

**REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY**

SECOND DIVISION

**PEOPLE OF THE
PHILIPPINES,**

Plaintiff,

CTA CRIM. CASE NO. O-1133

Members:

-versus-

BACORRO-VILLENA, *Chairperson,*
CUI-DAVID, *and*
TESTON, JJ.

**BACUSANON ARC
MULTI-PURPOSE
COOPERATIVE, ALVIN B.
MANLUNAS and ANALIZA
M. VIOLETA,**

Promulgated:

SEP 24 2026

Accused.

1:45 PM

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DECISION

CUI-DAVID, J.:

Before the Court is an *Information*¹ filed on March 13, 2024 by the People of the Philippines (**plaintiff**) against Bacusanon ARC Multi-Purpose Cooperative (**BARC-MPC**), together with its Chairman, Alvin B. Manlunas (**Manlunas**), and Treasurer, Analiza M. Violeta (**Violeta**), charging them with violation of Section 255, in relation to Sections 253(d) and 256, of the National Internal Revenue Code (**NIRC**) of 1997. The accusatory portion of the *Information* reads:

That on or about September 15, 2020, in Bacusanon, Pangantucan, Bukidnon, and within the jurisdiction of this Honorable Court, accused Bacusanon Arc Multi-Purpose Cooperative [sic], a registered taxpayer, with obligation under the law to pay the correct value added tax, through its co-accused, Alvin B. Manlunas, its chairman, [sic] and Analiza M. Violeta, its treasurer, [sic] did then and there, willfully, unlawfully, and feloniously fail to pay the correct value added

¹ Docket – Vol. I, p.5-6.

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tax with the Bureau of Internal Revenue for taxable year 2017 in the amount One Million Four Hundred Five Thousand One Hundred Eight and 59/100 Pesos only (Php 1,405,108.59), exclusive of surcharge and interest, when the assessment became final and executory, despite service of notices and demand letters for them to pay the said tax, including the Formal Letter of Demand dated September 15, 2020, to the damage and prejudice of the Government.

CONTRARY TO LAW.²

Finding the documents attached to the *Information* insufficient to enable the Court to determine the existence of probable cause, the Court, in a *Resolution* dated April 17, 2024, ordered plaintiff to submit copies of the subpoenas issued to accused during the preliminary investigation, together with proof of service thereof.³ Plaintiff complied on April 29, 2024.⁴

After examining the *Information* and the supporting documents, the Court found probable cause for the issuance of *Warrants of Arrest* against accused Manlunas and Violeta and, accordingly, issued the corresponding warrants on June 13, 2024.⁵

On August 1, 2024, the Regional Trial Court (**RTC**) of Bukidnon informed the Court that accused Manlunas and Violeta had posted bail. The Court accordingly accepted and approved their cash bonds on September 9, 2024,⁶ and lifted the *Warrants of Arrest* previously issued against them.⁷

The Preliminary Conference was initially scheduled on September 18, 2024, while the arraignment and pre-trial were set on October 9, 2024.⁸ During the Preliminary Conference, only plaintiff's counsel appeared.⁹

Upon accused's motions¹⁰ and in view of their failure to timely file a pre-trial brief, the arraignment and pre-trial were reset to November 13, 2024.¹¹ Plaintiff filed its *Pre-Trial Brief*¹²

² *Id.* at 5.

³ *Id.* at 80-84, *Resolution*.

⁴ *Id.* at 89-92, *Manifestation with Compliance*.

⁵ *Id.* at 113-116, *Resolution*.

⁶ *Id.* at 122, *Letter* dated July 31, 2024.

⁷ *Id.* at 172-173, *Resolution* dated September 9, 2024.

⁸ *Id.*

⁹ *Id.* at 179-180, *Preliminary Conference Report*.

¹⁰ *Id.* at 311-313, *Urgent Motion to Reset Hearing*; 329-331, *Urgent Motion to Set Hearing through Video Conference*.

¹¹ *Id.* at 323, *Order* dated October 28, 2024.

¹² *Id.* at 256-264.

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on October 4, 2024, while accused filed the *Pre-Trial Brief of Defense*¹³ on November 12, 2024.

During their arraignment conducted via videoconference on November 13, 2024, accused Manlunas and Violeta entered pleas of “not guilty.”¹⁴ Thereafter, the Court issued a *Pre-Trial Order*¹⁵ on January 17, 2025.

After the hearing was reset, plaintiff commenced the presentation of its evidence on March 12, 2025.¹⁶ Plaintiff presented Revenue Officer (**RO**) Paul Albert Pereda (**RO Pereda**),¹⁷ RO Azelea Leslie R. Zulueta (**RO Zulueta**),¹⁸ and Atty. Rainidah M. Ismael (**Atty. Ismael**),¹⁹ whose Judicial Affidavits were marked as Exhibits "P-31," "P-32," and "P-33," respectively.

As counsel for accused failed to appear despite due notice, the Court, upon plaintiff's motion, deemed the accused to have waived their right to cross-examine plaintiff's witnesses.²⁰ Plaintiff thereafter filed its *Formal Offer of Evidence (FOE)* on March 17, 2025.²¹

On March 19, 2025, accused filed an *Omnibus Motion to Cross Examine the Prosecution's Witnesses and Defer the Ruling of the Formal Offer of Exhibits*.²² Plaintiff filed its *Comment/Opposition [Re: Omnibus Motion to Cross Examine the Prosecution's Witness and Defer the Ruling of the Formal Offer of Exhibits dated March 19, 2025]*²³ on April 15, 2025. In a *Resolution* dated June 27, 2025,²⁴ the Court granted the motion and allowed the cross-examination of plaintiff's witnesses.

On August 27, 2025, RO Pereda and RO Zulueta were recalled to the witness stand and cross-examined by counsel for accused. The substance of their testimonies is summarized below:



¹³ *Id.* at 344-347.

¹⁴ *Id.* at 336-339, Order dated November 13, 2024.

¹⁵ *Id.* at 391-405.

¹⁶ *Id.* at 413-415, Order dated March 12, 2025.

¹⁷ *Id.* at 270-282.

¹⁸ *Id.* at 289-296.

¹⁹ *Id.* at 304-308.

²⁰ *Id.* at 417-a-417-c, Order dated March 12, 2025.

²¹ *Id.* at 419-427.

²² *Id.* at 432-435.

²³ *Id.* at 446-451.

²⁴ *Id.* at 464-469.

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Testimony of RO Pereda

RO Pereda, a Certified Public Accountant and Revenue Officer III, testified that he and Group Supervisor Geraldine Jadap were authorized under Letter of Authority (**LOA**) No. LOA-099-2019-00000105 dated May 21, 2019 to audit BARC-MPC for taxable year (TY) 2017. The LOA was served on June 11, 2019 through the cooperative's manager, Herminia D. Bantollo (**Bantollo**), together with a Checklist of Documentary Requirements. Due to the cooperative's noncompliance, a First Notice was issued and received by accused Violeta on June 26, 2019, followed by a Second and Final Notice received by Bantollo on August 14, 2019. After the cooperative partially complied with the documentary requirements, a Notice of Informal Conference (**NIC**) was issued and received by Bantollo on June 18, 2020. RO Pereda testified that accused Manlunas and other cooperative officers thereafter met with BIR personnel to discuss the NIC findings but failed to submit documents sufficient to refute them. Consequently, a Preliminary Assessment Notice (**PAN**) was issued and received by Manlunas on August 18, 2020. No reply was filed. The BIR thereafter issued a Final Assessment Notice and Formal Letter of Demand (**FAN/FLD**), which Manlunas personally received on October 21, 2020. As the cooperative neither paid nor protested the assessments within the prescribed period, the assessments became final and executory on November 20, 2020. RO Pereda identified the unpaid deficiency taxes for TY 2017 as ₱32,150.02 in Income Tax, ₱8,586.95 in Percentage Tax, ₱2,208,176.27 in Value-Added Tax, and ₱89,058.23 in Expanded Withholding Tax. He opined that the accused's failure to pay despite receipt of BIR notices constituted willful failure to pay taxes under Section 255 of the NIRC, as amended. He further testified that a *Joint Complaint-Affidavit* was filed with the Department of Justice (**DOJ**) on February 2, 2023 against BARC-MPC and its responsible officers, and that the DOJ subsequently found probable cause to indict the accused.²⁵

On cross-examination, however, RO Pereda admitted that he had no personal knowledge of BARC-MPC's operations, finances, or tax compliance during TY 2017, as his findings were based solely on documents submitted during the audit. He also admitted that the LOA was not personally served on Manlunas or Violeta and that he did not know who the cooperative's officers were during TY 2017. Significantly, he acknowledged that Manlunas became Chairman only on February 25, 2019 and was not Chairman during TY 2017. He explained that he dealt only with the cooperative's incumbent officers when the audit commenced in 2019. RO Pereda further admitted that he had no personal knowledge that

²⁵ Judicial Affidavit of Paul Albert Pereda, Docket – Vol. I, pp. 270-288, Exhibit “P-31”.

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either accused intentionally refused to pay the assessed taxes. He maintained, however, that the criminal complaint was filed because no protest was filed and the assessments had become final and executory. He also testified that BARC-MPC failed to secure the required Certificate of Tax Exemption from the BIR. On redirect examination, RO Pereda reiterated that Manlunas became Chairman only in 2019, that the FAN/FLD was served on him in 2020, and that BARC-MPC had no BIR Certificate of Tax Exemption. No recross-examination was conducted.²⁶

Testimony of RO Zulueta

RO Zulueta, a Revenue Officer III with almost 28 years of BIR service, testified that she was tasked with implementing post-assessment remedies against BARC-MPC. She identified accused Manlunas and Violeta as the cooperative's responsible officers, as Chairman and Treasurer, respectively. She testified that a Warrant of Dstraint and Levy (**WDL**) was served on the cooperative, followed by Warrants of Garnishment (**WOGs**) issued to several banks. As no funds or assets were recovered, the matter was referred to the Legal Division of Revenue Region No. 16 for criminal prosecution. On February 2, 2023, she, together with RO Pereda and Seizure Agent Gloribel Resma, filed a *Joint Complaint-Affidavit* with the DOJ against BARC-MPC and its responsible officers for violation of Section 255, in relation to Sections 253(d) and 256, of the NIRC, as amended.²⁷

On cross-examination, RO Zulueta clarified that her participation was limited to post-assessment collection and that she had no involvement in the audit of BARC-MPC for TY 2017. She confirmed that no funds were recovered through garnishment. She further testified that she personally served the WDL at the cooperative's office in February 2021 and that BARC-MPC was then still operating. She received no formal notice that the cooperative had ceased operations. No redirect or recross-examination was conducted.²⁸

During the same hearing, the Court deemed accused to have waived their right to present evidence for failure to submit their judicial affidavits.²⁹

On September 19, 2025, accused filed a *Motion for Reconsideration*³⁰ seeking reconsideration of the Court's Order declaring their right to present evidence as waived. In a

²⁶ Transcript of Stenographic Notes (TSN), Cross Examination of RO Pereda, August 27, 2025, pp. 20-34.

²⁷ Judicial Affidavit of Azelea Leslie R. Zulueta, Docket – Vol. I, pp. 289-303, Exhibit “P-32”.

²⁸ TSN, Cross Examination of RO Zulueta, August 27, 2025, pp. 37-45.

²⁹ Docket – Vol. II, pp. 520-521, Order dated August 27, 2025.

³⁰ *Id.* at 531-533.

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Resolution dated March 10, 2026,³¹ the Court granted the motion and allowed accused to present their evidence.

Thereafter, on May 20, 2026, Atty. Ismael was recalled to the witness stand for cross-examination. Following the completion of her cross-examination, redirect examination, and recross-examination, her testimony was declared concluded.³² The substance of her testimony is summarized as follows:

Testimony of Atty. Ismael

Atty. Ismael, then Revenue Attorney III of the Legal Division, Revenue Region No. 16, testified that she handled the case upon its referral from the Collection Division. She prepared the Final Notice Before Suit (**FNBS**), to which accused Manlunas responded that BARC-MPC had ceased operations and allegedly declared bankruptcy due to COVID-19. After evaluation, the Legal Division recommended criminal prosecution.³³

On cross-examination, Atty. Ismael admitted that she did not participate in the audit or in the preparation and service of the PAN, FAN, and FLD, but relied on records transmitted by the Assessment and Collection Divisions. While some records identified Danilo Caballero as Chairman, she explained that Manlunas received the FLD as Chairman and that CDA records identified Manlunas and Violeta as Chairman and Treasurer, respectively, when the assessment became final and collection proceedings commenced. She admitted, however, that she could not identify who held these positions during TY 2017 or when the accused assumed office, and was unfamiliar with their specific functions. On redirect and recross, Atty. Ismael reiterated that although the audit covered TY 2017, the BIR proceeded against Manlunas and Violeta because they were the recognized officers when the assessment became final and enforceable in 2020. She acknowledged that the ultimate determination of liability rests with the Court.³⁴

During the same hearing, the Court acted on plaintiff's oral offer of evidence and admitted all of plaintiff's exhibits for the purposes for which they were offered, subject to the Court's final evaluation of their probative value. Plaintiff thereafter formally rested its case.

³¹ *Id.* at 576-584.

³² *Id.* at 650-651, Minutes of Hearing.

³³ Judicial Affidavit of Atty. Rainidah M. Ismael, Docket – Vol. I, pp. 304-308, Exhibit “P-32”.

³⁴ TSN, Cross Examination of Atty. Ismael, May 20, 2026, pp. 6-23.

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The Court likewise denied accused's motion for postponement pursuant to the Revised Guidelines on Continuous Trial of Criminal Cases. The presentation of accused evidence proceeded, with accused Manlunas and Violeta taking the witness stand in their own behalf.³⁵ Their respective testimonies may be summarized as follows:

Testimony of accused Manlunas

Accused Manlunas testified through his *Judicial Affidavit* dated March 19, 2026.³⁶ He stated that he became Chairman of the accused cooperative only on February 25, 2019, whereas the taxable year involved in the case was 2017, when Mr. Danilo Caballero served as Chairman. He testified that his duties as Chairman were limited to presiding over board meetings and approving policies, while the cooperative's Manager handled its day-to-day accounting, disbursements, and financial affairs. He further stated that neither he nor the cooperative intended to violate tax laws and that the cooperative had attempted to secure a tax exemption and negotiate a settlement with the BIR but was unable to do so because of an existing "Open Case." He likewise testified that the cooperative was composed mainly of small farmers and workers and had no in-house lawyers, accountants, or personnel with technical expertise in tax matters. According to him, the cooperative eventually exhausted its funds and permanently ceased operations in March 2021 due to the effects of the COVID-19 pandemic, losses in agricultural production, and mass withdrawals of members' capital contributions. Accused Manlunas also testified that he is a small farmer who completed only elementary education and has no training in accounting or taxation. He stated that he previously earned only ₱700, had to borrow money to post bail, and neither he nor the cooperative had the financial capacity to pay the alleged tax liabilities exceeding ₱2 million.

On cross-examination, Manlunas confirmed that he served as Chairman of the cooperative from 2019 to 2022 and was its Chairman when the assessment became final in 2020. He testified that the cooperative earned income from farming, lending activities, and a sari-sari store; that its application for tax exemption was denied due to an existing BIR case; that the cooperative's manager exercised financial control over its operations; and that despite efforts to negotiate with the BIR, the cooperative could not pay its tax liabilities because of insufficient funds, resulting in its closure. He likewise acknowledged that the Certificate of No Outstanding Tax

³⁵ *Id.* at 650-651, Minutes of Hearing.

³⁶ *Id.* at 476-488, Exhibit "A-5".



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Liability covered only taxable year 2020, not 2017. On redirect, he explained that the cooperative failed to pay the 2017 tax liability because it was still attempting to collect receivables from its members and reiterated that the cooperative ceased operations in 2022. No recross-examination followed.³⁷

Testimony of accused Violeta

Accused Violeta testified through her Judicial Affidavit dated March 19, 2026.”³⁸ She stated that, in 2017, her participation in the cooperative was limited to basic manual tasks and she had no involvement in its accounting, financial management, or decision-making. She was formally designated as Treasurer only in March 2018. A high school graduate with no formal accounting training, she testified that, in performing her duties, including collecting payments from members and assisting with records, she relied on the Cooperative Manager and bookkeeper to handle the cooperative’s accounting matters and BIR compliance. She further stated that she never intended to violate tax laws or defraud the government and, in good faith, believed that the cooperative was tax-exempt because it served marginalized farmers and other underserved sectors. She added that she served primarily out of community spirit, received little or no compensation, never personally benefited from the cooperative’s revenues, and currently lacks the financial means to pay the assessed tax liabilities. She likewise testified that the cooperative ceased operations in March 2021 due to financial losses, mounting debts, mass withdrawals by members, and the effects of the COVID-19 pandemic.

On cross-examination, Violeta confirmed that she served as Treasurer from 2018 until December 2020. She testified that her duties were limited to collecting member payments, issuing official receipts, and assisting in accounting matters. She also stated that she was unfamiliar with the requirements for tax exemption, was not involved in management meetings, and had no knowledge of any measures taken to settle the cooperative’s tax liabilities, except for its application for tax exemption. She further testified that the cooperative’s insolvency was evidenced by a closure document issued by the Municipal Mayor. No redirect or recross-examination followed.³⁹

After the completion of their testimonies, accused orally offered their documentary exhibits. The Court admitted all of the exhibits for the purposes for which they were offered,

³⁷ TSN, Cross-Examination of Alvin B. Manlunas, May 20, 2026, pp. 39-49.

³⁸ *Id.* at 502-509. Exhibit “A-6”.

³⁹ TSN, Cross-Examination of Analiza M. Violeta, May 20, 2026, pp. 52-57.

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subject to the Court's final evaluation of their probative value. Accused thereafter formally rested their case.⁴⁰

Plaintiff filed its *Memorandum*⁴¹ on June 18, 2026, while accused filed their *Memorandum*⁴² on June 19, 2026.

On July 13, 2026, the case was submitted for decision.⁴³

THE ISSUES

The parties stipulated the following issues for resolution, *viz.*:⁴⁴

1. Whether Accused Alvin B. Manlunas and Analiza M. Violeta are guilty of the offense charged in the *Information*; and
2. Whether they are civilly liable to pay the deficiency taxes for violation of Section 255, in relation to Section 253(d) and 256 of the NIRC, as amended.

PLAINTIFF'S ARGUMENTS

In its *Memorandum*, plaintiff argues that BARC-MPC and its responsible corporate officers, accused Manlunas and Violeta, are guilty of willful failure to pay taxes and are civilly liable for deficiency Value Added Tax (**VAT**).

Plaintiff argues that all elements of a violation under Section 255 of the NIRC of 1997, as amended, have been established. First, plaintiff asserts that the accused were under a legal duty to pay the assessed taxes, as reflected in the FAN/FLD. Second, plaintiff maintains that the accused willfully failed to comply with this duty because, despite their receipt of the FAN/FLD and subsequent collection notices, they deliberately ignored the demands and failed to pay the assessed amount. Plaintiff further argues that, under Sections 253(d) and 256 of the NIRC, corporate officers, particularly Manlunas as Chairman and Violeta as Treasurer, may be held directly

⁴⁰ *Id.* at 650-651, Minutes of Hearing.

⁴¹ Docket – Vol. II, pp. 654-667.

⁴² *Id.* at 670-674.

⁴³ *Id.* at 679, Resolution dated July 13, 2026.

⁴⁴ Docket -Vol. I, p. 399, PTO, IV. ISSUES TO BE TRIED AND RESOLVED.



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criminally and civilly liable for the cooperative's deliberate failure to pay its tax liabilities.

Plaintiff also argues that insolvency is not among the exclusive modes recognized under Article 89 of the Revised Penal Code (**RPC**) to extinguish criminal liability. Plaintiff emphasizes that an inability to pay may affect only the immediate enforcement or collection of taxes but does not negate the commission of the offense nor extinguish its penal consequences.

Citing Republic Act (**RA**) No. 10142 and jurisprudence, plaintiff argues that corporate rehabilitation or insolvency proceedings do not stay, suspend, or extinguish criminal actions against responsible corporate officers.

In relation to civil liability, plaintiff maintains that accused are civilly liable for the payment of the deficiency VAT assessment. Plaintiff states that the civil action is deemed instituted with the criminal action and may be established by a mere preponderance of evidence, a lower threshold than proof beyond reasonable doubt. Plaintiff emphasizes that it sufficiently established its civil claim through the *Joint Complaint-Affidavit* and the attached FAN/FLD, with details of discrepancies, showing a basic VAT deficiency of **₱1,405,108.59**, exclusive of surcharges and interest.

Plaintiff concludes that taxes are the lifeblood of the government, indispensable to public services, defense, and infrastructure. Plaintiff states that defenses such as insolvency or mere denial cannot be permitted to impair or defeat lawful tax assessments, as the State's interest in revenue outweighs private assertions of financial distress.

ACCUSED'S ARGUMENTS

In their *Memorandum*, accused maintain that criminal liability under the NIRC is personal and does not attach simply by virtue of subsequent corporate succession. They emphasize that accused Manlunas assumed the position of Chairman only in February 2019, while accused Violeta became Treasurer only in March 2018. Consequently, neither of them had control, statutory duty, or authority over the cooperative's finances or tax filings in 2017.



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Accused also argue that BARC-MPC has a juridical personality separate and distinct from that of its officers. They contend that the unpaid tax assessments pertain to the cooperative and that its officers cannot be held criminally liable absent proof of personal fraud, malicious participation, or personal benefit from the cooperative's 2017 revenues.

Accused maintain that the element of willfulness, which is essential to a violation of Section 255, is absent. They claim that they acted in good faith, citing as an example accused Manlunas's alleged personal borrowing of funds to settle the tax liabilities incurred during his administration in 2020. According to accused, BARC-MPC's failure to settle the 2017 deficiency taxes was caused by genuine financial insolvency, compounding debts, pandemic disruptions, and eventual involuntary dissolution/permanent closure in March 2021, rather than from a willful refusal to pay. Further, accused argue that plaintiff merely established that they signed administrative BIR notices, such as the PAN and FAN/FLD, in their capacities as incumbent officers. Such circumstance, according to the accused, is insufficient to prove that they were the persons responsible for the tax obligations arising during taxable year 2017.

THE COURT'S RULING

The Court has jurisdiction over the instant case.

Section 7(b)(1) of RA No. 1125,⁴⁵ as amended by RA No. 9282,⁴⁶ vests the Court with exclusive original jurisdiction over criminal offenses arising from violations of the NIRC of 1997, as amended, where the principal amount of taxes and fees claimed, exclusive of charges and penalties, is at least ₱1,000,000.00, thus:

SEC. 7. *Jurisdiction.* – The CTA shall exercise:

(b) Jurisdiction over cases involving criminal offenses as herein provided:

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⁴⁵ An Act Creating the Court of Tax Appeals, June 16, 1954.

⁴⁶ An Act Expanding the Jurisdiction of the Court of Tax Appeals (CTA), Elevating Its Rank to the Level of a Collegiate Court with Special Jurisdiction and Enlarging Its Membership, Amending for the Purpose Certain Sections of Republic Act No. 1125, as Amended, Otherwise Known as the Law Creating the Court of Tax Appeals, and for Other Purposes, March 30, 2004.

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(1) Exclusive original jurisdiction over all criminal offenses arising from violations of the National Internal Revenue Code or Tariff and Customs Code and other laws administered by the Bureau of Internal Revenue or the Bureau of Customs: Provided, however, That offenses or felonies mentioned in this paragraph where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is less than One million pesos (P1,000,000.00) or where there is no specified amount claimed shall be tried by the regular Courts and the jurisdiction of the CTA shall be appellate. Any provision of law or the Rules of Court to the contrary notwithstanding, the criminal action and the corresponding civil action for the recovery of civil liability for taxes and penalties shall at all times be simultaneously instituted with, and jointly determined in the same proceeding by the CTA, the filing of the criminal action being deemed to necessarily carry with it the filing of the civil action, and no right to reserve the filing of such civil action separately from the criminal action will be recognized.

Similarly, Section 3(b)(1), Rule 4 of the Revised Rules of the Court of Tax Appeals (**RRCTA**) provides:

Section 3. Cases Within the Jurisdiction of the Court in Divisions. — The Court in Divisions shall exercise:

... ..

(b) Exclusive jurisdiction over cases involving criminal offenses, to wit: ...

(1) Original jurisdiction over all criminal offenses arising from violations of the National Internal Revenue Code or Tariff and Customs Code and other laws administered by the Bureau of Internal Revenue or the Bureau of Customs, where the principal amount of taxes and fees, exclusive of charges and penalties, claimed is one million pesos or more; ...

In this case, the *Information* filed on March 13, 2024 charges accused with violation of Section 255, in relation to Sections 253(d) and 256 of the NIRC of 1997, as amended. The principal tax liability involved amounts to **₱1,405,108.59, exclusive of surcharges and penalties**. Accordingly, the Court has jurisdiction over the instant case.

Sections 255, 253(d), and 256 of the NIRC of 1997, as amended, provide:

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SEC. 255. *Failure to File Return, Supply Correct and Accurate Information, Pay Tax, Withhold and Remit Tax, and Refund Excess Taxes Withheld on Compensation.* — Any person required under this Code or by rules and regulations promulgated thereunder to pay any tax, make a return, keep any record, or supply correct and accurate information, **who willfully fails to pay such tax**, make such return, keep such record, or supply such correct and accurate information, or withhold or remit taxes withheld, or refund excess taxes withheld on compensation, at the time or times required by law or rules and regulations shall, in addition to other penalties provided by law, upon conviction thereof, be punished by a fine of not less than Ten thousand pesos (P10,000) and suffer imprisonment of not less than one (1) year but not more than ten (10) years.

SEC. 253. *General Provisions.* -

...

(d) In the case of associations, partnerships or corporations, the penalty shall be imposed on the partner, president, general manager, branch manager, treasurer, officer-in-charge, and the employees responsible for the violation.

SEC. 256. *Penal Liability of Corporations.* - Any corporation, association or general co-partnership liable for any of the acts or omissions penalized under this Code, in addition to the penalties imposed herein upon the responsible corporate officers, partners, or employees shall, upon conviction for each act or omission, be punished by a fine of not less than Fifty thousand pesos (P50,000) but not more than One hundred thousand pesos (P100,000).

To sustain a conviction for willful failure to pay tax under Section 255, plaintiff must establish the following elements:

1. The accused is a person **required** under the NIRC or its implementing rules and regulations **to pay any tax**;
2. The accused **failed to pay the required tax** at the time required by law or rules and regulations; and
3. The accused's **failure to pay the required tax** at the time required by law or rules and regulations **is willful**.

Section 2, Rule 133 of the Rules of Court requires that the guilt of an accused in a criminal case be established beyond reasonable doubt:

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Rule 133

Sec. 2. *Proof beyond reasonable doubt.* – In a criminal case, the accused is entitled to an acquittal unless his guilt is shown beyond reasonable doubt. **Proof beyond reasonable doubt does not mean such a degree of proof as, excluding possibility of error, produces absolute certainty.** Moral certainty only is required or that degree of proof which produces conviction in an unprejudiced mind. (Emphasis supplied)

It is well-settled that the burden rests upon plaintiff to establish every element of the offense beyond reasonable doubt. Failing this, the accused are entitled to an acquittal as a matter of right.

After a meticulous review of the testimonial and documentary evidence on record, the Court finds that **plaintiff failed to establish all the elements necessary to sustain a conviction under Section 255 of the NIRC.**

While plaintiff was able to establish the *first* and *second* elements of the offense, it failed to prove the *third* and indispensable element, namely, that accused willfully failed to pay the assessed tax liability.

***The first element is present.
The evidence establishes that
BARC-MPC was liable for VAT
on the transactions covered by
the assessment.***

Section 105 of the NIRC of 1997, as amended, provides:

SEC. 105. *Persons Liable.* - Any person who, in the course of trade or business, sells, barter, exchanges, leases goods or properties, renders services, including digital services, and any person who imports goods shall be subject to the value-added tax imposed in Sections 106 to 108 of this Code.

...

The phrase 'in the course of trade or business' means the regular conduct or pursuit of a commercial or an economic activity, including transactions incidental thereto, by any person regardless of whether or not the person engaged

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therein is a nonstock, nonprofit private organization (irrespective of the disposition of its net income and whether or not it sells exclusively to members or their guests), or government entity.

Here, the deficiency VAT assessment arose from BARC-MPC's reported sales from its "Consumer Store, Service Income, Rent Income, and Management Fee, as reported in [its] financial statements."⁴⁷

The Court is not unmindful that cooperatives may enjoy VAT exemptions under Section 109 of the NIRC of 1997, as amended.⁴⁸ Among others, the law exempts certain sales by duly registered agricultural cooperatives, gross receipts from lending activities of duly registered credit or multi-purpose cooperatives, and qualifying sales by certain non-agricultural, non-electric, and non-credit cooperatives.

Articles 60 and 61 of Republic Act No. 9520, otherwise known as the *Philippine Cooperative Code of 2008*,⁴⁹ likewise grant duly registered cooperatives specified tax exemptions,

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⁴⁷ Docket – Vol. I, p. 216, Exhibit "P-14"; 228, Exhibit "P-17".

⁴⁸ SEC. 109. Exempt Transactions. – (1) Subject to the provisions of Subsection (2) hereof, the following transactions shall be exempt from the value-added tax:

...

(L) Sales by agricultural cooperatives duly registered with the Cooperative Development Authority to their members as well as sale of their produce, whether in its original state or processed form, to non-members; their importation of direct farm inputs, machineries and equipment, including spare parts thereof, to be used directly and exclusively in the production and/or processing of their produce;

(M) Gross receipts from lending activities by credit or multi-purpose cooperatives duly registered with the Cooperative Development Authority;

(N) Sales by non-agricultural, non-electric and non-credit cooperatives duly registered with the Cooperative Development Authority: ...

⁴⁹ ART. 60. Tax Treatment of Cooperative. - Duly registered cooperatives under this Code which do not transact any business with non-members or the general public shall not be subject to any taxes and fees imposed under the internal revenue laws and other tax laws. Cooperatives not falling under this article shall be governed by the succeeding section.

ART. 61. Tax and Other Exemptions. Cooperatives transacting business with both members and non-members shall not be subjected to tax on their transactions with members. In relation to this, the transactions of members with the cooperative shall not be subject to any taxes and fees, including not limited to final taxes on members' deposits and documentary tax. Notwithstanding the provisions of any law or regulation to the contrary, such cooperatives dealing with nonmembers shall enjoy the following tax exemptions:

...

(b) Value-Added Tax – On transactions with non-members: Provided, however, That cooperatives duly registered with the Authority; are exempt from the payment of value-added tax; subject to Section 109, sub-sections L, M and N of Republic Act No. 9337, the National Internal Revenue Code, as amended: Provided, That the exempt transaction under Section 109 (L) shall include sales made by cooperatives duly registered with the Authority organized and operated by its member to undertake the production and processing of raw materials or of goods produced by its members into finished or process products for sale by the cooperative to its members and non-members: Provided, further, That any processed product or its derivative arising from the raw materials produced by its members, sold in then name and for the account of the cooperative: Provided, finally, That at least twenty-five per centum (25%) of the net income of the cooperatives is returned to the members in the form of interest and/or patronage refunds:

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depending upon the nature of their transactions and whether they transact with members or non-members.

However, the mere fact that BARC-MPC is a cooperative does not automatically exempt all of its transactions from VAT.

Tax exemption is never presumed. A taxpayer claiming exemption bears the burden of proving that it clearly falls within the terms of the law granting the exemption. Accordingly, a claim of exemption must rest upon a clear and unequivocal statutory basis.

Here, accused did not establish that the sales or receipts upon which the deficiency VAT assessment was based fell within any of the exemptions under Section 109 of the NIRC or Articles 60 and 61 of RA No. 9520. In particular, no evidence was presented demonstrating that the assessed **Consumer Store, Service Income, Rent Income, and Management Fee** constituted transactions qualifying for the exemptions invoked by law. Indeed, accused did not directly contest the substantive bases of the FAN/FLD or present evidence refuting the BIR's treatment of these transactions as subject to VAT.

Tax exemptions are construed *strictissimi juris* against the taxpayer and liberally in favor of the taxing authority. It is the taxpayer's duty to justify the exemption by words too plain to be mistaken and too categorical to be misinterpreted.⁵⁰ Accused did not, at the very least, attempt to establish any exemption in their favor. In fact, glaringly, accused offer no counterarguments as to the merits of the FAN/FLD issued against accused cooperative.

Accordingly, the Court finds that the *first* element is satisfied.

The second element likewise is present: The assessed VAT liability remained unpaid.

The records show that on September 15, 2020, the BIR issued a FAN/FLD assessing BARC-MPC for basic deficiency

⁵⁰ *Radio Communications of the Philippines, Inc. v. Provincial Assessor of South Cotabato*, G.R. No. 144486, April 13, 2005 [Per J. Carpio, First Division].

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VAT of ₱1,405,108.59, exclusive of interest and surcharge.⁵¹ The FAN/FLD was received by accused Manlunas on behalf of BARC-MPC on October 21, 2020.⁵²

Under Section 228 of the NIRC of 1997, as amended, a taxpayer may protest a final assessment within 30 days from receipt thereof; otherwise, the assessment becomes final, executory, and demandable. Consistent therewith, the FAN required BARC-MPC to pay the assessed deficiency taxes within “30 days upon receipt.”⁵³

Thus, upon BARC-MPC's receipt of the FAN/FLD on October 21, 2020, it had until **November 20, 2020** to file a protest. No protest was filed. It also did not pay the assessed deficiency VAT. Consequently, the assessment became final, executory, and demandable, and the deficiency VAT remained unpaid when it became due.

Accused attribute BARC-MPC's nonpayment to its financial difficulties, eventual cessation of operations, and alleged insolvency. These circumstances do not negate the fact of nonpayment or, by themselves, extinguish the underlying tax obligation. Their significance lies instead in determining whether BARC-MPC's failure to pay was **willful** within the contemplation of Section 255—a matter that pertains to the *third* element which will be addressed in the succeeding discussion.

Accordingly, the second element has likewise been established.

***The third element is absent:
Plaintiff failed to prove beyond
reasonable doubt that the
nonpayment of the assessed
VAT was willful.***

Section 253(d) of the NIRC of 1997, as amended, provides:

SEC. 253. General Provisions. -

...

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⁵¹ Docket – Vol. I, p. 224, Exhibit “P-17”.

⁵² *Id.* at 230, Exhibit “P-18”.

⁵³ Docket -Vol. I, p. 221, Exhibit “P-16”.

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(d) In the case of associations, partnerships or corporations, the penalty shall be imposed on the partner, president, general manager, branch manager, treasurer, officer-in-charge, and the employees responsible for the violation.

Accused Manlunas and Violeta argue that they may not be held criminally liable because they were not yet officers of BARC-MPC during taxable year 2017, the taxable year covered by the audit.

The argument, standing alone, does not convince.

In *People v. E & D Parts Supply, Inc.*,⁵⁴ (*E & D Parts*) the Supreme Court explained that although corporate officers may be held criminally liable for acts attributable to the corporation, their criminal liability stems from their **active participation** in the commission of the wrongful act.

Thus, the controlling consideration is not simply whether accused Manlunas and Violeta were officers during taxable year 2017, but whether they were the officers responsible for the violation actually charged and whether plaintiff proved their personal participation therein with the criminal intent required by law.

To resolve this issue, an examination of the *Information* is therefore necessary.

The *Information* does not charge accused Manlunas and Violeta with the failure to correctly declare or pay VAT for taxable year 2017. Rather, they are specifically charged with **willfully failing to pay the assessed deficiency VAT** after the assessment had become final and executory, despite service of notices and demand letters.

Consequently, the fact that accused Manlunas became Chairman only in 2019 and accused Violeta became Treasurer only in 2018 does not, by itself, absolve them from liability. The offense charged pertains to the alleged willful nonpayment of the deficiency VAT after the FAN/FLD had become final and executory. As earlier discussed, the FAN/FLD was received on October 21, 2020, and the assessed tax became due and

⁵⁴ G.R. No. 259284, January 24, 2024 [Per J. M.V. Lopez, Second Division], citing *Suarez v. People*, G.R. No. 253429, October 6, 2021 [Per J. Carandang, Third Division], and *ABS-CBN Corporation v. Gozon*, G.R. No. 195956, March 11, 2015 [Per J. Leonen, Second Division].

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demandable on November 20, 2020,⁵⁵ when accused Manlunas and Violeta were already serving as Chairman and Treasurer, respectively.

However, proof of corporate position alone is insufficient to establish their guilt.

Section 253(d) does not dispense with the elements of the offense defined in Section 255. Plaintiff must still prove that the officer sought to be held criminally liable was **responsible for the violation and willfully committed the prohibited act or omission**. Corporate position may establish opportunity, authority, or responsibility; it does not, without more, establish criminal intent.

This distinction is decisive here.

In *Commissioner of Internal Revenue v. Estate of Toda, Jr.*,⁵⁶ the Supreme Court elucidated that the concept of tax evasion involves, among others, an accompanying state of mind described as "evil," in "bad faith," "willful," or "deliberate and not accidental."

In *People v. Mendez*,⁵⁷ the Supreme Court further explained that "**willful**," when used in the definition of a crime, generally means an act done intentionally or purposely, as distinguished from accidentally or negligently. The Supreme Court thereafter referred to *Cheek v. United States*, where "**willfully**," as used in criminal tax statutes, was understood to mean the **voluntary and intentional violation of a known legal duty**. Thus:

... The term "willful" is defined in the Ninth Edition of Black's Law Dictionary as voluntary and intentional, but not necessarily malicious, *viz.*:

The word "**Wilful**" or "**Wilfully**" when used in the definition of a crime, it has been said time and again, means **only intentionally or purposely as distinguished from accidentally or negligently** and does not require any actual impropriety; while on the other hand it has been stated with equal repetition and insistence that

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⁵⁵ The FAN/FLD was received by accused Manlunas on October 21, 2020. Under the terms of the FAN/FLD, accused BARC-MPC was required to pay the assessed deficiency taxes within thirty (30) days from receipt thereof. Consequently, the assessment became due on November 20, 2020.

⁵⁶ G.R. No. 147188, September 14, 2004 [Per C.J. Davide, Jr., First Division].

⁵⁷ G.R. Nos. 208310-11 & 208662, March 28, 2023 [Per J. Lopez, M., *En Banc*].

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the requirement added by such a word is not satisfied unless there is a bad purpose or evil intent. Rollin M. Perkins & Ronald N. Boyce, Criminal Law 875-76 (3d ed. 1982).

... ..

In the United States (US) Supreme Court case of *Cheek v. United States*, the word **willfully** as used in the federal criminal tax statutes, was construed as **voluntary, intentional violation of a known legal duty**. In that case, Cheek was charged with violation of Section 7203 of the Internal Revenue Code for willfully failing to file income tax returns and Section 7201 for willfully attempting to evade his income taxes. The US Supreme Court held:

Willfulness, as construed by our prior decisions in criminal tax cases, requires the Government to prove that the law imposed a duty on the defendant, that the defendant knew of this duty, and that he **voluntarily and intentionally violated that duty**. ...

From the foregoing, willfulness requires more than the mere failure to pay a tax that has become due and demandable. Plaintiff must establish beyond reasonable doubt that the accused knew of the legal duty to pay and, despite such knowledge and the responsibility to act, voluntarily and intentionally failed or refused to comply with that duty. Thus, **willful failure to pay cannot be presumed from nonpayment alone**; it must be established as a fact from the evidence on record.

Measured against this standard, plaintiff's evidence falls short.

Plaintiff established that a deficiency VAT assessment existed; that the FAN/FLD was received; that no protest was filed within the prescribed period; that the assessment became final and executory; and that the assessed VAT remained unpaid. These facts sufficiently establish the tax obligation and its nonpayment. They do not, however, establish the state of mind accompanying such nonpayment.

Indeed, plaintiff's witnesses themselves did not supply the missing proof.

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RO Pereda, who conducted the audit and characterized the nonpayment as willful, candidly admitted on cross-examination that he had **no personal knowledge that the accused's refusal to pay was intentional**.⁵⁸ He likewise admitted that he did not determine who the officers and directors of BARC-MPC were during taxable year 2017. His testimony therefore established the audit, assessment, service of notices, and eventual nonpayment, but not the accused's state of mind.

RO Zulueta's testimony is equally significant. Her participation commenced only during the post-assessment collection stage. She caused the issuance of the WDL and WOGs, yet those collection efforts yielded no recoverable assets or garnishable amounts.⁵⁹ Far from demonstrating that the cooperative possessed funds which the accused deliberately withheld from the Government, the unsuccessful garnishments are at least consistent with accused's evidence that BARC-MPC was already experiencing serious financial distress. This evidence lends credence to the defense of financial incapacity.

Atty. Ismael's testimony likewise established principally why the BIR considered Manlunas and Violeta the responsible officers. She acknowledged that she could not say whether they were officers in 2017. According to her, the BIR considered them responsible because they were the cooperative's officers when the tax assessment became final in 2020 and because they were the officials authorized to act on the cooperative's behalf during the assessment and collection stages.⁶⁰ Thus, her testimony is

⁵⁸ TSN, Cross Examination of RO Pereda, August 27, 2025, p. 27.

ATTY. CALAG:

Q. But you have no personal knowledge if this refusal to pay taxes is intentional or not?

ATTY. DAMIAN:

Objection, your Honor. Misleading.

JUSTICE VILLENA:

Overruled.

ATTY. DAMIAN:

Yes, your Honors.

JUSTICE VILLENA:

Answer the question. You have no personal knowledge whether it's intentional or not?

MR. PEREDA:

A. I have no personal knowledge of that. I'm not there.

⁵⁹ See Judicial Affidavit of Azelea Leslie R. Zulueta, Docket – Vol. I, pp. 289-303, Exhibit “P-32”, and TSN, Cross Examination of RO Zulueta, August 27, 2025, pp. 37-45.

⁶⁰ TSN, Rainidah M. Ismael, May 20, 2026, pp. 23-24

ATTY. CAGAMPAN-TALATALA:

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relevant to their official positions and their awareness of the assessment, but it does not independently establish that either accused knowingly and deliberately chose to withhold payment of the tax obligation.

Significantly, plaintiff failed to present evidence that funds sufficient to satisfy the assessment remained available to the cooperative after the tax became due but were deliberately withheld; that either accused directed that available funds not be applied to the assessment; or that either concealed, diverted, or transferred cooperative assets to frustrate collection. These circumstances are not indispensable elements of Section 255, but their absence is significant because plaintiff otherwise relies principally upon the accused's positions, their knowledge of the assessment, and the fact of nonpayment to infer willfulness.

In sum, plaintiff succeeded in proving the existence of the tax liability and the cooperative's failure to satisfy it. What plaintiff failed to prove was the critical link between such nonpayment and a conscious and deliberate decision by accused Manlunas and Violeta to disregard the Government's demand for payment.

Q. Just for redirect, you mentioned earlier that the assessment became final. When was that again? What year did the assessment become final?

ATTY. ISMAEL:

A. Thirty (30) days after the receipt of the FLD.

ATTY. CAGAMPAN-TALATALA:

Q. What is the year in the receipt of the final assessment notice?

ATTY. ISMAEL:

A. It was in the year 2020.

ATTY. CAGAMPAN-TALATALA:

Q. Year 2020. Thank you for that. And can I know who were the chairman and treasurer, or responsible cooperative officers of Bacusanon in the year 2020 when the assessment became final?

ATTY. ISMAEL:

A. It was the accused, Alvin Manlunas and Analiza Violeta.

ATTY. CAGAMPAN-TALATALA:

Q. And last question, is there a difference between a taxable year mentioned in the Letter of Authority and the date or the year when the assessment became final?

ATTY. ISMAEL:

A. Yes, there was a difference.

ATTY. CAGAMPAN-TALATALA:

Q. Can you enlighten the Honorable Court?

ATTY. ISMAEL:

A. It could be a possibility that at the time the FLD or the notices from the BIR were issued, the responsible officer at that time, the taxable year subject to the audit, were different. So, every year or every two years, there could be a change of leadership of the corporation, and we cannot run after the responsible officers because there's a possibility that they are no longer connected with the corporation or the cooperative at the time the notices were issued by the BIR.

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As to accused Violeta

The evidence of willfulness is particularly wanting as to accused Violeta.

Plaintiff established that Violeta became Treasurer of BARC-MPC in 2018, and she was serving in that capacity when she received the First Notice on June 26, 2019, during the audit.⁶¹ Atty. Ismael likewise identified her as Treasurer when the assessment became final in 2020.

These circumstances establish her official position and some degree of knowledge of the BIR audit examination. They do not establish that she possessed the authority to decide whether the assessed VAT would be paid, much less that she deliberately decided that it would not be paid.

Significantly, none of plaintiff's witnesses have testified that Violeta controlled BARC-MPC's funds, had authority to authorize or direct payment of the assessment, participated in a decision to withhold payment, or instructed anyone not to pay. Neither was she shown to have controlled whatever assets remained when the assessment became due.

Violeta's own testimony reinforced this evidentiary gap. She testified that she officially became Treasurer only in March 2018 and that, in 2017, her participation was minimal and she had no role in accounting or financial decisions. Even after becoming Treasurer, she described her functions as assisting with accounting and collecting payments from members. She had no formal accounting training and relied upon the cooperative's Manager and bookkeeper to handle tax matters and BIR requirements.⁶²

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⁶¹ Judicial Affidavit of RO Pereda, pp. 10-11.

Q21. Mr. Witness, were you able to serve this First Notice to Bacusanon Arc [sic] Multi-Purpose Cooperative?

A21. Yes, Attorney. The First Notice was received by one of the accused, Ms. Violeta Analiza, the Treasurer of Bacusanon Arc [sic] Multi-Purpose Cooperative on June 26, 2019.

⁶² Judicial Affidavit of Analiza M. Violeta, Docket – Vol. I, p. 505, Exhibit “A-6”.

4. Q: What was your role in the cooperative in 2017?

(Unsa man imuhang papel sa kooperatiba niadtong 2017)

A: Very minimal. I only helped with basic tasks, mostly manual labor. I had no role in accounting or financial decisions

(Minimal ra kaayo. Tabang-tabang lang ko, kasagaran manual nga buluhaton. Wala koy papel sa accounting o desisyon sa pinansyal.)

5. Q: When you became Treasurer, what were your responsibilities?

(Sa dihang nahimong ka nang Treasuter, unsa man ang imong mga responsibilidad?)

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More tellingly, her testimony on cross-examination did not establish that her formal title translated into actual authority over the cooperative's response to the assessment. When asked what measures were undertaken to settle the tax liability, Violeta explained that the plans were not communicated to her and that **she was not included in the meetings where those matters were discussed.**⁶³

Her testimony also corroborated the cooperative's financial deterioration. She testified that BARC-MPC eventually closed because of lack of funds, heavy debts, and mass withdrawals by members, circumstances worsened by the pandemic. This

A: I was tasked to help with accounting and collecting payments from members. But honestly, I had no formal training and relied entirely on our bookkeeper and Coop Manager.

(Gisugo ko nga motabang sa accounting ug pagdawat sa bayad samga miyembro. Apan, sa tinuod lang, wala ko formal nga training ug gisaligan ra nako ang among bookkeeper ug Coop Manager.)

6. Q: Did you have knowledge about the tax obligations of the cooperative while you were Treasurer?

(Aduna ba kay kahibalo kabahin sa mga obligasyon sa buhis sa kooperatiba sa panahon nga ikaw Treasurer?)

A: I truly did not know then. I did not understand the BIR process or the requirements. We relied on our Coop Manager and bookkeeper to handle those matters.

(Wala gyud ko kabalo niadto. Wala ko kasabot sa proseso sa BIR ug wala koy kahibalo unsay mga requirements. Gasalig ra mi nga ang **Coop Manager ug bookkeeper** maoy naghimo ana.)

7. Q: Did you attempt to seek help for accounting or taxes?

(Nakasulay ba ka og pangita og tabang sa accounting o sa buhis?)

A: Yes, I asked help from other cooperatives and friends. But we couldn't afford an accountant. I also didn't know the requirements for exemptions.

(Oo, nangayo ko og tabang sa uban nga cooperatives ug sa mga kaila. Pero wala gyud mi naka-afford og accountant. Wala pud ko kahibalo sa mga requirements sa requirements)

8. Q: What have you finished why you had not known the basic accounting?

(Unsa man diay imuhang nahuman nga dili man ka kahibalo sa mga basic nga accounting?)

A: Only High School Graduate

(High School graduate lang)

⁶³ TSN, Analiza M. Violeta, May 20, 2026, pp. 53-54.

ATTY. CAGAMPAN-TALATALA:

Q. Sa Question No. 7, nabanggit po din ninyo na hindi niyo alam ang requirements para ma-exempt ang kooperatiba. Tama po ba?

MS. VIOLETA:

A. Tama po.

ATTY. CAGAMPAN-TALATALA:

Q. Bakit po kaya hindi natin alam?

MS. VIOLETA:

A. Basta pina-apply lang kami. Wala naman po sinabi.

ATTY. CAGAMPAN-TALATALA:

Q. Nag-apply po ba ang kooperatiba na si BAMC ng exemption kay BIR?

MS. VIOLETA:

A. Hindi ko na po alam yun, ma'am, kasi hindi na naman kami kasali kapag nagmi-meeting sila.

ATTY. CAGAMPAN-TALATALA:

Q. So, aside sa application po ng exemption ng kooperatiba, may iba pa po bang ginawa ang BAMC? Bilang Treasurer po, para ma-settle ang tax liability kay BIR?

MS. VIOLETA:

A. Hindi naman po nila sinasabi ang mga plano, ma'am. Kasi kapag nagplano sila, ako ay nasa opisina. Hindi naman po kami kasama.

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account is materially consistent with RO Zulueta's testimony that the BIR's garnishment efforts failed to yield funds.

Whether the Court fully credits every aspect of Violeta's explanation is ultimately not controlling. **The burden never shifted to Violeta to prove that she lacked criminal intent.** It remained incumbent upon plaintiff to establish beyond reasonable doubt that she was personally responsible for the nonpayment and that her failure to act was voluntary and intentional.

On this point, plaintiff's evidence is insufficient. Her designation as Treasurer and knowledge of the BIR proceedings cannot substitute for proof that she possessed the authority and responsibility to cause payment and consciously chose not to exercise them.

The Court therefore finds that plaintiff failed to establish the *third* element beyond reasonable doubt with respect to accused Violeta.

As to accused Manlunas

The evidence against accused Manlunas is admittedly stronger than that against accused Violeta.

Unlike Violeta, Manlunas personally received the PAN and the FAN/FLD in his capacity as Chairman. Atty. Ismael likewise confirmed that he was Chairman when the assessment became final in 2020. He subsequently communicated with the BIR regarding the cooperative's tax situation. These circumstances establish that Manlunas knew of the assessment and occupied a position of responsibility when the obligation became due.

Nonetheless, **knowledge of the assessment and corporate authority do not, by themselves, establish willfulness.**

To secure a conviction under Section 255, plaintiff was required to prove beyond reasonable doubt not only that Manlunas knew of the assessment, but also that he voluntarily and intentionally failed or refused to cause payment thereof. On this critical point, the evidence is insufficient.

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The records are devoid of any showing that Manlunas directed the nonpayment of the assessment despite the availability of cooperative funds, instructed subordinate officers to withhold payment, concealed or diverted corporate assets, or otherwise acted in a manner indicating a deliberate decision to disregard the Government's demand for payment. Stated differently, while plaintiff proved knowledge of the tax obligation, it failed to prove that Manlunas consciously chose not to comply with it.

On the contrary, the evidence tends to show that BARC-MPC attempted to address its tax situation. Manlunas testified that the cooperative sought recognition of its claimed tax-exempt status, explored the possibility of negotiating a settlement with the BIR, and attempted to collect outstanding receivables from its members. He further testified that **when the cooperative settled a separate tax liability for taxable year 2020, the funds used for payment had to be borrowed from friends and relatives.** While these circumstances do not excuse compliance with the tax laws, they are inconsistent with the theory that the nonpayment resulted from a deliberate and intentional decision to defy a known legal duty.

Manlunas consistently attributed the failure to satisfy the subject assessment to the cooperative's financial incapacity. According to him, its farming and lending operations deteriorated, collections from members ceased, funds were depleted, and the cooperative eventually ceased operations.

To be clear, these circumstances do not extinguish the cooperative's tax liability, nor do unsuccessful negotiations or a mistaken claim of tax exemption constitute compliance with the law. **But that is not the question before the Court.** The issue is whether plaintiff proved beyond reasonable doubt that the nonpayment was *willful*.

In this respect, the defense of financial incapacity does not stand solely upon Manlunas's testimony. It finds material corroboration in **RO Zulueta's unsuccessful collection efforts**, which failed to uncover funds from which the assessment could be satisfied. Likewise, RO Pereda—the plaintiff's witness who characterized the failure to pay as willful—expressly admitted that **he had no personal knowledge whether the accused's refusal to pay was intentional.**

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Thus, the evidence reasonably admits of an explanation for the nonpayment other than a deliberate violation of a known legal duty: **BARC-MPC was experiencing serious financial distress and lacked sufficient resources to satisfy the assessment.**

The Court does not hold that financial incapacity, by itself, invariably negates willfulness or excuses the nonpayment of taxes. Rather, **under the particular evidence presented in this case**, plaintiff failed to exclude that reasonable explanation and failed to establish that Manlunas had available cooperative resources or the practical ability to cause payment but consciously and deliberately chose not to do so.

The plaintiff therefore proved that the deficiency VAT assessment became final and executory and remained unpaid. It likewise proved that Manlunas knew of the assessment. **What it failed to prove beyond reasonable doubt was the indispensable criminal element that his failure to pay or cause payment was voluntary, intentional, and deliberate.**

Accordingly, the Court finds that plaintiff failed to establish beyond reasonable doubt the element of willfulness with respect to accused Manlunas.

Having failed to prove the *third* element of the offense, plaintiff necessarily failed to establish the guilt of **all** accused beyond reasonable doubt.

Accused BARC-MPC remains liable for the deficiency VAT notwithstanding the acquittal of the accused.

The acquittal of the accused from the criminal charge does not extinguish BARC-MPC's underlying obligation to pay the assessed deficiency VAT.

The distinction is fundamental.

As earlier discussed, plaintiff failed to prove beyond reasonable doubt that BARC-MPC, through Manlunas and Violeta as the officers alleged to be responsible for the violation, **willfully failed to pay the assessed deficiency VAT.** While plaintiff established the existence of the tax liability and BARC-

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MPC's failure to satisfy it, the evidence fell short of proving that such nonpayment was attended by the willfulness required for conviction under Section 255 of the NIRC of 1997, as amended.

The acquittal pertains only to the criminal aspect of the case. It does not negate the existence of the underlying tax obligation.

It is well-settled that the acquittal of the accused does not necessarily preclude a judgment on the civil aspect of the case. The extinction of the penal action does not carry with it the extinction of the civil liability.

In *E & D Parts*, the Supreme Court reiterated that the civil liability arising from crime is distinct from the civil liability to pay taxes. The latter does not arise from the criminal act but is an obligation independently created and imposed by law. Citing *Proton Pilipinas Corporation v. Republic*,⁶⁴ the Supreme Court explained:

While it is true that according to the aforesaid Section 4, of Republic Act No. 8249, the institution of the criminal action automatically carries with it the institution of the civil action for the recovery of civil liability, however, in the case at bar, the civil case for the collection of unpaid customs duties and taxes cannot be simultaneously instituted and determined in the same proceedings as the criminal cases before the Sandiganbayan, as it cannot be made the civil aspect of the criminal cases filed before it. It should be borne in mind that the tax and the obligation to pay the same are all created by statute; so are its collection and payment governed by statute. **The payment of taxes is a duty which the law requires to be paid. Said obligation is not a consequence of the felonious acts charged in the criminal proceeding** nor is it a mere civil liability arising from crime that could be wiped out by the judicial declaration of non-existence of the criminal acts charged. Hence, the payment and collection of customs duties and taxes in itself creates civil liability on the part of the taxpayer. Such civil liability to pay taxes arises from the fact, for instance, that one has engaged himself in business, and not because of any criminal act committed by him. (Emphasis supplied)

Thus, two distinct matters are involved: the criminal liability for willful nonpayment of the tax and the statutory obligation to pay the tax itself. The former requires proof beyond

⁶⁴ G.R. No. 165027, October 16, 2006 [Per J. Chico-Nazario, First Division].

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reasonable doubt of all the elements of the offense, including willfulness. The latter arises by operation of the tax laws and is not extinguished merely because the plaintiff failed to establish the criminal offense.

This distinction squarely applies here.

The Court's acquittal of accused is not predicated upon a finding that no deficiency VAT was due from BARC-MPC. Neither is the acquittal based on a finding that the assessment was void, that the assessed amount had been paid, or that BARC-MPC was not subject to the assessed tax. Rather, the acquittal rests on plaintiff's failure to establish beyond reasonable doubt the willfulness attending the nonpayment.

Accordingly, the finding that plaintiff failed to prove the *third* element of the criminal offense does not foreclose the Court from determining, under the applicable evidentiary standard, whether BARC-MPC remains liable for the underlying deficiency VAT.

In the instant case, plaintiff sufficiently established accused BARC-MPC's liability for the assessed deficiency VAT.

Plaintiff presented, among others, documentary evidence,⁶⁵ all of which were admitted by the Court.⁶⁶ These documents establish the conduct of the audit, the issuance and service of the PAN and the FAN/FLD, and BARC-MPC's receipt of the assessment notices.

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⁶⁵ The documentary evidence are:

1. Letter of Authority (LOA-099-2019-00000105) dated May 21, 2019 signed by Regional Director Nuzar N. Balatero authorizing RO Pereda and Group Supervisor (GS) Geraldine Jadap to audit accused BARC-MPC's books of accounts and other accounting records (Exhibit "P-9");
2. Checklist of Documentary Requirements signed by GS Jadap (Exhibit "P-10");
3. First Notice dated June 25, 2019 signed by GS Jadap (Exhibit "P-11");
4. Second and Final Notice dated July 17, 2019 signed by Revenue District Officer Atty. Ma. Jonelle S. Faune (**RDO Faune**) (Exhibit "P-12");
5. Notice of Informal Conference with Details of Discrepancies dated June 15, 2020 signed by RDO Faune (Exhibit "P-13");
6. PAN with Details of Discrepancy dated August 3, 2020 signed by Regional Director Florante R. Aninag (**RD Aninag**) consisting of six (6) pages (Exhibit "P-14");
7. Acknowledgment of Receipt for the PAN dated August 16, 2020 signed by accused Manlunas and RO Pereda (Exhibit "P-15");
8. Final Assessment Notice (FAN - BIR Form 0401) dated September 15, 2020 signed by RD Aninag consisting of five (5) pages (Exhibit "P-16");
9. FLD with Details of Computation dated September 15, 2020 signed by RD Aninag consisting of six (6) pages (Exhibit "P-17"); and
10. Acknowledgment of Receipt for the FAN/FLD dated October 21, 2020 signed by accused Manlunas and RO Pereda (Exhibit "P-18").

⁶⁶ Docket – Vol. I, pp. 421-422, Formal Offer of Evidence; Docket – Vol. II, pp. 650-651, Minutes of Hearing.

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More importantly, BARC-MPC did not file a timely protest against the FAN/FLD. Consequently, the deficiency VAT assessment became **final, executory, and demandable**. Neither is there any dispute that the assessed deficiency VAT remains unpaid.

The accused, for their part, did not directly challenge the factual or legal bases of the deficiency VAT assessment. They did not dispute the taxability of the transactions subject of the assessment, establish any error in the assessment, question the validity of the service of the PAN or FAN/FLD, or show that the assessed deficiency VAT had been paid. Neither did they refute plaintiff's allegation that no Reply to the PAN was filed or, more significantly, that no Protest against the FAN/FLD was filed, thereby allowing the assessment to become final, executory, and demandable. Rather, their evidence was principally directed at negating the criminal liability of Manlunas and Violeta and demonstrating that BARC-MPC's failure to satisfy the assessment was attributable to financial incapacity rather than a willful or deliberate refusal to pay.

The Court has considered such evidence in resolving the criminal aspect of the case. Indeed, BARC-MPC's deteriorating financial condition, together with the BIR's unsuccessful collection efforts, contributed to reasonable doubt as to whether the nonpayment was willful.

Financial incapacity, however, bears differently upon the criminal and tax aspects of the case.

For purposes of the criminal charge, financial incapacity is relevant in determining whether the failure to pay was voluntary and intentional. In the circumstances of this case, it militates against the inference that the nonpayment resulted from a conscious and deliberate decision to disregard a known legal duty.

For purposes of the underlying tax obligation, however, financial incapacity does not, by itself, extinguish a tax that has otherwise become due and demandable. Neither does the absence of willfulness invalidate an otherwise final and executory assessment.

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Thus, the Court's findings are not inconsistent. BARC-MPC may be absolved of the criminal charge because plaintiff failed to prove willfulness beyond reasonable doubt, while remaining liable for the deficiency VAT because its underlying statutory obligation to pay the tax was sufficiently established and was never extinguished.

Simply stated, the criminal case fails for lack of proof of criminal intent, not for lack of a valid tax liability.

The deficiency VAT is chargeable against BARC-MPC, not personally against Manlunas and Violeta.

The Court must nevertheless distinguish BARC-MPC's tax liability from the personal liability of accused Manlunas and Violeta.

In *People v. Gernale*,⁶⁷ citing *Proton Pilipinas Corporation v. Republic*,⁶⁸ the Supreme Court ruled that taxes are personal to the corporate taxpayer and may not be imposed upon its corporate officers – otherwise, to hold corporate officers liable would violate the principle that a corporation has personality separate and distinct from the persons constituting it. Thus, while the officers enumerated under Section 253(d) of the NIRC of 1997, as amended, may under appropriate circumstances be held **criminally liable** for violations committed by the corporation, such criminal responsibility does not, by itself, make them personally liable for the corporation's underlying deficiency taxes.

The same principle applies with equal force to a cooperative possessing a juridical personality separate and distinct from its members and officers.

Here, the deficiency VAT was assessed against BARC-MPC as the taxpayer. Nothing in the evidence establishes an independent statutory or legal basis for transferring BARC-MPC's tax obligation to Manlunas or Violeta in their personal capacities. Their positions as Chairman and Treasurer, respectively, cannot by themselves erase the cooperative's

⁶⁷ G.R. No. 256868, October 4, 2023 [Per J. Kho, Jr., Second Division].

⁶⁸ 535 Phil. 521 (2006) [Per J. Chico-Nazario, First Division].

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separate juridical personality or convert its tax debt into their personal obligation.

Accordingly, the Court holds that the liability for the assessed deficiency VAT remains with BARC-MPC. Manlunas and Violeta cannot be held personally liable therefor merely by reason of their positions in the cooperative.

WHEREFORE, in light of the foregoing, accused Bacusanon ARC Multi-Purpose Cooperative, Alvin B. Manlunas, and Analiza M. Violeta are hereby **ACQUITTED** of the offense charged for failure of plaintiff to prove their guilt beyond reasonable doubt.

Accordingly, the cash bail bonds posted by accused Alvin B. Manlunas and Analiza M. Violeta in the amount of ₱60,000.00 each for their provisional liberty are hereby **CANCELLED** and **DISCHARGED**, and the corresponding amounts are ordered **RELEASED** to them upon presentation of proper documents, in accordance with the usual accounting and auditing rules and regulations.

Notwithstanding the acquittal, the Court finds that the deficiency VAT assessment against accused Bacusanon ARC Multi-Purpose Cooperative had become final, executory, and demandable. Consequently, accused Bacusanon ARC Multi-Purpose Cooperative is **ORDERED TO PAY** the Bureau of Internal Revenue the deficiency Value-Added Tax for taxable year 2017 in the aggregate amount of **₱2,232,197.85**, inclusive of the 25% surcharge, deficiency and delinquency interests imposed under Sections 248(A)(3), 249(B) and (C) of the NIRC of 1997, as amended, ⁶⁹ computed as follows:

Basic tax	1,405,108.59
Surcharge (25%)	351,277.15
Deficiency interest	
(12% x ₱1,405,108.59 x 1,030/365 days)	
(January 26, 2018 to November 20, 2020)	475,812.11
Total amount due as of November 20, 2020	<u>2,232,197.85</u>

✓

⁶⁹ As amended by by Republic Act (RA) No. 10963, also known as Tax Reform for Acceleration and Inclusion (**TRAIN**), as implemented by Revenue Regulations (**RR**) No. 21-2018,

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In addition, accused Bacusanon ARC Multi-Purpose Cooperative is **ORDERED TO PAY** the delinquency interest at the rate of twelve percent (12%) per annum on the total amount due of **₱2,232,197.85**, as of November 20, 2020, or an amount equivalent to **₱733.87** per day,⁷⁰ from November 21, 2020 until full payment thereof, pursuant to Section 249(C) of the NIRC of 1997, as amended.

SO ORDERED.


LANEE S. CUI-DAVID
Associate Justice

WE CONCUR:


(With Separate Opinion)
JEAN MARIE A. BACORRO-VILLENA
Associate Justice


PAOLO S. TESTON
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


JEAN MARIE A. BACORRO-VILLENA
Associate Justice
Chairperson

⁷⁰ ₱2,232,197.85 x 12%/365 days.

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CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Second Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MA. BELEN M. RINGPIS-LIBAN

Presiding Justice



REPUBLIC OF THE PHILIPPINES
COURT OF TAX APPEALS
QUEZON CITY

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

CTA Crim. Case No. O-1133

Members:

- versus -

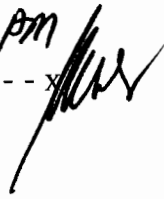
BACORRO-VILLENA, Chairperson,
CUI-DAVID,
TESTON, II.

BACUSANON ARC MULTI-
PURPOSE COOPERATIVE,
ALVIN B. MANLUNAS AND
ANALIZA M. VIOLETA,

Accused.

Promulgated:

SEP 24 2026

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SEPARATE OPINION

BACORRO-VILLENA, I.:

I concur in the result acquitting accused Bacusanon ARC Multi-Purpose Cooperative (BARC-MPC), Alvin B. Manlunas (Manlunas) and Analiza M. Violeta (Violeta) (collectively, “accused”) of willful failure to pay deficiency tax under Section 255,¹ in relation to Sections 253(d)² and 256,³ of the National Internal Revenue Code (NIRC) of 1997, as amended, because plaintiff People of the Philippines (plaintiff) failed to prove their guilt beyond reasonable doubt.

¹ SEC. 255. *Failure to File Return, Supply Correct and Accurate Information, Pay Tax, Withhold and Remit Tax and Refund Excess Taxes Withheld on Compensation.* — Any person required under this Code or by rules and regulations promulgated thereunder to pay any tax, make a return, keep any record, or supply correct and accurate information, who willfully fails to pay such tax, make such return, keep such record, or supply such correct and accurate information, or withhold or remit taxes withheld, or refund excess taxes withheld on compensation, at the time or times required by law or rules and regulations shall, in addition to other penalties provided by law, upon conviction thereof, be punished by a fine of not less than Ten thousand pesos (P10,000) and suffer imprisonment of not less than one (1) year but not more than ten (10) years. (Emphasis and underscoring supplied)

² SEC. 253. *General Provisions.*

...

(d) In the case of associations, partnerships or corporations, the penalty shall be imposed on the partner, president, general manager, branch manager, treasurer, officer-in-charge, and employees responsible for the violation. (Emphasis and underscoring supplied)

³ SEC. 256. *Penal Liability of Corporations.*

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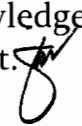
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With due respect, however, I wish to take exception from certain portions of the *ponencia* insofar as the indispensable element of “willfulness” is concerned and elaborate on what constitutes willful failure to pay the assessed deficiency tax under Section 255⁴ of the NIRC of 1997, as amended, as distinguished from Section 254⁵ of the NIRC of 1997, as amended, or “attempt to evade or defeat tax.”

At the outset, I disagree with the *ponencia* insofar as it invokes the concept of “tax evasion” discussed in *Commissioner of Internal Revenue v. The Estate of Benigno P. Toda, Jr.*⁶ (**Estate of Toda**) to determine the existence of willfulness in the present case. *Estate of Toda* described tax evasion as involving an accompanying state of mind characterized as “evil,” in “bad faith,” “willful,” or “deliberate and not accidental.” That formulation properly pertains to tax evasion or an attempt to evade or defeat tax. Accused, however, do not stand charged under Section 254 of the NIRC of 1997, as amended. Plaintiff charged them with “**willful failure to pay tax**” under Section 255 of the NIRC of 1997, as amended. Although both offenses employ the term “willful,” Sections 254 and 255 punish distinct acts and require separate consideration of the conduct that each provision proscribes.

Section 254 punishes a person who **willfully attempts in any manner to evade or defeat a tax or its payment**. Section 255, on the other hand, punishes a person who, although required by law or the applicable rules and regulations to perform a specified tax obligation, **willfully fails to perform that obligation at the time required by law**. Thus, the former contemplates an attempt to evade or defeat a tax or its payment, while the latter focuses on a knowing and voluntary failure to perform a duty that the tax law affirmatively requires.

For this reason, I agree that **nonpayment alone cannot automatically establish willfulness**. Nevertheless, the Court should not examine nonpayment in isolation from the circumstances surrounding it. Rather, the Court should determine willfulness by considering whether accused possessed the **volition to omit the act that the law required them to perform** — that is, whether they knowingly and voluntarily failed to cause payment of the tax despite their knowledge of the obligation and their responsibility and authority to act upon it. 

⁴ Supra at note 1.

⁵ SEC. 254. *Attempt to Evade or Defeat Tax.* — Any person who **willfully attempts in any manner to evade or defeat any tax imposed under this Code or the payment thereof** shall, in addition to other penalties provided by law, upon conviction thereof, be punished with a fine of not less than Five hundred thousand pesos (P500,000) but not more than Ten million pesos (P10,000,000), and imprisonment of not less than six (6) years but not more than ten (10) years: *Provided*, That the conviction or acquittal obtained under this Section shall not be a bar to the filing of a civil suit for the collection of taxes. (Emphasis and underscoring supplied)

⁶ G.R. No. 147188, 14 September 2004.

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To secure a conviction under **Section 255,⁷ in relation to Sections 253(d)⁸ and 256,⁹ of the NIRC of 1997, as amended**, plaintiff must establish that: (1) the corporate taxpayer was required by law to pay the tax; (2) the corporate taxpayer failed to pay the tax at the time required by law or the applicable rules and regulations; and (3) accused, as the officer or employee responsible for the violation, willfully failed to pay such tax at the time required by law or the applicable rules and regulations.

In *People of the Philippines v. Joel C. Mendez*¹⁰ (**Mendez**), the Supreme Court explained, in the context of another violation of Section 255 of the NIRC of 1997, as amended, that “willfulness” entails a **knowing, voluntary, and intentional failure to perform a duty that the law requires**. Thus, mere inadvertence, mistake, or negligence does not satisfy the element of willfulness. Courts, however, may determine the existence of willfulness from the totality of the circumstances surrounding the prohibited act or omission.

Additionally, as stressed in *Christian Pantonal Acharon v. People of the Philippines*,¹¹ the word “willfulness” connotes an **active exertion of effort**. Thus, for criminal liability to attach, the prosecution must prove that the accused willfully refused or consciously denied the obligation and did so intentionally. The Supreme Court emphasized that the penalized act must be deliberate, intentional, and purposeful, not merely the result of inability, negligence, mistake, or circumstances beyond the accused’s control.

The Supreme Court’s pronouncement in *Felix G. Valenzona v. The People of the Philippines*¹² (**Valenzona**) further illuminates the nature of the intent that the prosecution must establish. There, the Supreme Court distinguished **criminal intent** from the **intent to perpetrate the prohibited act**. Criminal intent concerns the guilty state of mind traditionally associated with crimes *mala in se*. In contrast, intent to perpetrate the prohibited act concerns the **accused’s conscious volition to perform the act — or, when the law commands affirmative action, to omit the act — that the statute proscribes**.

Accordingly, even when the law dispenses with proof of criminal intent, plaintiff must still prove that accused freely and consciously committed the prohibited act or omission. The absence of a requirement to

⁷ Supra at note 1.

⁸ Supra at note 2.

⁹ Supra at note 3.

¹⁰ G.R. Nos. 208310-11 and 208662, 28 March 2023.

¹¹ G.R. No. 224946, 09 November 2021.

¹² G.R. No. 248584, 30 August 2023.

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prove an evil motive does not eliminate the element of voluntariness. Rather, in offenses *mala prohibita*, the law focuses on whether accused consciously intended to perform, or consciously omitted to perform, the act that constitutes the offense.

Applied to Section 255¹³ of the NIRC of 1997, as amended, plaintiff need not prove that accused harbored an evil motive, intended to defraud the Government, concealed or diverted assets, falsified records, or devised a scheme to evade taxation. Such circumstances may strongly demonstrate willfulness, but Section 255 of the NIRC of 1997, as amended, does not invariably require them. Plaintiff must instead establish beyond reasonable doubt that accused responsible officers **knew of the tax obligation and of their corresponding duties in relation thereto, possessed the authority or responsibility to act on behalf of the corporate taxpayer (in this case, the accused BARC-MPC), and knowingly and voluntarily failed to cause payment of the tax when the law required payment.**

Thus, respectfully, I cannot subscribe to the *ponencia* insofar as it requires proof of a “critical link” between nonpayment and a conscious and deliberate decision to disregard the Government’s demand for payment, if such link demands evidence akin to an affirmative scheme to evade tax. Requiring plaintiff to prove that responsible officers expressly **directed nonpayment despite the availability of corporate funds, instructed subordinate officers to withhold payment, concealed or diverted corporate assets, or otherwise undertook affirmative acts demonstrating a deliberate effort to defeat collection** would effectively import into Section 255 of the NIRC of 1997, as amended, particularly the offense of “willful failure to pay tax,” *indicia* more appropriately associated with an “attempt to evade or defeat tax” under Section 254¹⁴ of the NIRC of 1997, as amended.

I must caution that the foregoing proposition may unwittingly set a bad precedent by conflating two (2) distinct offenses. Critically, the offense of “willful failure to pay tax” under Section 255 of the NIRC of 1997, as amended, may be committed by omission alone — that is, by knowingly and voluntarily failing to pay a tax that has become due and demandable. It does not necessarily require an affirmative act of concealment, deception, or obstruction.

¹³ Supra at note 1.

¹⁴ Supra at note 5.

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In contrast, an “attempt to evade or defeat tax” under Section 254¹⁵ of the NIRC of 1997, as amended, entails more than mere nonpayment. It contemplates affirmative conduct undertaken to evade or defeat the tax or its payment, such as acts designed to mislead the Government, conceal assets or transactions, or otherwise frustrate tax assessment or collection.

The distinction is therefore material and must remain clear. Otherwise, requiring Section 254-type affirmative acts as proof of willfulness under Section 255 would effectively blur the statutory line between willful nonpayment and an affirmative attempt to evade or defeat tax.

It must also be recognized that responsible officers rarely document or expressly manifest a decision not to pay a tax. As with other states of mind, the Court may infer volition from established facts and the reasonable inferences arising from them. Thus, while nonpayment alone does not establish willfulness, the Court may consider it together with accused’s knowledge of the assessment, receipt of BIR notices and demands, participation in the taxpayer’s financial or tax affairs, authority to cause or facilitate payment, and subsequent conduct concerning the outstanding liability.

Be that as it may, the prosecution’s evidence remains insufficient to sustain a finding of guilt. As discussed below, the facts proven in this case do not establish beyond reasonable doubt that accused consciously, deliberately, and intentionally chose not to cause payment of the assessed tax. Accordingly, the element of willfulness has not been adequately shown.

In this case, plaintiff established that accused Manlunas and Violeta, in their capacities as Chairman and Treasurer, respectively, were responsible officers of accused BARC-MPC when the subject deficiency value-added tax (VAT) assessment became final and executory on 21 November 2020, after accused BARC-MPC failed to file a protest against the Formal Letter of Demand and Final Assessment Notice (FLD/FAN).

As for **accused Manlunas**, he testified that he served as Chairman of accused BARC-MPC **from 2019 to 2022**, thereby confirming that he occupied that position when the assessment became final in November 2020. Records likewise establish that he personally received both the Preliminary Assessment Notice (**PAN**) and the FLD/FAN. Despite receiving these BIR

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Supra at note 5.

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issuances, accused Manlunas did not cause the filing of a reply to the PAN or a protest against the FLD/FAN, thereby allowing the assessment to lapse into finality. Moreover, the Letter of Authority (LOA) covering accused BARC-MPC's internal revenue taxes for the taxable year (TY) 2017 was served on 11 June 2019, after accused Manlunas had already assumed office as Chairman on 25 February 2019, as he himself declared in his Judicial Affidavit dated 18 November 2024. He also acknowledged his awareness that accused cooperative had attempted to secure a tax exemption and negotiate a settlement with the BIR but failed to do so because of an existing "Open Case."

These circumstances establish substantially more than accused Manlunas's mere occupancy of the position of Chairman. Under Republic Act (RA) No. 9520, or the Philippine Cooperative Code of 2008, and its implementing rules,¹⁶ the Board of Directors (BOD) exercises direction and management over the affairs of a cooperative, while the Chairperson presides over the BOD and performs functions authorized by it. Thus, his position placed him within the governing body that exercised authority over accused cooperative's affairs. His personal receipt of the assessment notices and admitted awareness of accused cooperative's dealings with the BIR further demonstrate his actual knowledge of the tax controversy.

As for **accused Violeta**, she testified that she served as Treasurer of accused BARC-MPC **from 2018 until December 2020**, thereby confirming that she remained Treasurer when the assessment became final in November 2020. In her Judicial Affidavit dated 18 November 2024, she admitted that, as Treasurer, she signed documents originating from the BIR to acknowledge their receipt, which led to the BIR's examination of accused cooperative's books and other records. Hence, throughout the audit and until the issuance and finality of the FLD/FAN, accused Violeta remained the officer principally concerned with accused cooperative's financial affairs.

Accused Violeta's functions as Treasurer directly connect her to accused cooperative's ability to address the assessed deficiency VAT. The applicable cooperative rules entrust the Treasurer with custody of the cooperative's funds and documentation relating to its assets, liabilities, income, and expenditures and require the Treasurer to monitor and review its financial management operations.

Although plaintiff presented circumstances that could ordinarily support an inference of knowing and voluntary nonpayment, the 

¹⁶

See Rules and Regulations Implementing Certain Provisions of the Philippine Cooperative Code of 2008 (Republic Act No. 9520).

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entire body of evidence leaves reasonable doubt as to whether accused responsible officers consciously chose simply to disregard accused BARC-MPC's tax obligation. The defense presented evidence of accused BARC-MPC's serious financial incapacity and, more significantly, of affirmative efforts inconsistent with a deliberate resolve to ignore its tax liabilities.

Records show that accused BARC-MPC attempted to address its tax situation rather than simply abandon its obligation. Accused BARC-MPC sought recognition of its claimed tax-exempt status, explored the possibility of negotiating a settlement with the BIR, and attempted to collect outstanding receivables from its members. These acts do not, by themselves, extinguish the tax liability or conclusively negate willfulness. They nevertheless form part of the circumstances that the Court must consider in determining whether accused knowingly and voluntarily chose not to cause payment of the assessed tax.

The evidence regarding accused BARC-MPC's financial condition likewise assumes significance when considered together with these efforts. Records show, by way of testimonial evidence, that accused BARC-MPC settled a separate tax liability for another TY only after securing funds borrowed from friends and relatives. This circumstance tends to demonstrate not simply an unwillingness to devote available funds to the Government, but an actual difficulty in obtaining funds with which to satisfy its tax obligations.

To be clear, **financial incapacity does not, by itself, negate willfulness under Section 255¹⁷ of the NIRC of 1997, as amended.** A taxpayer cannot defeat criminal liability merely by asserting that it lacked funds. Neither does an officer's knowledge that the corporation or cooperative lacks sufficient funds automatically render nonpayment involuntary. Otherwise, financial distress would invariably excuse the knowing nonperformance of a statutory duty.

Financial incapacity becomes relevant here because the surrounding evidence goes beyond a bare assertion that accused BARC-MPC lacked money. The evidence shows that accused BARC-MPC attempted to resolve its tax situation, explored settlement with the BIR, pursued receivables from its members, and even resorted to borrowing from friends and relatives to satisfy a separate tax liability. Considered together, these circumstances create reasonable doubt as to whether accused responsible officers consciously chose to disregard accused BARC-MPC's obligation or whether the

¹⁷ Supra at note 1.

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nonpayment instead resulted from its genuine inability to obtain the funds necessary to satisfy the assessment.

The evidence concerning accused Violeta, who is charged in her capacity as Treasurer of accused BARC-MPC, warrants separate consideration. Her un rebutted testimony shows that the persons who discussed possible settlement of the tax liability did not communicate those plans to her and that she did not participate in the meetings concerning such matters. Thus, although her position as Treasurer connected her directly to accused BARC-MPC's financial affairs, her title and general functions alone do not conclusively establish that she personally made, participated in, or possessed sufficient knowledge of a conscious decision not to pay the particular tax assessment at issue.

Relevantly, in the case of *Genoveva S. Suarez v. People of the Philippines and the Bureau of Internal Revenue*¹⁸ (**Suarez**), the Supreme Court found an evidentiary deficiency because plaintiff failed to show that therein Executive Vice-President's duties and responsibilities gave her the authority either to participate in or prevent the corporation's nonpayment of taxes. The High Court emphasized that criminal liability attaches to **corporate officers who actively participate in the wrongful act or who, by reason of their relationship to the juridical entity, possess the power to prevent its commission**. The crucial inquiry therefore concerns not merely the title held by an officer, but the officer's actual functions, authority, knowledge, and connection to the prohibited omission.

Moreover, as similarly held in *Valenzona*, the criminal liability of a responsible corporate officer cannot rest solely on the fact that the juridical entity violated the law and that accused occupied a particular position within it. Plaintiff must still establish the officer's connection to the prohibited act or omission and the officer's volition in perpetrating it. In determining that volition, the Court must consider not merely formal authority but also what accused actually knew and did, or consciously failed to do, under the circumstances.

The same analytical framework applies to accused Manlunas, who stands charged by reason of his capacity as Chairman of accused BARC-MPC. Accordingly, his designation as Chairman, standing alone, cannot establish criminal liability. Plaintiff must further demonstrate that his actual functions and authority sufficiently connected him to accused BARC-MPC's tax obligations and that, with knowledge of the tax liability, he knowingly and

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voluntarily failed to perform, or cause the performance of, the duty required by law.

Plaintiff established that he occupied a position of authority during the material period, personally received the PAN and FLD/FAN, knew of the BIR audit and resulting assessment, and remained Chairman when accused BARC-MPC allowed the assessment to become final and executory. Those circumstances strongly establish his knowledge of the tax liability and his institutional authority to act upon it. Standing alone and absent credible countervailing evidence, they could support an inference that his continued failure to cause payment constituted a knowing and voluntary omission.

The Court, however, must consider these circumstances together with the evidence showing accused BARC-MPC's attempts to address its tax liabilities and its inability to obtain sufficient funds. Viewed in their totality, the circumstances do not establish beyond reasonable doubt that accused Manlunas consciously elected to disregard the Government's demand despite an ability or realistic opportunity to cause payment. At the very least, the evidence admits a reasonable inference that accused BARC-MPC's failure to pay resulted from genuine financial incapacity despite efforts to address its tax obligations.

Thus, I reach the same ultimate conclusion as the *ponencia*, but for a materially different reason.

Plaintiff established that accused Manlunas and Violeta occupied positions of authority during the material period; that their respective functions bore a direct relationship to the governance and financial affairs of accused BARC-MPC; that they knew of the BIR audit and ensuing assessment; that accused Manlunas, as Chairman, personally received the PAN and FLD/FAN; that accused Violeta acknowledged BIR documents in her capacity as Treasurer; that accused responsible officers allowed the assessment to become final and executory without filing the appropriate protest; and that the assessed deficiency VAT thereafter remained unpaid.

These circumstances constitute relevant evidence of willfulness and, **in the absence of countervailing evidence**, could support an inference that responsible officers, accused Manlunas and Violeta, knowingly and voluntarily allowed the tax obligation to remain unpaid. **Plaintiff need not additionally prove an evil motive, fraudulent design, concealment of assets, diversion of funds, or affirmative instructions to subordinate** 

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personnel not to pay before the Court may find willfulness under Section 255¹⁹ of the NIRC of 1997, as amended.

Here, however, the inquiry cannot end with those circumstances. The defense presented evidence that accused BARC-MPC suffered from genuine financial incapacity, attempted to resolve its tax situation with the BIR, pursued receivables in an effort to generate funds, and had to borrow money from friends and relatives even to settle another tax liability. As regards accused Violeta, evidence further shows that other officers did not communicate the proposed settlement arrangements to her and excluded her from the meetings where they discussed those matters.

Taken together, I submit that these circumstances preclude a conclusion with moral certainty that herein accused Manlunas and Violeta **knowingly and voluntarily chose not to cause payment of the subject deficiency VAT**. They raise reasonable doubt as to the element of willfulness, which doubt the Court must resolve in favor of accused.

Importantly, this conclusion does not shift to accused the burden of disproving willfulness. Plaintiff bears, and at all times retains, the burden of proving every element of the offense beyond reasonable doubt. The evidence for the accused merely forms part of the entire evidentiary record against which the Court must determine whether plaintiff discharged that burden.

In a prosecution for willful failure to pay tax under Section 255 of the NIRC of 1997, as amended, the burden remains on the prosecution to establish beyond reasonable doubt every element of the offense, including the element of willfulness. The prosecution may not rely on the weakness of the defense or on the accused's inability to explain nonpayment. Rather, consistent with settled jurisprudence, the prosecution's case must stand on its own merits and must produce moral certainty that the accused knowingly, intentionally, and deliberately failed to pay a tax legally due and demandable.²⁰

After considering the prosecution and defense evidence as a whole, I find that plaintiff failed to establish the requisite willfulness with the degree of moral certainty necessary to sustain a conviction.



¹⁹ Supra at note 1.

²⁰ See *People of the Philippines v. Court of Tax Appeals-Third Division and William R. Villarica*, G.R. No. 248802 (Notice), 21 June 2021; *Dante Lopez y Atanacio v. People of the Philippines*, G.R. No. 249196, 28 April 2021; *Capistrano Daayata, et al. v. People of the Philippines*, G.R. No. 205745, 08 March 2017.

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Accordingly, while I respectfully disagree with the *ponencia* insofar as it appears to measure willfulness under Section 255²¹ of the NIRC of 1997, as amended, by standards associated with tax evasion under Section 254²² of the NIRC of 1997, as amended, I concur in the **ACQUITTAL** of accused. Plaintiff ultimately failed to prove beyond reasonable doubt that accused Manlunas and Violeta knowingly, voluntarily, and intentionally failed to cause payment of accused BARC-MPC's deficiency tax at the time required by law.


JEAN MARIE A. BACORRO-VILLENA
Associate Justice

²¹ Supra at note 1.
²² Supra at note 5.