of Barangay Resolution No. 038, Series of 2023, even proves that there

was no prior authorization given to Punong Barangay Leah O. Empleo. The same document also proves that it is not only respondent Leah O. Empleo who can be held liable, but as well, the two other respondents Emerita P. Lacno and Jerry P. Empleo who are not innocent, that, notwithstanding their knowledge of the lack of authority, they participated in subsequent actions concerning the said property, including their participation in the approval of resolution no. 038, series of 2023.”²³

3. Based on the findings made by the Ad Hoc Committee and in relation to Resolution no. 038 series of 2023²⁴, it is apparent that there are five (5) Sangguniang barangay members who approved on the said resolution. Two of those are respondents-appellants Emerita P. Lacno and Jerry P. Empleo. However, the three (3) other members were not included in the complainat filed by Sabeniano Bignay. These only show the intention of the party as well as those behind this malicious complaint against respondents-appellants.

4. The partiality of the Ad hoc Committee was also apparent during the cross-examination made by the respondents-appellant’s counsel to Kirby Jay Quijano, one of the witnesses for the prosecution, to wit:

xxx

Atty. Ma. Kriska Angela Tumamak: For the respondent your honor will submit your honor. Okay, next question. Is there someone who instructed you to take the said pictures Mr. Witness? Naa bay nag instruct nimo nga mokuha ani nga mga pictures?

Kirby Jay Quijano: Yes Attorney.

Atty. Ma. Kriska Angela Tumamak: And who is this?

Atty. Ariel Baltazar: Your honor the matters that not cover again under the judicial affidavit your honor, the witness is only testifying the said the fact that he took the pictures from it.

Atty. Ma. Kriska Angela Tumamak: But the witness your honor actually answered your honor and it is, actually your honor the questions your honor is actually related to the statements to his judicial affidavit.

Hon. Vice-Mayor Tan: Please continue.

Atty. Ma. Kriska Angela Tumamak: So, the witness may answer?

Hon. Vice-Mayor Tan: Mao lagi na wala man gud sa iya judicial affidavit, will the witness may not to compel the

²³ Record, Final Resolution, Resolution no. 003, p. 59

²⁴ Record, Resolution no. 038 series of 2023, pp. 384-385

answer the question we have to stick the judicial affidavit that submitted to this court.

5. Based on the manner of questions asked to the above-mentioned witness, the same is not objectionable since it is within the knowledge of the said witness. However, the presiding officer did not allow the witness to answer the said question considering that they knew very well that the person or the mastermind behind this orchestrated case against respondents-appellants would reveal its identity.

VII. PRAYER

WHEREFORE, the premises considered, Respondents-Appellants respectfully pray that this Honorable Office:

1. Annul the decision denominated as Final Resolution, Resolution No. 003 dated January 2, 2025 and find therein respondents-appellants as NOT GUILTY of dishonesty, misconduct in office, gross negligence and dereliction of duty.

2. That the penalty meted to herein respondents-appellants be REVERSED.

3. Appellant further prays for such other relief as may be just and equitable in the premises.

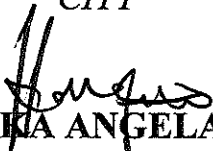
VIII. APPENDIX

Copy of the appealed decision denominated as Final Resolution, Resolution no. 003 dated January 2, 2025 (Appendix "A").

Done this 3rd day of June 2026 at Ormoc City, Leyte, Philippines.

MOST RESPECTFULLY SUBMITTED:

TUMAMAK LAW OFFICE
JE TAN BLDG., 2ND FLR., CORNER RIZAL AND AVILES STS., ORMOC CITY


ATTY. MA. KRISIA ANGELA H. TUMAMAK
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E-mail address: kriskatumamak@yahoo.com
Contact no. 0967-324-6663

REQUEST

Greetings:

Please submit the foregoing Appellant's brief for the consideration and approval of this Honorable Office immediately upon receipt hereof. Thank you.


MA. KRISKA ANGELA H. TUMAMAK

Copy Furnished: (Personal Service)

ATTY. DENNIS HIBAYA
Counsel of the Complainant-Appellee
Solibaga Law Office, Ormoc City


Jillian Hope C. Carungay 6/8/2026

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

AFFIDAVIT OF SERVICE

I, **RUFINO S. ROBLE**, of legal age, Filipino and with office address at JA Tan Bldg., 2nd Flr., corner Rizal and Aviles Sts., Ormoc City, after having duly sworn to in accordance with law hereby depose and state:

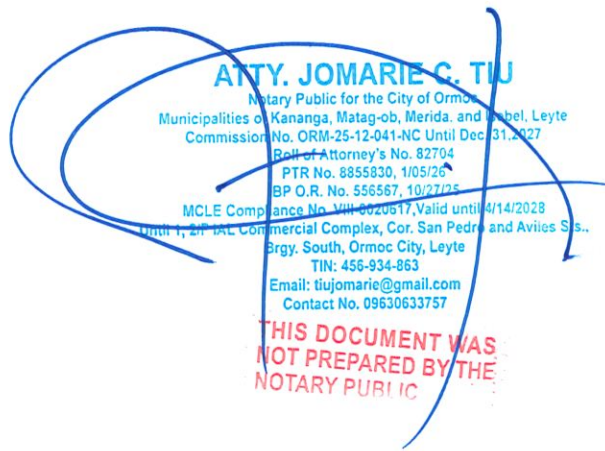
1. That I am the authorized representative of Atty. Ma. Kriska Angela Tumamak and I have personal knowledge of the facts herein stated.
2. That on June 3, 2026, I personally served a copy of the APPELLANT’S BRIEF and a copy of the entire records of the appealed case to ATTY. DENNIS HIBAYA, being the complainant-appellee’s counsel at his office address located at Solibaga Law Office, Brgy. South, Ormoc City.
3. That Ms. Jillian Hope C. Carungay, staff of Solibaga Law Office personally received said Appellant’s brief as well as the copy of the entire records of the case and affixed her signature thereto.
4. I am executing this affidavit to attest to the fact of service and receipt of the said Appellants’ brief and a copy of the entire records of the case and for all legal intents and purposes.

IN WITNESS WHEREOF, I have hereunto set my hand this 3rd day of June 2026 at Ormoc City, Leyte, Philippines.


RUFINO S. ROBLE III
Affiant

Subscribed and sworn to before me this June 3, 2026 at Ormoc City, Leyte, Philippines. Affiant personally appeared before me and personally known to me.

Doc No. 199
Page No. 41
Book No. 01
Series of 2026


ATTY. JOMARIE C. TIU
Notary Public for the City of Ormoc
Municipalities of Kananga, Matag-ob, Merida, and Isabel, Leyte
Commission No. ORM-25-12-041-NC Until Dec 31, 2027
Roll of Attorney's No. 82704
PTR No. 8855830, 1/05/26
BP O.R. No. 556567, 10/27/25
MCLE Compliance No. VIII-0020617, Valid until 4/14/2028
Unit 1, EN-IAL Commercial Complex, Cor. San Pedro and Aviles Sts.,
Brgy. South, Ormoc City, Leyte
TIN: 456-934-863
Email: tijomarie@gmail.com
Contact No. 09630633757
THIS DOCUMENT WAS NOT PREPARED BY THE NOTARY PUBLIC



Republic of the Philippines
Province of Leyte
Municipality of Kananga

SANGGUNIANG BAYAN OF KANANGA

AD HOC COMMITTEE
(FOR CASE NO. K-ADM-2023-002)

SABENIANO BIGNAY
Complainant,

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

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

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

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

X-----X

FINAL RESOLUTION
Resolution No. 003

Before the 23rd Sangguniang Bayan of Kananga is an administrative case filed by complainant Sabeniano Bignay, a resident of Barangay Tugbong, Kananga, Leyte, on December 7, 2023 against Punong Barangay Leah O. Empleo, Barangay Kagawad Emerita P. Lacno, Barangay Kagawad Jerry P. Empleo, all are incumbent elected barangay officials of Tugbong, Kananga, Leyte, thru a verified complaint dated December 7, 2023 for the following:

- (a) Violation of Section 3 (e) of Republic Act No. 3019 also known as Anti-Graft and Corrupt Practices Act; and



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

The complaint stemmed from the alleged acts of the respondents in their capacity as barangay officials, as stated in the complainant's complaint-affidavit, as follows:

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

The said PR expressly states that purpose of the purchase is for "Barangay Site of Barangay Tugbong, Kananga, Leyte." This bears stressing that on the day the said PR was also prepared and approved by respondent Rowena Codilla, the same was without an approved budget from the previous SB.

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".

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".

On September 10, 2018, the same 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. On December 10, 2018, the same Sangguniang Bayan passed a Resolution No. 21R.18-523, Series of 2018 authorizing the former mayor Rowena N. Codilla to purchase the above-mentioned land which expressly states that the same was intended for Barangay Site of Barangay Tugbong Kananga, Leyte.

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

SA SECRETARY OFFICE
MUNICIPALITY OF KANANGA
PROVINCE OF LEYTE
Date: 4/26/2019

On January 24, 2019, Obligation Request No. 100-2019-01-0129 was signed by the former Mayor Rowena N. Codilla for the release of the PhP 1,400,000.00 as payment of the said parcel of land. On the same date, the said amount was released to Glicerio Portcare per Disbursement Voucher No. 2019-01-0200.

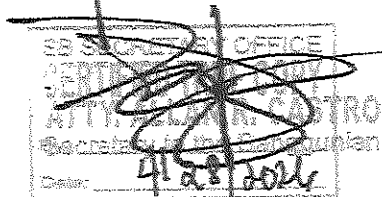
On May 15, 2019, the same Sangguniang Bayan passed a Resolution No. 21R.19-629 series of 2019 authorizing former Mayor Rowena N. Codilla to donate the said property to Brgy. Tugbong. In the said Resolution, it is expressly stated that the said procured property is intended as Barangay Site of Barangay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

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". This is contrary to, and not in conformity with the authority given to her by SB, per SB Resolution No. 21R.19-629 series of 2019 which authority clearly states that the donated property should be used as "Barangay Site" not relocation site.

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

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

Thus, on August 18, 2023, the Committee of the Whole of the present SB authorized the Municipal Mayor, Hon. Manuel Vicente M. Torres to revoke or cancel the said Deed of Donation and further



authorize him to file the appropriate cases for the recovery of the possession and/or ownership of the subject property.

Because of said authority vested on the Municipal Mayor, Hon. Manuel Vicente M. Torres, he sent a formal notice of revocation/cancellation of deed of donation and demand to vacate addressed to defendant Leah Empleo through the Municipal Legal Officer-designate on August 24, 2023.

On September 4 and 5, 2023, the Municipal Legal Office also sent a demand letters to the identified occupants in the subject properties.

The barangay, instead of using the said property as the New Barangay Site of LGU Tugbong, Kananga, Leyte, the respondents passed a resolution authorizing respondent Leah O. Empleo to give and distribute said parcel of land to its predetermined beneficiaries, including some of the respondents and the Barangay Treasurer and Secretary. In fact, during the aforesaid committee hearing before the Committee of the Whole, respondent Leah O. Empleo admitted that she indeed distributed the said land to several individuals including some of the respondents and others.

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

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

Complainant alleged that the respondents have patently violated Section 3 (e) and (f) of Republic Act No. 3019 also known as Anti-Graft and Corrupt Practices Act by 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 official administrative functions through manifest partiality, evident bad faith or gross inexcusable negligence. It was further alleged that despite of the knowledge that the public use of a parcel of land, identified as Lot No. 2 being a portion of the consolidation-subdivision survey of Lot 10184 and Lot 101986 covered by TCT No. T-15094, situated in Barangay Tugbong, and covered by TCT No. T-15094 ("property" for brevity) is for Barangay Site of Tugbong, the respondents instead applied and utilized the said

SB SECRETARY'S OFFICE
LEAH O. EMPLEO
ATN ALLEN S. CASTRO
Secretary
Date: 4/28/2024

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property as Relocation Site, and illegally subdivided and distributed the same to nine (9) identified individuals as their beneficiaries.

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

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

On January 2, 2024, the respondents filed their verified Answer to the said complaint, thru their counsel from the Banzon Law Office. In their verified answer, the respondents argued as follows:

"The Sangguniang Bayan of Kananga, Leyte has no jurisdiction over violation of Section 3 (e) of RA No. 3019 and the are not liable and did not violate the said provision of law as the elements of the violation of Section 3 (e) of RA 3019 are:

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

The complaint asserted that respondent Leah Empleo was not authorized by the Sangguniang Bayan to execute and accept the above-mentioned deed of donation. However, the act of Leah Empleo was ratified by the sangguniang barangay of barangay Tugbong by virtue of Resolution No. 038 series of 2023.

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

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

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

In fact, the Office of the Sangguniang Barangay of barangay Tugbong signed Resolution no. 035, series of, 2023 interposing



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A handwritten signature in black ink, possibly "Leah Empleo".

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their vehement objection to the Sangguniang bayan committee report No. 2023-23-08 authorizing Municipal Mayor Manuel Vicente Torres (Mayor Torres) to revoke or cancel the deed of donation dated June 25, 2019.

Assuming arguendo that barangay Tugbong through respondent Leah Empleo did not comply the condition stated in the donation, the act of Sangguniang Bayan authorizing Mayor Torres to revoke the said deed of donation has already prescribed.

Article 764 of the New Civil Code provides that:

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

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

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

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

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

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

Section 3 of BP blg. 195 which amended Section 10 of RA No. 3019 provides, to wit: SEC. 3. Section 10 of Republic Act No. 3019 is hereby amended to read as follows:

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

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



Joseph

Manuel Vicente Torres

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Big

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

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

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

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

Gross negligence on the other hand has been defined as negligence characterized by the want of even slight care, acting or omitting to act in a situation where there is duty to act, not inadvertently but willfully and intentionally, with a conscious indifference to consequences insofar as other persons may be affected. Such negligence as amounts to a reckless disregard of the safety of persons or properties.

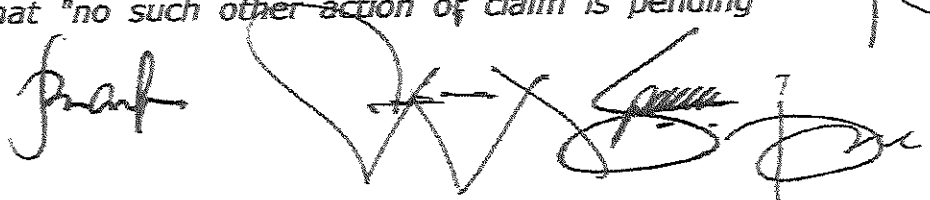
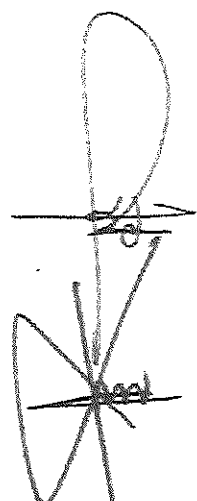
Dereliction of duty generally refers to a failure to conform to rules of one's job, which will vary by tasks involved, it is a failure or refusal to perform an assigned duty.

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

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

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

Upon perusal and careful examination of the verification and certification of non-forum shopping, complainant attested under par. 6 therein that "no such other action of claim is pending



therein." Further under par. 7, complainant undertake to notify this Honorable Office if he learns that the same or similar action or claim has been filed or pending in the Supreme Court, Court of Appeals, the different Divisions thereof or any other court or tribunal or agency. However, there is a pending case before the Office of the Provincial Prosecution-Leyte in Ormoc City filed by the Municipality of Kananga, Leyte represented by Mayor Manuel Vicente M. Torres. It is impossible for the complainant in this case not to know the pendency of the said criminal case which involved the same.

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

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

The respondents thus, prayed for the outright dismissal of the case for lack of merit.

The said case was heard for several settings, which included the presentation of parties' respective witnesses as follows:

For the complainant:

Sabeniano Bignay – The witness was not presented, however his judicial affidavit was submitted to the Adhoc Committee, which he testified thereon material allegations of his complaint and some other matters relative to the said complaint.

Mr. Proceso R. Tomas Pabio – He testified that as per records of his office, an amount of Php1,400,000.00 was paid for the purchase of Lot 2 as Barangay Site of Brgy. Tugbong, Leyte per Journal Entry Voucher CDJ No. 2019-01-000200.

Municipal Treasurer Susan S. Del Monte – She testified that an amount of Php1,400,000.00 was released to Glicerio Porcare per Disbursement Voucher No. 2019-01-0200 on January 24, 2019.

Municipal Budget Officer, Mr. Sylvio Y. Quillo, Jr. – He testified that as per records, an amount of Php 1,400,000.00 was appropriated via supplemental budget for the purchase of Lot 2 as Barangay Site of Brgy. Tugbong, Leyte.



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Engr. Ruscoe Hermoso, Municipal Assessor-designate – He testified that, as per records, the Municipal Assessor's Office requested for the conduct of the appraisal/assessment of said land which was intended for "Proposed (New) Barangay Site of Tugbong" at the Provincial Appraisal Committee in 2018. He also testified that there was no approved subdivision plan concerning the subdivision and development of Lot 2 in Barangay Tugbong, Kananga, Leyte

Atty. Allan Castro, SB Secretary – He testified that on September 10, 2018, the same 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. He testified 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 that the same was intended for Barangay Site of Barangay Tugbong Kananga, Leyte. He testified 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. In the said Resolution, it is expressly stated that the said procured property is intended as Barangay Site of Barangay Tugbong, not Relocation Site. He testified on other relevant matters and identify SB Resolutions and Committee Report and other relevant documents.

Atty. Adelito M. Solibaga, Jr. Municipal Legal Officer-Designate – He testified that the Municipal Mayor, Hon. Manuel M. Torres, sent a formal notice of revocations/cancellation of deed of donation and demand to vacate addressed to defendant Leah Empleo through the Municipal Legal Officer-designate on August 24, 2023. He testified that on September 4 and 5, 2023, the Municipal Legal Office also sent a demand letters to the identified occupants in the subject properties.

Kirby Jay Quijano – He testified that he was the one who took the photos of all the structures erected on the subject land.

For the respondents:

Leah O. Empleo – She testified as to the material averments in the verified answer; She is one of the respondents to the administrative case filed by Sabeniano Bignay which is still pending before the Office of the Sangguniang Bayan of Kananga docketed as case No. K-AMD-2023-002; She is the incumbent barangay chairman of Brgy. Tugbong, Kananga, Leyte; That Resolution no. 29, series of 2018 was approved by the Office of the Sangguniang Barangay of Brgy. Tugbong; That Resolution No. 038, series of 2023 ratifying and confirming all her acts relative to the Deed of Donation dated



June 25, 2019 was passed and approved by the above-mentioned Sangguniang Barangay; That the Deed of Donation entered into between LGU Kananga and BLGU Tugbong specifically provided a provision that the subject property being donated shall be used exclusively as barangay relocation site/ expansion of built-up area for its residents; She identified relevant documents pertaining to this case and other matters relating herein.

Emerita P. Lacno – She testified as to the material averments in the verified answer; She is one of the respondents to the administrative case filed by Sabeniano Bignay which is still pending before the Office of the Sangguniang Bayan of Kananga docketed as case no. K-AMD-2023-002; She is an incumbent Sangguniang Barangay Member of Brgy. Tugbong, Kananga, Leyte; That Resolution no. 29, series of 2018 was approved by the Office of the Sangguniang Barangay of Brgy. Tugbong; That Resolution no 038, series of 2023 ratifying and confirming all the acts of Punong Barangay Leah O. Empleo relative to the Deed of Donation dated June 25, 2019 was passed and approved by the above-mentioned Sangguniang Barangay; She identified relevant documents pertaining to this case and testify to other matters relating herein.

Jerry P. Empleo – He testified as to the material averments in the verified answer; He is one of the respondents to the administrative case filed by Sabeniano Bignay which is still pending before the Office of the Sangguniang Bayan of Kananga docketed as case no. K-AMD-2023-002; He is an incumbent Sangguniang Barangay Member of Brgy. Tugbong, Kananga, Leyte; He testified on other matters relevant to the instant case.

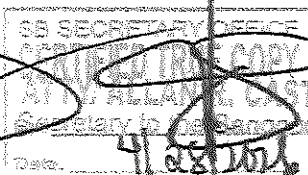
On September 20, 2024, the complainant formally offered his documentary evidence which are as follows:

“Exhibit A - PR No. 2018-12-037 dated August 6, 2028 – To prove that in said PR expressly stated that purpose of the purchase is for “Barangay Site of Barangay Tugbong, Kananga, Leyte”.

Exhibit B – Letter request dated August 8, 2018 – To prove that 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”.

Exhibit C – Resolution No. 026-2018 – To prove that on August 9, 2018, the provincial Appraisal Committee passed a Resolution which shows the recommended appraised market value of the subject property and also stated that the appraised property was for the “Proposed (New) Barangay Site of Tugbong”.

Exhibit D – SB Resolution No. 21R.18-523- To prove that on December 10, 2018, the same Sangguniang Bayan passes a



Resolution authorizing the former mayor Rowena N. Codilla to purchase the above-mentioned land which expressly states that the same was intended for Barangay Site of Barangay Tugbong, Kananga, Leyte.

Exhibit E – Extrajudicial Settlement of Estate with Deed of Absolute Sale – To prove that on January 18, 2019, LGU Kananga, through the previous mayor, Rowena N. Codilla, executed an Extrajudicial Settlement of Estate with Deed of Absolute Sale purchasing a parcel of land known as Lot 2, situated in Brgy. Tugbong, Kananga, Leyte for Php1,400,000.00 from Glicerio Nahine Porcare, Hermogenes Nahine Porcare and Francisco Nahine Porcare.

Exhibit F – Obligation Request No. 100-2019-01-0129 – To prove that on January 24, 2019, former Mayor Rowena N. Codilla signed for the release of the Php1,400,000.00 as payment of the said parcel of land. To further prove that on same date the said amount was released to Glicerio Porcare per Disbursement Voucher.

Exhibit G – Disbursement Voucher No. 2019-01-200.

Exhibit H – Journal Entry Voucher CDJ No. 2019-01-000200.

Exhibit I – Sangguniang Bayan Resolution No. 21R.19-629 series of 2019 – To prove that on May 15, 2019, the Sangguniang Bayan passed a Resolution authorizing former Mayor Rowena N. Codilla to donate the said property to Brgy. Tugbong. To prove that in said Resolution, it is expressly stated that the said procures property is intended as Barangay Site of Barangay Tugbong, not Relocation Site.

Exhibit J – Deed of Donation – To prove that the property donated should be used as "Barangay Site" not a relocation site.

Exhibit K – Committee Report – To prove that on August 18, 2023, the Committee of the Whole of the present SB conducted an investigation at the SB Session Hall where the members of the Sangguniang Barangay attended and participated, and it was found out, That:

- a) The Barangay Sangguniang did not authorize the incumbent Punong Barangay Leah Empleo to execute and accept the aforesaid deed of donation contrary to the Section 389 (b) (b), Book III, Chapter 3 & 4 of the Local Government Code of 1991, Articles 745, 749, 1317 of the New Civil Code of the Philippines.
- b) The said deed of donation was executed by Rowena N. Codilla beyond the authority given to her by the previous SB per SB No. 21R.19-629 series of 2019 authorizing former Mayor Rowena N. Codilla to donate the said property to Brgy. Tugbong. In the said Resolution, it is expressly stated that the said procured property is intended as Barangay Site of Barangay Tugbong, not a Relocation Site.
- c) The Punong Barangay Leah Empleo illegally partitioned the said land and distributed the same to several persons



including some members of the Sangguniang Barangay who accepted and actually introduced improvements thereon without legal basis or Ordinance.

Exhibit L – Sangguniang Bayan (SB) resolution No. 12R.23-422, Series of 2023 – To prove that on August 18, 2023, the Committee of the Whole of the present SB authorized the Municipal Mayor, Hon. Manuel M. Torres to revoke or cancel the said Deed of Donation and further authorize him to file the appropriate cases for the recovery of the possession and/or ownership of the subject property.

Exhibit M – Formal Notice Revocation/Cancellation of Deed of Donation and Demand to vacate. – To prove that the Municipal Mayor, Hon. Manuel M. Torres, sent a formal notice to vacate addressed to defendant Leah Empleo through the Municipal Legal officer- designate on August 24, 2023.

Exhibit N – Demand Letter dated September 4, 2023 addressed to Alejandro Nadonza. – To prove that on September 4 and 5, the Municipal Legal Office also set a demand letters to the identified occupants in the subject properties.

Exhibit O – Demand Letter dated September 4, 2023 addressed to Kieven Wenceslao.

Exhibit P – Demand Letter dated September 4, 2023 addressed to Danilo Guisando.

Exhibit Q – Demand Letter dated September 4, 2023 addressed to Marian Rafolz.

Exhibit R – Demand Letter dated September 4, 2023 addressed to Danilo Rafolz.

Exhibit S - Demand Letter dated September 4, 2023 addressed to Florabelle Cabalejo.

Exhibit T - Demand Letter dated September 4, 2023 addressed to Mercedita Dasal.

Exhibit U - Demand Letter dated September 4, 2023 addressed to Amy Ambilong.

Exhibit V - Demand Letter dated September 4, 2023 addressed to Analyn Moana.

Exhibit W – Sangguniang Barangay of Tugbong Resolution. – To prove that respondents passed a resolution authorizing respondent Leah O. Empleo to give and distribute said parcel of land to its predetermined beneficiaries, including some of the respondents and the Barangay Treasurer and Secretary. In fact, during the aforesaid committee hearing before the Committee of the Whole, respondent Leah O. Empleo admitted that she indeed distributed



the said and several individuals including some of the respondents and others.

Exhibit X – Reply of respondent Leah O. Empleo. – To prove that respondent, instead of complying with the demand of the LGU Kananga, Leyte to vacate the property and turn over the possession of said property to LGU Kananga, respondent Leah O. Empleo even proudly stated they used the property as Relocation Site.

Exhibit Y – Sangguniang Barangay Resolution No. 035, Series of 2023. – To prove that respondents interposed their opposition to the committee report of the 23rd SB of LGU Kananga.

Exhibit Z – Letter of the Municipal Legal Office of LGU Kananga. – To prove that the Municipal Legal Office of LGU-Kananga, in response to the Office of the Ombudsman-Visayas referral letter with reference no. OFA (CF)-V(T)-23-0109-W, sent a letter to respondent Leah O. Empleo and reiterated the demand of LGU-Kananga to vacate the property, demolish all the improvements found thereon, and turn over the possession of the subject property to LGU Kananga.

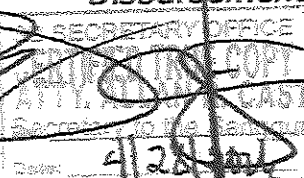
Exhibit AA – Tax Declaration No. 21023-00536. – To prove that the Tax Declaration is still under the previous owner's name, Julian Nahine with assessed value at php19,630.00 and market value at 49,087.27.

Exhibit BB – TCT No. T-15094. – To prove that the subject property are not yet transferred in the name of LGU Kananga.

Exhibit CC – Photos of the improvements of the illegal occupants of the subject properties. – To prove that the illegal occupants built an improvements on the subject properties.

Exhibit DD – Joint-Affidavit of the Municipal Accounting Officer, Mr. Proceso R. Tomas Pabio. – To prove that based on its Office's record an amount of php1,400,000.00 was paid for the purchase of Lot 2 as Barangay Site of Brgy. Tugbong, Leyte per Journal Entry Voucher CDJ No. 2019-01-000200, Municipal Treasurer Susan S. Del Monte, to prove that an amount of Php 1,400,000.00 was released to Glicerio Porcare per Disbursement Voucher No. 2019-01-0200 on January 24, 2019, and Municipal Budget officer, Mr. Sylvio Y. Quillo Jr. I to prove that php1,400,000.00 was appropriated via supplemental budget for the purchase of Lot 2 as barangay Site of Brgy. Tugbong, Leyte.

Exhibit EE – Certification issued by Mr. Quillo – To prove that based on its Office's record an amount of Php1,400,000.00 was paid for the purchase of Lot 2 as Barangay Site of Brgy. Tugbong, Leyte per Journal Entry Voucher CDJ No. 2019-01-000200, Municipal Treasurer Susan S. Del Monte, to prove that an amount of Php1,400,000.00 was released to Glicerio Porcare per Disbursement Voucher No. 2019-01-8200 on January 24, 2019,



and Municipal Budget Officer, Mr. Sylvio Y. Quillo Jr. I to prove that Php 1,400,000.00 was appropriated via supplemental budget for the purchase of Lot 2 as Barangay Site of Brgy. Tugbong, Leyte.

Exhibit FF – Certification issued by Mrs. Delmonte. – To prove that based on its Office’s record an amount of Php1,400,000.00 was paid for the purchase of Lot 2 as Barangay Site of Brgy. Tugbong, Leyte per Journal Entry Voucher CDJ No. 2019-01-000200, Municipal Treasurer Susan S. Del Monte, to prove that an amount of Php 1,400,000.00 was released to Glicerio Porcare per Disbursement Voucher No. 2019-01-0200 on January 24, 2019, and Municipal Budget Officer, Mr. Sylvio Y. Quillo Jr. I to prove that Php 1,400,000.00 was appropriated via supplemental budget for the purchase of Lot 2 as Barangay Site of Brgy. Tugbong, Leyte.

The respondents filed their comment to the said formal offer and it was noted.

On September 30, 2024, this Committee admitted the complainant’s documentary exhibits.

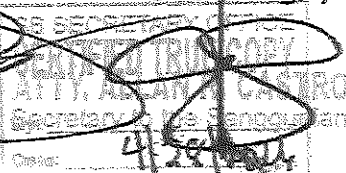
The respondents formally offered their documentary evidence on December 13, 2024 which are as follows:

Exhibit "1"- Resolution No. 29, series of 2018 dated August 18, 2018
Purpose: - to prove that the Office of the Sangguniang Barangay of barangay Tugbong passed a resolution requesting the LGU-Kananga to allocate fund for the purchase of lot for barangay relocation site of barangay Tugbong; to prove that the intended parcel of land refers to lot 2, (LRC) Pcs-19337, being a portion of the consolidation-subdivision survey of Lot 10184 and Lot 10186 both of the cadastral survey of Ormoc, L.R.C. Cad. No. 1795, situated at Barangay Tugbong, Kananga, Leyte and which is the same lot subject of the Deed of donation.

Exhibit "2"- Deed of Donation dated June 25, 2019, Purpose: to prove that the LGU-Kananga, Leyte was duly represented by then Mayor Rowena Codilla to execute the deed of donation in favor of barangay local government unit (BLGU) of Tugbong, Kananga, Leyte; - to prove that the donated property in favor of BLGU, Tugbong shall be used exclusively as barangay relocation site/expansion of built-up area for its residents; to prove that respondents especially Punong barangay Leah Empleo were acting within the provisions as provided in the deed of donation.

Exhibit "3"- Resolution No. 038, series of 2023, Purpose: to prove that the Office of the Sangguniang Barangay of barangay Tugbong passed a resolution ratifying and confirming all the acts of Punong barangay Leah Empleo relative to the deed of donation dated June 25, 2019, hence was validated.

Exhibit "4"- Resolution No. 035, series of 2023 dated August 24, 2023
Purpose: to prove that the Office of the Sangguniang Barangay of barangay Tugbong vehemently object to SB committee report



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authorizing municipal mayor Manuel Vicente Torres to revoke or cancel the deed of donation dated June 25, 2019; - to prove that aside from herein respondents, said Resolution was also approved by Beatrice C. Nahine, Alipio Cabalejo Jr, Gerardo D. Odan and Elmer Ruado who were not implicated in this case.

The complainant made no comment or objection to the said offered documentary evidence.

On December 18, 2024, this Committee admitted the documentary exhibits of the respondents.

Findings

This Ad Hoc Committee hereby resolves the case on the basis of the enumerated "ISSUES TO BE RESOLVED" provided in the Pre-Trial Order.

Whether or not complainant has legal personality in filing the instant case.

The 1987 Philippine Constitution, particularly Article III, Section, expressly states that "No law shall be passed abridging the freedom of speech, of expression, or of the press, or the right of the people peaceably to assemble and petition the government for redress of grievances." Section 7 of the Constitution also states that "The right of the people to information on matters of public concern shall be recognized. Access to official records, and to documents and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development, shall be afforded the citizen, subject to such limitations as may be provided by law."

This right is granted to each and every citizen of the Philippines, especially when it is a matter of public concern.

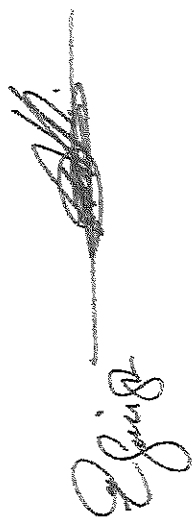
It is also provided in Article XI, Section 1 of the 1987 Philippine Constitution that "Public Office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives."

This statement is meant to ensure that public officials are accountable to the people and serve them with integrity, responsibility, and efficiency. The Constitution also includes mechanisms to hold public officials accountable.

The Constitution also outlines the values of public officers, including maintaining honesty and integrity in the public service, taking action against corruption and graft, acting with patriotism, and leading modest lives.

The consequences for public officials who fail to meet these requirements can include dismissal from office. However, the consequences are intended to preserve the public's trust in the government, not to punish the public official.

SECRETARY OF THE
COMMITTEE ON PROBATION
AND PARDONS
Date: 9/28/2024



To reiterate the provisions of the Republic Act No. 7160, particularly Section 61 thereof, it provides that *Form and Filing of Administrative Complaints*. - A verified complaint against any erring local elective official shall be prepared as follows: xxx (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.

The law does not mention as to the qualification of the complainant. This could refer to "any person".

In this particular case, complainant Sabeniano Bignay, as stated in his complaint, is a resident of Barangay Tugbong, Kananga, Leyte. This was not refuted by the respondents who are officials of the same barangay.

As to the allegation of the respondents that the complainant has no legal personality because he has no personal knowledge of the transaction entered into between LGU-Kananga and Sangguniang Barangay of barangay Tugbong, one must distinguish between legal personality and personal knowledge as they are not one and the same.

In the case of *Ambrose vs. Abrose*, G.R. No. 206761, June 23, 2021, the Supreme Court said that:

"Lack of capacity to sue is distinguished from lack of legal personality to sue while the former refers to the general disqualification of a plaintiff to institute an action, the latter refers to the fact that the plaintiff is not the real party in interest. As defined under Section 2, Rule 3 of the Rules of Civil Procedure, "[a] real party in interest is the party who stands to be benefited or injured by the judgment in the suit, or the party entitled to the avails of the suit." A real party in interest is one who possesses a substantial interest in the case as a result of breach of a legal right."

As provided in Section 36 of the Rules of Court "A witness can testify only to those facts which he knows of his personal knowledge; that is, which are derived from his own perception, except as otherwise provided in these rules".

The provisions of law do not provide that legal personality depends on the personal knowledge of the complainant.

In this case, the documents presented were public documents, and as enshrined in the Constitution, the public has the right to their access. It is noteworthy that the complainant was able to present the witnesses who testified on the authenticity and the existence of the said documents. All these are relevant to the resolution of this case and have nothing to do with the legal personality of the complainant.

Therefore, as to the question whether or not the complainant has legal personality in filing the instant case, the Ad Hoc Committee rules in the affirmative.



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Whether or not complaint has complied with the verification and certification of non-forum shopping.

The respondents alleged the following: that complainant attested under par. 6 therein that "no such other action or claim is pending therein"; under par. 7, complainant undertake to notify this Honorable Office if he learns that the same or similar action or claim has been filed or pending in the Supreme Court, Court of Appeals, the different Divisions thereof or any other court or tribunal or agency; however, there is a pending case before the Office of the Provincial Prosecution-Leyte in Ormoc City filed by the Municipality of Kananga, Leyte represented by Mayor Manuel Vicente M. Torres; and that it is impossible for the complainant in this case not to know the pendency of the said criminal case which involved the same.

There was no evidence presented by the respondents to support the said allegations.

Moreover, as alleged, it is the Municipality of Kananga, represented by the Honorable Mayor which was the complainant in the said case. This Ad Hoc Committee has no knowledge if the complainant of this case is also a complainant of that case, lest, whether the said case has the same cause of action in the instant case.

Besides, in the case of Laxina Sr. vs. Ombudsman, G.R. No. 153155, September 30, 2005, the Supreme Court held therein that the rule against forum shopping applied only to judicial cases or proceedings, not to administrative cases.

Whether or not the filing of this instant case is politically motivated.

There are three key functions that each Sangguniang Bayan performs. These functions include the legislative function, the quasi-judicial function, and legislative inquiry in aid of legislation. Each of these functions serves a unique purpose in ensuring efficient and effective governance at the local level.

The legislative function of the Sanggunian involves the authority to draft and pass local laws through ordinances or resolutions. These laws have the force of law within the jurisdiction of the Sanggunian and are essential for regulating various aspects of community life. By creating ordinances, the Sanggunian can address specific issues affecting the community, such as public safety, health regulations, and environmental protection. Through this function, the Sanggunian can respond to the needs and concerns of the local populace, creating laws tailored to the unique circumstances of their jurisdiction.

The quasi-judicial function of the Sanggunian allows it to preside over administrative cases involving elected local officials who have committed offenses. This function is crucial for holding public officials accountable for their actions and ensuring ethical behavior in government. By adjudicating cases involving misconduct or violations of law, the Sanggunian upholds the principles of good governance and maintains

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public trust in the integrity of local government officials. This quasi-judicial role serves as a check on the power of elected officials, ensuring that they are held to account for their actions.

Section 60 and 61 of Republic Act No. 7160 otherwise known as the Local Government of 1991 provides for the jurisdiction of Sanggunian to hear administrative cases against erring local elective official, and the Sanggunian Bayan is duty-bound to hear such cases and decide on the same.

In this instant case, the Sanggunian Bayan performed their duties and functions as a quasi-judicial body through the verified complaint filed by herein complainant. Both parties have presented their case and witnesses, however, there is no substantial evidence or proof that the said complaint is politically motivated.

Whether or not respondents violated Section 3 (e) and (f) of Republic Act No. 3019 also known as the Anti-Graft and Corrupt Practices Act.

For the Sangguniang Bayan to rule on the case, it is necessary to determine which of the charges fall within the jurisdiction of this body in the exercise of its quasi-judicial function.

On Republic Act No. 3019

The Sandiganbayan exercises exclusive original jurisdiction over violations of *Republic Act No. 3019*, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, *Republic Act No. 1379*, and *Chapter II, Section 2, Title VII, Book II of the Revised Penal Code*, where one or more of the accused are officials occupying the following positions in the government, whether in a permanent, acting or interim capacity, at the time of the commission of the offense:

1. Officials of the *executive branch* occupying the positions of regional director and higher, otherwise classified as Grade "27" and higher, of the Compensation and Position Classification Act of 1989 (Republic Act No. 6758), specifically including:
 - a) Provincial governors, vice-governors, members of the *sangguniang panlalawigan*, and provincial treasurers, assessors, engineers, and other provincial department heads;
 - b) City mayors, vice-mayors, members of the *sangguniang panlungsod*, city treasurers, assessors, engineers, and other city department heads;
 - c) Officials of the diplomatic service occupying the position of consul and higher;
 - d) Philippine army and air force colonels, naval captains, and all officers of higher rank;
 - e) Officers of the Philippine National Police while occupying the position of provincial director and those holding the rank of senior superintendent or higher;



- f) City and provincial prosecutors and their assistants, and officials and prosecutors in the Office of the Ombudsman and special prosecutor;
 - g) Presidents, directors or trustees, or managers of government-owned or controlled corporations, state universities or educational institutions or foundations.
2. Members of *Congress* and officials thereof classified as Grade "27" and up under the Compensation and Position Classification Act of 1989;
 3. Members of the *Judiciary* without prejudice to the provisions of the Constitution;
 4. Chairpersons and members of *Constitutional Commissions*, without prejudice to the provisions of the Constitution; and
 5. All other *national and local officials* classified as Grade "27" and higher under the Compensation and Position Classification Act of 1989.

Republic Act No. 3019 does not vest jurisdiction on the quasi-judicial bodies, including local government unit sanggunians, to hear and decide cases under the said laws.

Whether or not the Sanggunian Bayan of Kananga, Leyte has jurisdiction over violation of Republic Act No. 3019.

The jurisdiction of the Sangguniang Bayan

Section 60 and Section 61 of Republic Act No. 7160, otherwise known as the Local Government Code of 1991 provides that:

"Section 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 prison 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.

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



- a) A complaint against any elective official of a province, a highly urbanized city, an independent component city or component city shall be filed before the Office of the President;
- b) A complaint against any elective official of a municipality shall be filed before the sangguniang panlalawigan whose decision may be appealed to the Office of the President; and
- c) A complaint against any elective barangay official shall be filed before the sangguniang panlungsod or sangguniang bayan concerned whose decision shall be final and executory."

Pursuant to the authority vested in the Office of the Ombudsman under Sections 18, 23 and 27 of Republic Act. No. 6770, otherwise known as "The Ombudsman Act of 1989" it has the jurisdiction over any charges concerning offenses in violation of R.A. 3019, as amended, R.A. 1379 as amended, R.A. 6713, and for such other offenses committed by public officers and employees in relation to office.

It is only Republic Act No. 7160, particularly Section 60 and Section 61 thereof, grants authority to the local sanggunian the jurisdiction to discipline, suspend, or remove from office an elective local official based on the grounds enumerated thereon.

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

Injury is a harm inflicted upon an individual, whether it be physical, mental, or emotional, due to the negligence or intentional actions of another person or entity.

The Supreme Court, in the case of Ocean Marine Resources Corporation vs Nedic, G. R. No. 236263, July 19, 2022, cited the definition of injury from the Labor Code as "any harmful change in the human organism from any accident arising out of and in the course of the employment".

The Revised Penal Code also provides about physical injury as defined as any form of bodily harm inflicted on a person.

Considering that, as stated in the pre-trial brief of the complainant as "injury of the Local Government of Kananga, Leyte", may refer to a body corporate, however, there is no direct letter from the law about corporate injury. The complainant may have meant the same as damages.

The Philippine Jurisprudence is rich cases in as far as damages are concerned, among which are as follows:

Article 2229 of the Civil Code provides that exemplary or corrective damages are imposed, by way of example or correction for the public good, in addition to moral, temperate, liquidated or compensatory damages. Article 2231 of the same Code further states that in quasi-delicts, exemplary damages may be granted if the defendant acted with



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gross negligence. (Mariano Mendoza vs. Leonora Gomez, G.R. No. 160110, June 18, 2014)

Under Article 2226 of the Civil Code, liquidated damages are those agreed upon by the parties to a contract, to be paid in case of breach thereof. The parties to a contract are allowed to stipulate on liquidated damages to be paid in case of breach. It is attached to an obligation in order to ensure performance and has a double function: (1) to provide for liquidated damages, and (2) to strengthen the coercive force of the obligation by the threat of greater responsibility in the event of breach. The amount agreed upon answers for damages suffered by the owner due to delays in the completion of the project. As a pre-condition to such award, however, there must be proof of the fact of delay in the performance of the obligation. (Atlantic Erectors, Inc., vs. Court of Appeals, G.R. No. 170732, October 11, 2012)

Under Article 2224 of the New Civil Code, temperate damages may be recovered when pecuniary loss has been suffered but the amount cannot, from the nature of the case, be proven with certainty. In such cases, the amount of the award is left to the discretion of the courts, according to the circumstances of each case, but the same should be reasonable, bearing in mind that temperate damages should be more than nominal but less than compensatory. (Republic of the Philippines vs. Alberto Looyuko, G.R. No. 170966, June 22, 2016)

Under Article 2221 of the Civil Code, nominal damages may be awarded in order that the plaintiff's right, which has been violated or invaded by the defendant, may be vindicated or recognized, and not for the purpose of indemnifying the plaintiff for any loss suffered. Nominal damages are recoverable where a legal right is technically violated and must be vindicated against an invasion that has produced no actual present loss of any kind or where there has been a breach of contract and no substantial injury or actual damages whatsoever have been or can be shown. (Seven Brothers Shipping Corporation vs. DMC-Construction Resources, Inc., G.R. No. 193914, November 26, 2014)

However, the allegations about these kind of damages must be proven by evidence.

This Ad Hoc Committee was not able to receive any evidence as to any quantifiable injury caused by the herein respondents on the alleged committed acts.

Whether or not the public use for which the public funds or property were applied is different from the purpose for which they were originally appropriated by law ordinance.

As borne by the records, it appeared in following documents that the intended use of the LGU-acquired land is for Barangay Site, which are as follows:

1. Purchase Request No. 2018-12-037 dated August 6, 2018 (Exhibit "A"),



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2. Letter request of former Municipal Assessor, Engr. Virgilio Tiu dated August 8, 2018 addressed to the Provincial Appraisal Committee for the appraisal/assessment of said land (Exhibit "B"),
3. Resolution No. 026-2018 of the Provincial Appraisal Committee dated August 9, 2018 (Exhibit "C"),
4. SB Resolution No. 21R.18-523, Series of 2018 (Exhibit "D"),
5. SB Resolution No. 21R.19-629, Series of 2019 (Exhibit "I").

The following documents mentioned that the acquired land is intended for Relocation Site, and the actual use:

1. Deed of Donation executed by former mayor Rowena N. Codilla that expressly stated that "the herein donated property shall be used exclusively as barangay relocation site/expansion of built-up area for its residents" (Exhibit "J" for the complainant, Exhibit "2" for the respondents),
2. Photos of the existing structures on the parcel of land (Exhibit "CC"),
3. Other barangay documents (Exhibits "1", "3" and "4").

It is thus confirmed that the use for which the public property was applied is different from the purpose for which they were originally appropriated by law or ordinance.

Whether or not the defendants are Guilty of Dishonesty, Oppression, Misconduct in Office, Gross Negligence, Dereliction of Duty and Abuse of Authority.

One of the acts complained of by the complainant is that the Barangay Sangguniang of Tugbong, Kananga, Leyte did not authorize the incumbent Punong Barangay Leah O. Empleo to execute and accept the Deed of Donation dated June 25, 2019 donating the LGU-Kananga acquired parcel of land, 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 in favor of LGU Barangay Tugbong, Kananga, Leyte, which is contrary to the provisions of law.

Article 725 of the Civil Code of the Philippines provides that a donation is an act of liberality whereby a person disposes gratuitously of a thing or right in favor of another, who accepts it.

A deed of donation is a legal contract where a donor transfers ownership of property to a donee without receiving compensation. The donor's act of giving is considered an act of liberality.

The respondents did not present any document to prove that indeed Punong Barangay Leah O. Empleo was authorized by the Sangguniang Barangay of Tugbong, Kananga, Leyte. It is worthy to note that the two other respondents, Emerita P. Lacno and Jerry P. Empleo were elected barangay Kagawads during the said term. Instead they submitted to this body Barangay Resolution No. 038 Series of 2023 entitled "A RESOLUTION RATIFYING AND CONFIRMING ALL THE ACTS OF PUNONG BARANGAY LEAH O. EMPLEO RELATIVE TO THE DEED OF DONATION DATED JUNE 25, 2019 PER DOCUMENT NO. 311, PAGE 63, BOOK NO. LXXXVI, SERIES OF 2019 NOTARIZED BY ATTY. ALLAN CASTRO ENTERED INTO BY AND



Emerita P. Lacno

Jerry P. Empleo

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BETWEEN THE LOCAL GOVERNMENT OF KANANGA, LEYTE AND BARANGAY TUGBONG, KANANGA, LEYTE, RELATIVE TO THE PARCEL OF LAND DESIGNATED AS LOT 10184 AND LOT 10186 CONTAINING AN AREA OF TEN THOUSAND (10,000) SQUARE METERS, MORE OR LESS, COVERED BY TRANSFER CERTIFICATE OF TITLE NO T-15094 REGISTERED IN THE NAME OF JULIANA NAHINE".

Under Republic Act No. 7160, the Local Government Code of 1991, Section 22 thereof provides the following:

"SEC. 22. Corporate Powers. - (a) Every local government unit, as a corporation, shall have the following powers:

- (1) To have continuous succession in its corporate name;
- (2) To sue and be sued;
- (3) To have and use a corporate seal;
- (4) To acquire and convey real or personal property;
- (5) To enter into contracts; and
- (6) To exercise such other powers as are granted to corporations, subject to the limitations provided in this Code and other laws.

(b) Local government units may continue using, modify, or change their existing corporate seals: Provided, That newly established local government units or those without corporate seals may create their own corporate seals which shall be registered with the Department of the Interior and Local Government: Provided, further, That any change of corporate seal shall also be registered as provided herein.

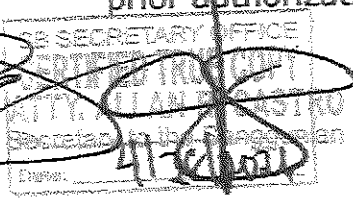
(c) Unless otherwise provided in this Code, no contract may be entered into by the local chief executive in behalf of the local government unit without prior authorization by the sanggunian concerned. A legible copy of such contract shall be posted at a conspicuous place in the provincial capitol or the city, municipal or barangay hall." *Emphasis supplied*

The language of the afore-stated law is very clear that "prior authorization by the sanggunian concerned" is needed before an LGU can enter into contract, saving exceptions as provided by Republic Act No. 7160.

Entering into the Deed of Donation, absent of prior authorization, is a grave misconduct as it put the barangay into the risk of the non-performing any obligations provided thereof which could arise any liabilities, worst, that it is clearly violation of the provisions of law particularly Section 22 (c) of Republic Act No. 7160.

In *Guialani v. Court of Appeals*, (Special) Twenty-Second Division, G.R. Nos. 221253-54, 227527-28 & 231065-68, 26 April 2021, the Supreme Court found a public official administratively guilty for disregarding a law that proscribes prior authorization:

"Notwithstanding the approval by the trial court of the settlement agreement, We find that Bañez is still administratively liable for disregarding the provision of the Local Government Code that requires that contracts entered into in behalf of the local government unit must be with the prior authorization of the Sanggunian."



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The respondents argued that the act of Leah Empleo in signing the Deed of Donation in the absence of any prior authorization by the sangguniang barangay was ratified by the sangguniang barangay of barangay Tugbong by virtue of Resolution No. 038 series of 2023, relying on the provisions of Article 1317 of the New Civil Code which provides that "No one may contract in the name of another without being authorized by the latter, or unless he has by law a right to represent him. A contract entered into in the name of another by one who has no authority or legal representation, or who has acted beyond his powers, shall be unenforceable, unless it is ratified, expressly or impliedly, by the person on whose behalf it has been executed, before it is revoked by the other contracting party."

The said argument does not hold water.

First, Section 22 (c) of the Local Government Code of 1991 is crystal that the exceptions envisioned are those set forth in the said Code and not in any other law. This finds basis in the use of the opening phrase of the said section which states "(u)nless provided by in this Code". To stress, according to the Supreme Court in the case of Quisumbing vs. Garcia, G.R. No. 175527, December 8, 2008, the only exceptions are those that are provided by law. The High Court said:

"And so, to give life to the obvious intendment of the law and to avoid a construction which would render Sec. 22(c) of R.A. No. 7160 meaningless, disbursement, as used in Sec. 346, should be understood to pertain to payments for statutory and contractual obligations which the *sanggunian* has already authorized thru ordinances enacting the annual budget and are therefore already subsisting obligations of the local government unit. Contracts, as used in Sec. 22(c) on the other hand, are those which bind the local government unit to new obligations, with their corresponding terms and conditions, for which the local chief executive needs prior authority from the *sanggunian*".

Second, there is nothing in the Local Government Code of 1991 which provides ratification as an exception.

Third, the Local Government Code of 1991 does not explicitly state that ratification can cure the defect, much less a misconduct.

The execution and submission of Barangay Resolution No. 038, Series of 2023, even proves that there was no prior authorization given to Punong Barangay Leah O. Empleo. The same document also proves that it is not only respondent Leah O. Empleo who can be held liable, but as well, the two other respondents Emerita P. Lacno and Jerry P. Empleo who are not innocent, that, notwithstanding their knowledge of the lack of authority, they participated in subsequent actions concerning the said property, including their participation in the approval of Resolution No. 038, Series of 2023.

It is worth stressing that the Resolution No. 038, Series of 2023, of Barangay Tugbong, Kananga, Leyte, approved on September 8, 2023



actually introduced improvements thereon without legal basis or ordinance.

All of the respondents admitted that they partitioned the land and distributed to several persons without any basis. The photos submitted by the complainant (Exhibits "CC") proved that there are structures constructed on the site.

When the respondents were asked if they have development plan and have secured necessary permits for its development, they answered in the negative. The Officer in-charge of the Municipal Assessor confirmed that no development plan concerning the land was submitted or in the file records of his office.

It is found out that the development, as directed by the barangay officials, who, the respondents are among them, has no approved plan from the Housing and Land Use Regulatory Board (HLURB) or from the Department of Human Settlements and Urban Development (DHSUD) contrary to the Implementing Rules and Regulations of Republic No. 11202, otherwise known as the Department of Human Settlements and Urban Development Act which provides: xxx "the regulatory function, including the formulation, promulgation, and enforcement of rules, standards and guidelines over subdivisions, condominiums and similar real estate developments, and imposition of fines and other administrative sanctions for violations, pursuant to PD 957, as amended, BP 220 and other related laws". This is clearly an act of grave misconduct.

The said acts of the respondents as barangay officials are blatant violation of law.

The barangay officials are expected to be the model of their respective constituents. Barangay is the basic political unit which serves as the primary planning and implementing unit of government policies, plans, programs, projects and activities in the community, and as a forum wherein the collective views of the people may be expressed, crystallized and considered, and where disputes may be amicably settled. (Sec. 384, LGC)

No wonder that the municipal officials are receiving verbal complaints from several buyers of the private individual lots located in barangay Tugbong, which allegedly the landowners were selling lots in the guise of subdivision development, however, with no development permits.

However, this Ad Hoc Committee believes that the respondents are not guilty of abuse of authority and oppression.

Abuse of authority is defined as a denial of justice when discretion, by virtue of one's position, has not been justly and properly exercised and it signifies the use of that discretion in such a way as to deprive a person of his right or of the remedy to protect or enforce such right. (DILG Opinion No. 11, Series of 2006, February 20, 2006).

On the other hand, by definition, oppression is a misdemeanor committed by a public officer, who under color of his office, wrongfully



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inflict upon any person any bodily harm, imprisonment or other injury. It is an act of cruelty, severity, or excessive use of authority. "Color of office" refers to an act usually committed by a public official under the appearance of authority but exceeds such authority. An affirmative act or omission, committed under color of office, is sometimes required to prove malfeasance in office.

In the instant case, there is no showing that the respondents, by virtue of their position as barangay officials denied justice by not justly and properly exercising their functions and have not used discretion in such a way as to deprive a person of his right or of the remedy to protect or enforce such right.

On the other hand, the herein respondents, who under the color of their office, did not wrongfully inflict upon any person any bodily harm, imprisonment or other injury. It is an act of cruelty, severity, or excessive use of authority.

In as far as the complainant of this case is concerned, he is not even claiming that he was denied justice, even to the baseless distribution of the parcel of land committed by the respondents.

Based on the evidence presented, the acts of the respondent did not constitute abuse of authority and oppression.

On Penalty

In the case of CA vs. Dianco, et al., A.M. No. CA-15-31-P, June 16, 2015, the Supreme Court said that:

"Serious dishonesty is punishable by dismissal. Less serious dishonesty is punishable by suspension for six (6) months and one (1) day to one (1) year for the first offense and dismissal for the second offense. Simple dishonesty is punishable by suspension of one (1) month and one (1) day to six (6) months for the first offense, six (6) months and one (1) day to one (1) year for the second offense, and dismissal for the third offense."

In the same case, the Supreme Court imposed the penalties, which are as follow:

"**WHEREFORE**, premises considered, the respondent Reynaldo V. Dianco is found **GUILTY** of Serious Dishonesty and Grave Misconduct. He is **DISMISSED** from the service, with the accessory penalties of cancellation of eligibility, forfeiture of retirement benefits, and perpetual disqualification for reemployment in the government service.

The respondent Joven O. Sorianosos is found **GUILTY** of Less Serious Dishonesty and Simple Misconduct. He is hereby **SUSPENDED** from the service without pay for a period of nine (9) months, with the stern



warning that a repetition of the same or similar acts will warrant a more severe penalty.

The respondent Abelardo P. Catbagan is found **GUILTY** of Simple Neglect of Duty. He is hereby **SUSPENDED** from the service without pay for a period of one (1) month and one (1) day, with the stern warning that a repetition of the same or similar acts will warrant a more severe penalty."

As provided in Resolution No. 22R.21-576, Series of 2021 of the Sangguniang Bayan of Kananga, entitled "A Resolution Adopting the Substantive and Procedural Rules to be observed in Administrative Case filed against Elective Barangay Officials before the Sangguniang Bayan of the Municipality of Kananga, Province of Leyte in its Capacity as a Quasi-Judicial Body pursuant to Sections 60-68 of the Local Government Coded of 1991 and the established issuances and jurisprudence on the matter", Rule VIII, Section 1 thereof, states that "the penalty of suspension shall not exceed the unexpired term of the respondent or a period of six (6) months for every administrative offense, nor shall said penalty be a bar to the candidacy of the respondent suspended as long as he meets the qualifications required for the office."

This Adhoc Committee believes that the suspension of six (6) months is appropriate because they committed not only a single offense, but four (4) offenses namely: Dishonesty, Misconduct in Office, Gross Negligence and Dereliction of Duty.

Section 66 (b) of the Republic Act No. 7160, known as the Local Government Code of 1991 provides that:

"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." Emphasis supplied.

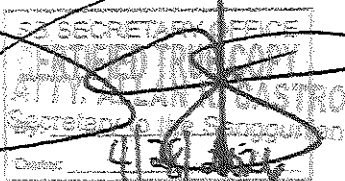
However, it would be too much to impose the four (4) periods of six (6) months suspension that would practically consume all their unexpired term.

IN VIEW OF THE FOREGOING, this Adhoc Committee resolves as follows:

(a) Finding the three respondents, LEAH O. EMPLEO, EMERITA P. LACNO and JERRY P. EMPLEO, GUILTY of DISHONESTY, MISCONDUCT IN OFFICE, GROSS NEGLIGENCE and DERELICTION OF DUTY;

(b) Recommending that each of the three respondents, LEAH O. EMPLEO, EMERITA P. LACNO and JERRY P. EMPLEO, shall be meted with the penalty of SUSPENSION FROM OFFICE FOR A PERIOD OF SIX (6) MONTHS WITHOUT PAY;

(c) Finding no jurisdiction on the charges for violation of R.A. 3019 and related laws;



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(d) Finding no merit on the charges for abuse of authority and oppression.

Issued this 2nd day of January 2025 in Kananga, Leyte.


HON. RESURRECCION C. CAPANAS
Sangguniang Bayan Member
Ad Hoc Committee Chairman

HON. MIGUEL JORGE P. TAN
Municipal Vice Mayor


HON. FERNANDO M. ASEO
Sangguniang Bayan Member


HON. BRENZON C. CABINTOY
Sangguniang Bayan Member


HON. ALMA N. ORFANO
Sangguniang Bayan Member


HON. RUDY COGAY
Sangguniang Bayan Member


HON. MINERVA M. BULAWIT
Sangguniang Bayan Member


HON. RICHEE C. CRUZ
Sangguniang Bayan Member


HON. ALLAN ESPINOSA
Sangguniang Bayan Member


HON. VICTORIANO L. GLOBA
Liga ng mga Barangay (LnB) President,
Ex-Officio Member


HON. MARY DANIELA L. CUBERO
Pambayang Pederasyon ng mga
Sangguniang Kabataan, President,
Ex-Officio Member

