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

*Third Division*

**PEOPLE OF THE PHILIPPINES,**
*Plaintiff,*

-versus-

**JACINTO C. LIGOT AND ERLINDA Y. LIGOT,**
*Accused.*

**CTA CRIM. CASE NO. O-241**
For: Violation of Section 255 of the National Internal Revenue Code (NIRC) of 1997, as amended

x--------------------------------------x

**PEOPLE OF THE PHILIPPINES,**
*Plaintiff,*

-versus-

**JACINTO C. LIGOT AND ERLINDA Y. LIGOT,**
*Accused.*

**CTA CRIM. CASE NO. O-242**
For: Violation of Section 254 of the National Internal Revenue Code (NIRC) of 1997, as amended

x--------------------------------------x

**PEOPLE OF THE PHILIPPINES,**
*Plaintiff,*

-versus-

**JACINTO C. LIGOT AND ERLINDA Y. LIGOT,**
*Accused.*

**CTA CRIM. CASE NO. O-243**
For: Violation of Section 254 of the National Internal Revenue Code (NIRC) of 1997, as amended

x--------------------------------------x

**PEOPLE OF THE PHILIPPINES,**
*Plaintiff,*

**CTA CRIM. CASE NO. O-244**
For: Violation of Section 254 of the National Internal Revenue Code (NIRC) of 1997, as amended

-versus-

Members:
UY, *and*
RINGPIS-LIBAN, *JJ.*

**JACINTO C. LIGOT AND ERLINDA Y. LIGOT,**
*Accused.*

Promulgated:

JAN 08 2019
8:58 a.m.

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# DECISION

**RINGPIS-LIBAN, *J.*:**

## *The Case*

Accused Jacinto C. Ligot and Erlinda Y. Ligot (Spouses Ligot) are charged for violations of Sections 254 and 255 of the National Internal Revenue Code of 1997, as amended, for failure to supply correct and accurate information in their joint Income Tax Return (ITR) for taxable year 2001 and for failure to report in their income tax returns for taxable years 2002, 2003, and 2004, other income for those respective taxable years.

Accused Spouses Ligot reside in Unit 201 MC14 Pamayanang Diego Silang, Ususan, Taguig City. They are represented by Nidea Bantog Soliman Law Offices with address at Unit 2802, 28th Floor Summit One Tower, 530 Shaw Boulevard, Mandaluyong City.

The prosecution, on the other hand, is represented by the Bureau of Internal Revenue (BIR), the government agency primarily tasked to collect internal revenue taxes for the support of the government, with office at the BIR National Building, Diliman, Quezon City.

The Informations against the two accused read as follows:

**CTA CRIM. CASE NO. O-241**

> "That sometime in April 9, 2002, in the Municipality of Taytay, Province of Rizal, and within the jurisdiction of this

Honorable Court, both accused, Jacinto C. Ligot and Erlinda Y. Ligot, conspiring and confederating with each other, did then and there willfully and unlawfully fail to report in their joint Income Tax Return (ITR) for taxable year 2001, other income in the total amount of ₱41,854,181.57, and instead, reported only a total taxable compensation income of ₱188,895.80 for taxable year 2001, thereby committing the offense of failure to supply correct and accurate information, as provided for under Section 255 of the National Internal Revenue Code of 1997, as amended, and incurring a deficiency income tax in the amount of ₱43,933,223.73 for taxable year 2001, exclusive of interest and penalty charges, to the damage and prejudice of the Government.

CONTRARY TO LAW."

**CTA CRIM. CASE NO. O-242**

"That on or about April 2003, in Quezon City, Metro Manila, within the jurisdiction of this Honorable Court, accused Jacinto C. Ligot and Erlinda Y. Ligot, did then and there willfully and unlawfully attempt to evade payment of tax, in violation of Section 254 of the National Internal Revenue Code, as amended, by failing to report in their income tax return for taxable year 2002, other income for the taxable year 2002 amounting to ₱87,444,529.23 and ₱16,156,751.99 respectively, or in the aggregate amount of ₱103,601,281.22, thereby incurring a total deficiency tax for the taxable year 2002 in the amount of ₱102,491,982.97, exclusive of interest and penalty charges, to the damage and prejudice of the Government.

CONTRARY TO LAW."

**CTA CRIM. CASE NO. O-243**

"That on or about April 2004, in Quezon City, Metro Manila, within the jurisdiction of this Honorable Court, accused Jacinto C. Ligot and Erlinda Y. Ligot, did then and there willfully and unlawfully attempt to evade payment of tax, in violation of Section 254 of the National Internal Revenue Code, as amended, by failing to report in their income tax return for taxable year 2003, other income for the taxable year 2003 amounting to ₱87,918,732.36 and ₱77,449,052.03 respectively, or in the aggregate amount of

₱165,367,784.39, thereby incurring a total deficiency tax for the taxable year 2003 in the amount of ₱153,198,911.92, exclusive of interest and penalty charges, to the damage and prejudice of the Government.

CONTRARY TO LAW."

**CTA CRIM. CASE NO. O-244**

"That on or about April 2005, in Quezon City, Metro Manila, within the jurisdiction of this Honorable Court, accused Jacinto C. Ligot and Erlinda Y. Ligot, did then and there willfully and unlawfully attempt to evade payment of tax, in violation of Section 254 of the National Internal Revenue Code, as amended, by failing to report in their income tax return for taxable year 2004, other income for the taxable year 2004 amounting to ₱105,682,066.04 and ₱43,273,634.10 respectively, or in the aggregate amount of ₱148,955,700.14, thereby incurring a total deficiency tax for the taxable year 2004 in the amount of ₱128,453,428.92, exclusive of interest and penalty charges, to the damage and prejudice of the Government.

CONTRARY TO LAW."

On September 28, 2011, the Second Division of this Court issued a Resolution[1] ordering the issuance of warrants of arrest for the accused Spouses Ligot in CTA Crim Case No. O-243.

Similarly, on October 4, 2011, the Third Division of this Court issued Resolutions ordering the issuance of warrants of arrest for the accused Spouses Ligot in CTA Crim Case No. O-241[2] and O-244[3] while the Resolution ordering the issuance of warrants of arrest for the accused Spouses Ligot in CTA Crim Case No. O-242[4] was promulgated on October 25, 2011.

On November 2, 2011, accused Spouses Ligot voluntarily appeared before the Court and submitted themselves to the jurisdiction of the Court by posting

[1] CTA Crim Case No. O-243, docket, pp. 368-370.
[2] CTA Crim Case No. O-241, docket, pp. 262-263.
[3] CTA Crim Case No. O-244, docket, pp. 263-264.
[4] CTA Crim Case No. O-242, docket, pp. 396-398.

a cash bond in the amount of ₱20,000.00 for each accused, for each case, for their provisional liberty.[5]

On November 2, 2011, plaintiff filed a Motion for Issuance of Hold Departure Order in Crime Case No. O-243[6]. This Court's Second Division granted the motion in a Resolution dated November 4, 2011 to secure the attendance of the accused until the case is terminated and ordered the Bureau of Immigration to include accused Spouses Ligot in its Hold Departure List.[7]

Accused Spouses Ligot filed Omnibus Motions (for Deferment of the Arraignment and/or Suspension of Proceedings and/or Reconsideration and re-determination of the Existence of Probable Cause and/or to Quash the Information) on November 14, 2011 in Crim Case No. O-241[8], O-242[9], and O-243[10], and on January 12, 2012 in Crim Case No. O-244.[11]

Considering plaintiff's Comment filed on November 24, 2011 in Crim Case Nos. O-241[12], O-242[13], O-243[14] and O-244[15] and the accused Spouses Ligot's Reply filed on December 5, 2011 in Crim Case Nos. O-241[16], O-242[17], and O-244[18], and on December 9, 2011 in Crim Case No. O-243[19], the Omnibus Motions were all denied in separate Resolutions dated December 27, 2011 in Crim Case No. O-243[20], January 5, 2012 in Crim Case No. O-242[21], and on January 12, 2012 in Crim Case Nos. O-241[22] and O-244.[23]

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[5] Resolution approving the cash bond, Undertaking and related attachments, docket, pp. 267-280 for CTA Crim Case No. O-241, pp. 400-411 for CTA Crim Case No. O-242, pp. 373-383 for CTA Crim Case No. O-243, and pp. 268-281 for CTA Crim Case No. O-244.
[6] *Id.* at Note 1, pp. 395-398.
[7] *Id.*, pp. 400-409.
[8] *Id.* at Note 2, pp. 290-327, with Annexes at pp. 328-452.
[9] *Id.* at Note 4, pp. 418-453, with Annexes at pp. 454-580.
[10] *Id.* at Note 1, pp. 453-462, with Annexes at pp. 463-558.
[11] *Id.* at Note 3, pp. 569-576, with Annexes at pp. 329-453.
[12] *Id.* at Note 2, pp. 473-497.
[13] *Id.* at Note 4, pp. 609-633.
[14] *Id.* at Note 1, pp. 573-596.
[15] *Id.* at Note 3, pp. 472-496.
[16] *Id.* at Note 2, pp. 499-512, with Annexes at pp. 513-552.
[17] *Id.* at Note 4, pp. 635-648, with Annexes at pp. 649-688.
[18] *Id.* at Note 3, pp. 498-511, with Annexes at pp. 512-550.
[19] *Id.* at Note 1.
[20] *Id.*, pp. 611-627.
[21] *Id.* at Note 4, pp. 707-716.
[22] *Id.* at Note 2, pp. 571-578.
[23] *Id.* at Note 3, pp. 569-576.

During the arraignment on January 16, 2012, both accused, with the assistance of their counsel, entered a plea of "Not Guilty" to the crimes charged.[24]

On January 24, 2012, accused Spouses Ligot filed their respective Motions for Reconsideration[25] of the Resolutions denying their Omnibus Motion in all cases except for Crim Case No. O-243 which was filed on January 20, 2012.[26]

On February 16, 2012, accused Spouses Ligot filed separate Motions to Consolidate in Crim Case Nos. O-242[27], O-243[28], and O-244[29] asking that the respective cases be consolidated with Crim Case No. O-241, the case bearing the lowest docket number.

Meanwhile, pending the resolution of the Motions to Consolidate, Pre-Trial was terminated in Crim Case No. O-243 on February 8, 2012[30], and on February 22, 2012 in Crim Case Nos. O-241[31], O-242[32], and O-244.[33]

On February 27, 2012, the Second Division issued a Resolution in Crim Case No. O-243 consolidating the former with Crim Case No. O-241, the case bearing the lower docket number, subject to the conformity of the Third Division.[34]

On March 21, 2012, the Court *moto proprio* consolidated Crim Case Nos. O-242 and O-244 with O-241 and conformed to the consolidation of Crim Case No. O-243 with O-241.[35] This was confirmed in a Resolution dated March 29,

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[24] *Id.* at Note 1, pp. 637-644; at Note 2, pp. 579-586; at Note 3, pp. 577-581, 586-587; and at Note 4, pp. 717-721.
[25] *Id.* at Note 2, pp. 590-606; at Note 3, pp. 588-604; at Note 4, pp. 725-741.
[26] *Id.* at Note 1, pp. 645-656, with Annexes, pp. 657-700.
[27] *Id.* at Note 4, pp. 790-793.
[28] Before the Second Division, *id.* at Note 1, pp. 752-755.
[29] *Id.* at Note 3, pp. 638-641.
[30] *Id.* at Note 1, pp. 734-750.
[31] *Id.* at Note 2, pp. 670-679; Pre-Trial Brief of the accused filed on February 8, 2012, pp. 616-622; Pre-Trial Brief of the plaintiff filed on February 14, 2012, pp. 627-629.
[32] *Id.* at Note 4, pp. pp. 795-804. Pre-Trial Brief of the accused filed on February 8, 2012, pp. 767-779; Pre-Trial brief of the plaintiff filed on February 14, 2012, pp. 767-779.
[33] *Id.* at Note 3, pp. 643-651. Pre-Trial Brief of the accused filed on February 8, 2012, pp. 609-615; Pre-Trial brief of the plaintiff filed on February 14, 2012, pp. 625-636.
[34] *Id.* at Note 1, pp. 817-819. Considering the Opposition filed by plaintiff on February 22, 2012, pp. 781-786 and accused's Reply (to Opposition to Consolidation) filed on February 27, 2012, pp. 817-819.
[35] *Id.* at Note 2, p. 689.

2012[36] where the accused's Motions for Reconsideration[37] of the Resolutions denying their Omnibus Motion were also denied.

Considering the termination of pre-trial and the consolidation of the cases with Crim Case O-241, the parties presented their respective evidence.

On August 10, 2012, the accused Spouses Ligot, through counsel, filed a a Waiver of Appearance[38] during the trial of the case. This was granted in the Court's Resolution dated August 28, 2012 on the condition that if the Court requires the appearance of both accused, their counsel has the responsibility to present them in Court.[39]

Trial ensued and, to prove its case, the prosecution presented twelve (12) witnesses, namely: Revenue Officer (RO) Arnel Magbag, RO Jose Amor B. Dayoan, RO Ma. Racel B. Wacan, Nolasco B. Ducay, Evenlyn Paunel Ang, Sonia Agres-Lopez, Elena D. Ramirez, Atty. Joffre Gil C. Zapata, Atty. Edwin Flor Barroga, Christ Steve E. Rayoso, and Monico B. Villar, Jr.

The prosecution's first witness, ***Arnel B. Magbag***[40], testified that he is a Revenue Officer assigned at the National Investigation Division of the BIR to investigate tax fraud cases[41]; that in 2011, he held the position of Group Supervisor wherein he supervised his group in the investigation of tax fraud cases; that he and his group were issued Memo Assignment No. KJH/SCD 2011-02-07-737[42] to investigate the accused Spouses Ligot; that Letter of Authority (LOA) eLA201000056180/LOA-211-2011-00000050[43] addressed to Erlinda Ligot and LOA eLA201000056179/LOA-211-2011-00000049[44] addressed to Jacinto Ligot were issued authorizing him and his group to examine the accounting records of the accused Spouses Ligot; and that the LOAs were approved by then CIR Kim S. Jacinto-Henares in the Memorandum of Investigation dated February 14, 2011.[45]

In relation to Crim Case No. O-241, RO Magbag testified that as a result of the investigation, he and his group discovered that Accused Jacinto Ligot

[36] *Id.*, pp. 773-775. In CTA Crim Case No. O-242, the Resolution denying the accused's Motion for Reconsideration was promulgated on March 23, 2012, pp. 810-812.
[37] *Id.*, pp. 590-606; at Note 3, pp. 588-604; at Note 4, pp. 725-741.
[38] *Id.* at Note 2, p. 1381-1384.
[39] *Id.*, pp. 1398-1400.
[40] Testified on March 28, 2012, April 18, 2012, July 25, 2012, November 14, 2012, and January 30, 2013.
[41] Judicial Affidavit of Arnel B. Magbag in O-241, p. 718; in O-242, p. 875; in O-243, p. 759; in O-244, p. 661.
[42] Exhibit "X" in O-241; Exhibit "Y" in O-242, and Exhibit "X" in O-244, all admitted exhibits.
[43] Exhibit "CCC-2" in O-241, O-242, O-243, and O-244, all admitted exhibits.
[44] Exhibit "BBB-1" in O-241, O-242, O-243, and O-244, all admitted exhibits.
[45] Exhibit "Y" in O-241, O-243, and O-244; Exhibit "Z" in O-242, all admitted exhibits.

under-declared his income in the amount of ₱29,490,471.68 while Accused Erlinda Ligot did not declare her income in the amount of ₱12,363,709.89, or in the aggregate amount of ₱41,854,181.57.[46] He determined that an under-declaration of income existed because for taxable year (TY) 2001, Accused Jacinto Ligot was able to acquire several properties, make deposits and investment transactions as well as amortization payments which were grossly disproportionate to the information declared in this 2001 ITR[47] and Statements of Assets, Liabilities and Net Worth (SALN).[48]

As proof of this, RO Magbag presented a Deed of Extra-Judicial Settlement with Sale[49] in favor of buyer Paolo S. Ligot, son of Accused Spouses Ligot, over 14.34 hectares of land in Malaybalay City covered under Original Certificates of Title Nos. P-8817, P-8818, P-8819, and P-8820[50] wherein the sellers were the heirs of a certain Manuel S. Piana. The investigation showed that while the properties were in the name of Paulo Ligot, the funds used to buy the said properties could not possibly have come from him as Paolo Ligot did not have capacity to buy the said properties.

RO Magbag also presented a certified true copy of the Statement of Accounts[51] and Summary of Payments[52] prepared by the seller, Megaworld Corporation, evidencing check payments made for the amortization installment of Paseo Parkview Tower 2 Condominium Units Nos. 18-N and 18-O, as well as one parking slot in the same building (Paseo Parkview Tower 2 properties). He testified that the group found that while the property was in the name of Miguela Ligot Paragas, sister of accused Jacinto Ligot, check payments made for amortization installments of the said Paseo Parkview Tower properties were drawn from the bank accounts of the accused Spouses Ligot; that to substantiate their findings, they have a Contract to Buy and Sell as well as Deed of Absolute Sale with Miguela L. Paragas as Buyer and Megaworld Corporation as Seller, referring to the abovementioned condominium units and parking slot, in consideration of the amount of ₱7,966,820.00, Condominium Certificate of Title No. 79188 & 79189 and Request for Reservation and Offer to Purchase[53]; that in relation to the instant case, he found that while said property was in the name of Miguela L. Paragas, payments for the said property were made using undeclared income of the accused Spouses Ligot and that the checks issued to pay for said property were drawn from checking accounts of the accused Spouses Ligot; and that he arrived at said findings because in the Summary of Payments

[46] Exhibit "Z" in O-241, admitted.
[47] Exhibit "I" in O-241, admitted.
[48] Exhibit "G" in O-241, admitted.
[49] Exhibit "NN" in O-241, not formally offered in evidence.
[50] Exhibit "O".
[51] Exhibit "S" in O-241, not formally offered in evidence.
[52] Exhibit "T" in O-241, denied for failure to submit the duly-marked exhibit.
[53] Exhibits "R", "LL", "P", and "Q" in O-241, not formally offered in evidence.

prepared by the property seller, the first and second page of the said document show that the accused Spouses Ligot made twelve payments of ₱53,045.47 using checks issued from the bank account of accused Jacinto Ligot with Far East Bank from January to November 2001, and the joint bank account of the accused Spouses Ligot in December 2001.[54]

RO Magbag also testified that he and his group have an Anti-Money Laundering Council (AMLC) Investigation Report[55] showing that for 2001, accused Jacinto Ligot was able to invest the amount of ₱40,000 and deposit in bank the amount of ₱29,137,198.86.[56]

He was able to determine that accused Erlinda Ligot did not declare her income in the amount of ₱12,363,709.89 because for TY 2001, she was able to pay condominium unit amortizations as well as make bank deposit transactions when, in fact, she did not declare any income in the joint ITR filed by accused Spouses Ligot in TY 2001.[57] To support this, he presented the Summary of Payments prepared by Megaworld Corporation evidencing check payments for the amortization installments of the Paseo Parkview Tower 2 properties which were drawn from the bank accounts of the accused Spouses Ligot and an AMLC Investigation Report showing that for 2001, accused Erlinda Ligot was able to deposit in several banks the amount of ₱12,245,437.07. His findings are also supported by a letter from the Oversight Committee on Public Expenditures of the Senate of the Philippines[58] with attached *Summary of Deposits, Withdrawals, and Account Balances in the Bank Accounts of Lt. General Jacinto C. Ligot.*[59]

He and his group treated the evidence of property acquisition, bank deposits and investment transactions in the name of accused Spouses Ligot as undeclared income; that the properties and investments under the name of the children of accused Spouses Ligot were also treated as undeclared income since he and his group were able to determine that the children, namely, Paolo and Riza Ligot, did not have the capacity or means to buy the said properties at the time of the acquisition as they were still young and declared no income for TY 2001 because they did not file ITR; that the Assistant Commissioner of the Information Systems Operations Service of the BIR furnished him a certification showing that the BIR database has no records of return filed by Paolo and Riza Ligot for TYs 2001, 2002, and 2004; and that considering all the evidences of

[54] *Id.* at p. 720.
[55] Exhibit "W", stricken off the record, Resolutions dated November 11, 2015 and January 21, 2016.
[56] *Id.*
[57] *Id.*
[58] Exhibit "B" in O-241, admitted.
[59] Exhibits "C" and "D" in O-241, denied for failure to present originals for comparison.

income, the accused Spouses Ligot have a total undeclared income in the amount of ₱41,854,181.57.[60]

He and his group also relied on the accused Spouses Ligot's joint ITR and an Employee's Certificate of Compensation Payment/Tax Withheld[61] for TY 2001 and the SALN of accused Jacinto Ligot[62] to come up with the finding that accused Spouses Ligot grossly under-reported their income because they declared an income of only ₱188,805.80 for TY 2001, but they were able to acquire several properties, make bank deposits and investment transactions as well as amortization payments in the total amount of ₱41,854,181.57; that despite not having any income for 2001, accused Erlinda Ligot was able to make deposits and amortization payments in the amount of ₱12,363,709.89; and that, in the case of accused Jacinto Ligot, despite having declared compensation income of ₱188,805.80, he was able to acquire several properties, make bank deposits and investment transactions as well as amortization payments in the total amount of ₱29,490,471.68.

RO Magbag further testified that accused Jacinto Ligot did not declare the properties acquired, bank deposits, investment transactions and amortization payments made in his SALN for 2001; and that based on the total undeclared income of the accused Spouses Ligot, their total basic tax deficiency is ₱13,313,098.10 or a total of ₱43,933,223.73, if interest and surcharge are included as of April 15, 2011.

In relation to Crim Case No. O-242, RO Magbag testified that he and his group discovered that accused Jacinto Ligot failed to report in his ITR for TY 2002 other income in the amount ₱87,444,529.23 while accused Erlinda Ligot failed to declare her income for the same year in the amount of ₱16,156,751.99, or in the aggregate amount of ₱103,601,281.22[63]; that accused Jacinto Ligot was able to acquire several properties, made bank deposits, investment transactions, and amortization payments which are grossly disproportionate to that declared in his 2002 ITR and SALN and, hence, under-declared his income in the amount of ₱87,444,529.23.[64]

To substantiate his and his group's findings, RO Magbag testified that a certified true copy of the Investigation Report of the AMLC[65] showed that for 2002, accused Jacinto Ligot was able to deposit an amount of ₱10,112,547.50 in

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[60] *Id.* at Note 2, pp. 722.
[61] Exhibit "I" in O-241, admitted.
[62] Exhibit "G" in O-241, admitted.
[63] Exhibit "AA" in O-242, admitted.
[64] *Id.*
[65] Exhibit "X", stricken off the record, Resolutions dated November 11, 2015 and January 21, 2016.

his Citibank Peso Account and ₱68,409,889.91 in his Citibank Dollar Account and that he invested ₱100,000.00 in the Armed Forces of the Philippines Savings & Loan Association, Inc., ₱50,000.00 under the name Paolo Y. Ligot and ₱50,000.00 under the name Riza Y. Ligot; and that accused Jacinto Ligot acquired a parcel of land located in Sampaloc, Tanay, Rizal amounting to 2,000,000.00 and a Toyota HiLux with Plate No. XBE 760 registered under the name Paolo Y. Ligot in the amount of ₱1,078,000.00 and that he also introduced improvements in his farm at Imbayao, Malaybalay amounting to ₱5,199,296.26.[66]

To prove the acquisition of those properties, RO Magbag testified that he has a Deed of Sale of a parcel of land executed by and between Violeta A. Melendres and Jacinto Ligot on June 2002 with a consideration of ₱2,000,000.00[67], a Transfer Certificate of Title (TCT) No. M-113065 in the name of Jacinto Ligot,[68] Certificate Authorizing Registration No. 00055197[69], Tax Clearance Certificate No. OCN 3TA0000127297[70], a copy of the Vehicle Sales Invoice[71], Official Receipt No. 12968651[72], and Confirmation Certificate No. 49922098[73], and Tax Declaration Nos. E-02906[74], E-29807[75], E-29808[76], and E-29809[77] showing the market value of the improvements he introduced.

He also testified that accused Jacinto Ligot continued to make monthly amortization payments of ₱53,045.47 on the Paseo Parkview Tower 2 properties for the year 2002, as evidenced by a certified true copy of the Statement of Accounts[78] and Summary of Payments[79], Condominium Certificate of Title No. 79188[80] & 70189[81], Contract to Buy and Sell between Megaworld and Miguela L. Paragas[82] and Request for Reservation and Offer to Purchase[83]; that while the property was in the name of Miguela Paragas, the money used to make check payments for the amortization installments of the Paseo Parkview Tower 2 Properties was from the bank accounts of accused Spouses Ligot; that these

[66] Exhibit "AA" in O-242, admitted.
[67] Exhibit "L" in O-242, admitted.
[68] Exhibit "K" in O-242, admitted.
[69] Exhibit "L-1" in O-242, admitted.
[70] Exhibit "L-2" in O-242, denied for failure of the marked document to correspond with description in FOE.
[71] Exhibit "V" in O-242, not formally offered in evidence.
[72] Exhibit "V-1" in O-242, not formally offered in evidence.
[73] Exhibit "V-2" in O-242, not formally offered in evidence.
[74] Exhibit "M" in O-242, admitted.
[75] Exhibit "N" in O-242, admitted.
[76] Exhibit "O"in O-242, admitted.
[77] Exhibit "P" in O-242, admitted.
[78] Exhibit "T" in O-242, denied for failure to submit duly marked exhibit.
[79] Exhibit "T-1", in O-242, denied for failure to submit duly marked exhibit.
[80] Exhibit "Q" in O-242, not formally offered in evidence.
[81] Exhibit "R" in O-242, not formally offered in evidence.
[82] Exhibit "S" in O-242, not formally offered in evidence.
[83] Exhibit "U" in O-242, not formally offered in evidence.

payments were made using undeclared income of accused Spouses Ligot and that the checks issued to pay for said property were drawn from the checking account of the accused Spouses Ligot; and that the Summary of Payments prepared by Megaworld show that accused Spouses Ligot made twelve payments in 2002 using checks issued from the account of Jacinto C. Ligot and/or Erlinda Ligot, Erlinda Ligot and Erlinda T. Yambao.

RO Magbag also testified that for TY 2002, accused Erlinda Ligot was able to make several bank deposits and amortization payments in the amount of ₱16,156,751.99 when she did not declare any income in their joint ITR for that year; that the Investigation Report of the AMLC shows that she was able to deposit the amounts of ₱10,112,547.50 and ₱5,016,114.73 in her Citibank Peso Accounts and ₱483,294.21 in her Philippine Savings Bank Peso Account[84]; that accused Erlinda Ligot made a monthly payment of ₱53,045.47 as amortization for the Paseo Parkview Tower 2 Properties during the said year as shown by the Statement of Accounts and Summary of Payments; that their findings are supported by a Letter from Ronald O. Chua of the Oversight Committee on Public Expenditures of the Senate of the Philippines[85] with attached Summary of Deposits, Withdrawals and Account Balances in the Bank Accounts of Lt. General Jacinto C. Ligot[86]; that these evidences of property acquisition, bank deposits and investments of accused Spouses Ligot were treated as undeclared income in their tax investigation; that the properties and investment under the name of the children of the accused Spouses Ligot were also treated as undeclared income as they were able to determine that the children of the accused Spouses Ligot do not have the capacity or means to buy the said properties as they declared no income for TY 2002 and did not file ITRs; that the Certification from the Assistant Commissioner of the Information Systems Operations Service of the BIR shows that the BIR database has no records of return filed by Paolo and Riza Ligot for TYs 2001, 2002, and 2004;[87] that based on their investigation, the undeclared income of accused Spouses Ligot for TY 2002 is in the amount of ₱103,601,281.22; and that in order to arrive at that finding, they relied on the Integrated Tax System (ITS) print out of their ITR for TY 2002[88] and the SALN of accused Jacinto Ligot for the year 2001[89] and 2002[90].

RO Magbag also testified that they found that accused Spouses Ligot under-reported their income because they only declared ₱199,256.62 for TY 2002 but they were able to acquire properties, make deposits and investment transactions as well as amortization payments in the total amount of

[84] Stricken off the record, Resolutions dated November 11, 2015 and January 21, 2016.
[85] Exhibit "B" in O-241, admitted.
[86] Exhibits "C" and "D", denied for failure to present the originals for comparison.
[87] Exhibit "OO" in O-242, admitted.
[88] Exhibit "H" in O-242, admitted.
[89] Exhibit "F", in O-242, admitted.
[90] Exhibit "G" in O-242, admitted.

₱103,601,281.22; that accused Erlinda Ligot did not have any income for TY 2002 but she was able to make deposits and amortization payment in the total amount of ₱16,156,751.99; the accused Jacinto Ligot declared a compensation income of ₱199,256.62 but was able to acquire properties, make deposits and investment transactions as well as amortization payments in the total amount of ₱87,444,529.23; that these properties, deposits and investment transactions as well as amortization payments were not declared in accused Jacinto Ligot's SALN for 2002; and that the total basic tax deficiency of the accused Spouses Ligot is ₱33,061,929.99 or a total of ₱102,491,982.97, including surcharge and interest as of April 15, 2011.

In relation to Crim Case No. O-243, RO Magbag testified that as a result of the investigation, he and his group discovered that Accused Jacinto Ligot under-declared his income in the amount of ₱87,918,732.36 while accused Erlinda Ligot under-declared her income in the amount of ₱77,449,052.03 or in the aggregate amount of ₱165,367,784.39 which they failed to report in their ITRs for TY 2003; that he determined the under-declaration of accused Jacinto Ligot in the amount of ₱87,918,732.36 because for TY 2003, accused Jacinto Ligot was able to acquire several properties and made bank deposits which were grossly disproportionate to that declared in his 2003 ITR and SALN;[91] that these findings are evidenced by Tax Declaration No. E-038590 in the name of Riza Yambao Ligot, daughter of accused Spouses Ligot, referring to a 40,000 sqm parcel of land in Malaybalay City, Bukidnon with market value of ₱72,000.00[92], Tax Declaration No. E-038591[93] and TCT No. 85173[94] referring to a 52,242 sqm parcel of land in Malabalay City with market value of ₱94,035.60 in the name of Miguel Y. Ligot, son of accused Spouses Ligot, the Summary of Payments made to Megaworld for the amortization installment of the Paseo Parkview Tower 2 Properties which show that during the year 2003, a total amortization of ₱636,545.64 was made which he and his group divided and attributed the amount of ₱318,272.92 to accused Jacinto Ligot and the other half to accused Erlinda Ligot; and that the Summary of Payments prepared by Megaworld show that accused Spouses Ligot made twelve payments of ₱53,045.47 in 2003 using checks issued from the account of Erlinda T. Yambao.[95]

RO Magbag further testified that the Investigation Report of the AMLC showed that for 2003, accused Jacinto Ligot was able to deposit in several banks the total amount of ₱87,434,423.94[96]; that accused Erlinda Ligot had undeclared

[91] Exhibit "Y" in O-243, admitted.
[92] Exhibits "N" and "N-1" in O-243, not formally offered in evidence.
[93] Exhibits "L" to "L-1" in O-243, not formally offered in evidence.
[94] Exhibits "M" to "M-1" in O-243, not formally offered in evidence.
[95] Exhibits "U" to "U-5" in O-243, not formally offered in evidence.
[96] Exhibits "X" to "X-16" in O-243, stricken off the record, Resolutions dated November 11, 2015 and January 21, 2016.

income in the amount of ₱77,449,052.03 for TY 2003 because she was able to acquire several properties, make bank deposits and investment when she did not declare any income in their joint ITR for TY 2003; and that that is evidenced by Condominium Certificate of Title No. 8128 in the name of Erlinda Ligot[97], referring to a condominium unit in Essensa East Forbes Condominium (Essensa Property), Sale Document referring to the Essensa Property with accused Erlinda Ligot as Buyer in consideration of the amount of ₱22,954,545.45, report from the United States Immigration and Customs Enforcement consisting of twenty-one (21) pages with attachments, appending the transfer documents for the purchase of real property in the United States, in particular, in 1240 South Cabernet Circle, Anaheim, California in the amount of US$322,181.00 or ₱16,109,050.00.[98]

Furthermore, he testified that the AMLC Investigation Report shows that for 2003, accused Erlinda Ligot was able to invest the amount of ₱550,000.00 and deposit in several banks and financial institutions the amount of ₱37,517,183.76[99]; that their findings are supported by a Letter from Ronald O. Chua of the Oversight Committee on Public Expenditures of the Senate of the Philippines[100] with attached Summary of Deposits, Withdrawals and Account Balances in the Bank Accounts of Lt. General Jacinto C. Ligot[101]; that these evidences of property acquisition, bank deposits and investments of accused Spouses Ligot were treated as undeclared income in their tax investigation; that the properties and investment under the name of the children of the accused Spouses Ligot were also treated as undeclared income as they were able to determine that the children of the accused Spouses Ligot do not have the capacity or means to buy the said properties as they declared no income for TY 2003 and did not file ITRs; that the Certification from the Assistant Commissioner Victoria Santos of the Information Systems Operations Service of the BIR shows that for taxable year 2003, Riza and Miguel Ligot did not file their ITRs;[102] and that based on their investigation, the total undeclared income of the accused Spouses Ligot is in the amount of ₱165,367,784.39.

RO Magbag also testified that he and his group considered the ITR for TY 2003[103] and the SALN for the year 2002[104] and 2003[105] of accused Jacinto Ligot in the investigation; that they found that the accused Spouses Ligot grossly under-reported their income because they declared an income of only

[97] Exhibits "O" to "O-3" in O-243, not formally offered in evidence.
[98] Exhibits "R" to "R-15" in O-243, admitted.
[99] Stricken off the record, Resolutions dated November 11, 2015 and January 21, 2016.
[100] Exhibit "G" in O-243, admitted.
[101] Exhibits "H" to "H-1" and "I" to "I-6", denied for failure to present their originals for comparison.
[102] Exhibit "MM" in O-243, admitted.
[103] Exhibits "B" to "B-2" in O-243, admitted.
[104] Exhibits "D" to "D-2" in O-243, admitted.
[105] Exhibits "E" to "E-2" in O-243, admitted.

₱218,151.88 for TY 2003 but they were able to acquire properties, make deposits and investment in the total amount of ₱165,367,784.39; that accused Erlinda Ligot did not have any income for 2003 but was able to acquire properties, make deposits, investment and payments in the amount of ₱77,449,052.03 while accused Jacinto Ligot declared an income of ₱218,151.88 but was able to acquire properties, make deposits and payments in the amount of ₱87,918,732.36; that accused Jacinto Ligot's SALN for 2002 shows that he only had a compensation income of ₱372,159.00 and his expenses amounted to ₱309,000.00 which means that his disposable income at the start of 2003 was only ₱63,159.00; that in 2003, accused Jacinto Ligot's compensation and dividend income was ₱617,395.95 while his expenses amounted to ₱335,258.00 making his disposable income for 2003 ₱282,137.95; that with a total disposable income for 2003 amounting to ₱345,296.95, accused Spouses Ligot could not buy properties, make deposits, investment and payments in the amount of ₱165,367,784.39 if they did not have other income that were not declared in their ITR for 2003; and that the total basic tax deficiency of the accused Spouses Ligot is ₱52,827,211.01 or a total of ₱153,198,911.92 , including surcharges and interest as of April 15, 2011.

In relation to Crim Case No. O-244, RO Magbag testified that as a result of the investigation, he and his group discovered that Accused Jacinto Ligot under-declared his income in the amount of ₱105,682,066.04 while accused Erlinda Ligot did not declare her income in the amount of ₱43,273,634.10 or in the aggregate amount of ₱148,955,700.14 which they failed to report in their ITRs for TY 2004;[106] that he determined the under-declaration of accused Jacinto Ligot in the amount of ₱105,682,066.04 because for TY 2004, accused Jacinto Ligot was able to make deposits in the amount of ₱5,607,024.49 in his Citibank Peso Account, ₱89,174,810.59 in his Citibank Dollar Account, ₱1,885,381.41 in his Equitable PCI Bank Peso Account, ₱6,490,189.95 in his Land Bank of the Philippines Peso Account and make a full payment in the amount of ₱2,524,659.16 for the Paseo Parkview Tower 2 Properties; that this is evidenced by AMLC Investigation Report[107] showing that for TY 2004, accused Jacinto Ligot was able to make deposits in the amount of ₱103,157,406.44 and payment for the condominium units in the amount of ₱2,524,659.16 or in the total amount of ₱105,682,066.04; and that he has a certified true copy of the Statement of Accounts and Summary of Payments showing payments and issuance of check for the full payment of the Paseo Parkview Tower 2 Properties.

RO Magbag also testified that accused Erlinda Ligot failed to declare her income because investigation shows that she has no known source of income as house wife but she was able to make deposit and acquire properties in the total

[106] Exhibit "Z" in O-244, admitted.
[107] Exhibit "W", stricken off the record, Resolutions dated November 11, 2015 and January 21, 2016.

amount of ₱43,273,634.10 for TY 2004; that the acquisition of accused Erlinda Ligot of real properties is evidenced by a document denominated as a "Grant Deed" transferring real property situated at City of Buena Park, County of Orange, State of California (Orange County Property) by accused Erlinda Y. Ligot to Erlinda Yambao[108]; that the Grant Deed with attached document denominated as "Full Reconveyance" to the effect that accused Erlinda Ligot as a trustor, gave her Orange County Property in trust to Aurora Loan Services, LLC[109] is also proof of that; that a Letter from the United States Immigration and Customs Enforcement confirms ownership of accused Erlinda Ligot of the Orange County Property which she acquired for a consideration of $599,500.00 USD or the equivalent of ₱29,975,000.00 at the time of the purchase[110]; that the acquisition of accused Erlinda Ligot of the Paseo Parkview Tower 2 Property is evidenced by a Statement of Account, Summary of Payments, Condominium Certificate of Title No. 79188 & 79189, Contract to Buy and Sell and a Request for Reservation and Offer[111]; that their findings are also supported by a Letter from Ronald O. Chua of the Oversight Committee on Public Expenditures of the Philippine Senate[112] with attached Summary of Deposits, Withdrawals and Account Balances in the Bank Accounts of Lt. General Jacinto C. Ligot[113]; that he and his group also considered the ITS Annual ITR for TY 2004 of accused Spouses Ligot[114]; that the findings relative to the ITR for TY 2004 was that the accused Spouses Ligot under-reported their income because they declared only ₱164,370.40 for TY 2004 but they were able to acquire properties, make deposits and investment transactions as well as amortization payment in the total amount of ₱148,955,700.14 and that accused Erlinda Ligot did not have any income for 2004 but was able to make deposits and acquire properties in the total amount of ₱43,273,634.10; that this evidence was treated as undeclared income in the amount of ₱148,955,700.14 and that based on the findings of their investigation, the total basic tax deficiency of the accused Spouses Ligot is ₱47,575,344.04 or a total of ₱128,453,428.92, including surcharge and interest as of April 15, 2011.

In relation to all four Criminal Cases, RO Magbag testified that based on the findings of his investigation he and his group prepared a Memorandum Report, signed by him, recommending filing a criminal case against accused Spouses Ligot[115]; that the CIR approved their recommendation and made a Referral Letter dated March 10, 2011[116] addressed to the Secretary of Justice authorizing and approving the filing of a criminal complaint against accused

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[108] Exhibits "L" to "L-2" in O-244; all admitted.
[109] Exhibits "N" to "N-4" in O-244, not formally offered in evidence.
[110] Exhibits "J" and "K" in O-244, all admitted.
[111] Exhibits "R", "S", "O", "P", "Q", and "T" in O-244, not formally offered in evidence.
[112] Exhibit "B" in O-244, admitted.
[113] Exhibits "C" and "D" in O-244, denied for failure to present the originals for comparison.
[114] Exhibit "G" in O-244, admitted.
[115] Exhibit "Z" in O-241; Exhibit "AA" in O-242; Exhibits "Z" to "Z-4" in O-243, and Exhibit "Z" in O-244, all admitted.
[116] Exhibit "CC" in O-241, O-243, and O-244; Exhibit "DD" in O-242, all admitted.

Spouses Ligot; that, thereafter, they executed a Complaint-Affidavit[117] against accused Spouses Ligot before the Department of Justice (DOJ) on March 10, 2011 for violation of Sections 254 and 255 of the NIRC; that his office issued a Notice for Informal Conference[118] to accused Spouses Ligot but the accused Spouses Ligot did not appear, but only submitted a Position Paper through their counsel; that a Preliminary Assessment Notice (PAN)[119] was issued to the accused Spouses Ligot who replied in writing; that finding the defenses presented by the accused Spouses Ligot unsatisfactory, the BIR issued a Final Assessment Notice (FAN)[120] and Formal Letter of Demand (FLD)[121] to them; that both the FAN and FLD were served through personal service and received by the counsel of accused Spouses Ligot, Atty. Rafael Zialcita;[122] and that they were also sent through registered mail as evidenced by a Registry Receipt.[123]

He identified his Judicial Affidavit as Exhibit "PP" in O-241[124], Exhibit "NN" in O-242 and O-243 and as Exhibit "LL" O-244.

On cross-examination for his judicial affidavit for Crim Case No. O-241, he testified that he was assigned to the National Investigation Division (NID) through his former boss, Atty. Bacquiran, and that his request to be assigned to NID was granted by his office; that as Group Supervisor, he doesn't only supervise the team under him but also the audit team, and he goes with the examiner to conduct field work and investigation which includes determining which specific Revenue Issuance to use or apply in a certain case; that the cases he mentioned when asked what are some of the cases he already investigated such as Gen. and Mrs. Carlos Garcia, Gen. and Mrs. Jacinto Ligot and a certain construction firm were mentioned because these were cases recommended to DOJ for the filing of criminal cases; that these investigations were held during the time he was already assigned to NID; that prior to NID, he did not conduct any investigation that lead to the filing of a complaint to DOJ; that he was assigned this case by his Chief, Atty. Dy, by virtue of a Memo Assignment Order but he did not see him sign the document; that he is familiar with the signature of Atty. Dy because he has seen him sign similar documents; and that he has previously used the network method. He is familiar with the accused having seen him on television during the Joint Hearing of the Senate Defense Committee and the Blue Ribbon Committee with respect to the corruption in the Armed Forces

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[117] Exhibit "DD" in O-241, O-243, and O-244; Exhibit "EE" in O-242, all admitted.
[118] Exhibit "GG" in O-241 and O-244; Exhibit "HH" in O-242; and Exhibit "FF" in O-243, all admitted.
[119] Exhibit "HH" in O-241 and O-244; Exhibit "II" in O-242; and Exhibit "GG" in O-243, all admitted.
[120] Exhibits "HH-4" to "HH-11" in O-243, all admitted.
[121] Exhibit "II" in O-241 and O-244; Exhibit "JJ" in O-242; and Exhibits "HH" to "HH-3" in O-243, all admitted.
[122] *Id.* at Note 2, p. 725.
[123] Exhibit "JJ" in O-242 and O-244; Exhibit "KK" in O-242; and Exhibit "II" in O-243, all admitted.
[124] Not offered.

of the Philippines on November 26, 2011. As regards accused Erlinda Ligot, he is familiar with her because she is from Tarlac where he is also from.[125]

RO Magbag also testified that there was investigation conducted prior to the issuance of the Letters of Authority and that the investigation was prompted by the Memorandum Assignment Order; that the Memorandum Assignment Order was, in turn, prompted by the General Rabusa's expose in the Senate Hearing; that the Memorandum of Investigation was an internal document which is why it was not attached to the DOJ Complaint; that they obtained information and documents from the Sandiganbayan since there was an ongoing forfeiture case against accused Spouses Ligot including the fact that the Orange County Property was forfeited by the Government in 2011[126]; that prior to the Senate investigation, there were already forfeiture cases against the accused Spouses Ligot and even the brother of accused Erlinda Ligot[127]; that prior to the issuance of the LOA, they did a preliminary investigation; that their authority to conduct preliminary investigation was by way of access letter; that despite the forfeiture cases in Sandiganbayan filed in 2005, he conducted preliminary investigation only when he was given the memorandum to conduct the same[128]; that based on their investigation there was a prima facie case of tax fraud which was the basis for their filing a tax evasion case[129]; that their purpose in going to the Sandiganbayan was to secure documents related to the possible tax evasion case then against the accused Spouses Ligot[130]; and that they did not thoroughly read the petition filed with the Sandiganbayan but were only particular about the attached documents like the properties acquired and the cash deposits of the accused Spouses Ligot[131].

After concluding his testimony, RO Magbag was discharged as a witness.

The prosecution's second witness, ***Jose Amor B. Dayaoan***[132], testified that he is a Revenue Officer assigned at the National Investigation Division of the BIR to investigate tax fraud cases[133]; that in 2011 he was a Revenue Officer duly authorized to investigate taxpayers for Internal Revenue Tax purposes and to submit reports thereon, to recommend the prosecution of taxpayers who violate provisions of the Tax Code, and to perform such other functions and duties as may be assigned by their superiors from time to time. His Group

[125] TSN, April 18, 2012 hearing.
[126] TSN, July 25, 2012 hearing, p. 24.
[127] *Id.*, p. 32.
[128] *Id.*, p. 46.
[129] TSN, November 14, 2012 hearing, p. 14.
[130] TSN, January 30, 3013 hearing, p. 8.
[131] *Id.*
[132] Testified on March 13, 2013, May 22, 2013, and June 19, 2013.
[133] Judicial Affidavit of Jose Amor B. Dayaoan, *id.* at Note 2, pp. 791-799; Exhibit "OO" and "OO-1" in O-242 and O-243, admitted; Exhibit "MM" to "MM-1" in O-244.

Supervisor was Mr. Arnel Magbag and he was part of the group that investigated the accused Spouses Ligot.

His testimony corroborated that of RO Magbag and, as the prosecution admitted, RO Dayoan's Judicial Affidavit was a mere facsimile of RO Magbag's Judicial Affidavit[134], to wit:

> "ATTY. CURIBA:
>
> Your Honors, may I manifest that our next witness we will also be presenting Revenue Officer Joan *(sic)* Dayoan from Investigation Division to expedite the proceedings we will request for the stipulation from the counsel of the accused she *(sic)* will merely repeating the same testimony, your Honors and if he stipulate that Joan *(sic)* Dayoan a member of the group of Mr. Arnel Magbag will just repeat and identify the same documents and that's stipulations will no longer presenting her x x x"

RO Dayoan was, however, called to the witness stand and he identified his Judicial Affidavit as Exhibit "QQ" and "QQ-1" in O-241, Exhibit "OO" and "OO-1" for O-242 and O-243; and Exhibit "MM" and "MM-1" in O-244.

On ***cross-examination***, RO Dayoan testified that when they conducted the preliminary investigation, they gathered information, served access letters to different companies, government agencies without having any direct contact with the taxpayer[135]; that during the investigation they can consider almost all documents that are relevant and useful to establish their case[136]; that the documents they obtained were not obtained directly from the taxpayer[137]; that in their office, they have an Integrated Tax System (ITS) used to verify the address of the taxpayer; that he was not the exact person who verified with the address that accused Erlinda Ligot registered, a residential address at Unit 19-A, Lawton Tower Essensa, East Forbes Condominium, Bonifacio Global City, but was able to glance at the monitor when they verified the address; that there were two issuances by then Commissioner Kim Jacinto-Henares, the first one being the Memorandum of Assignment for the conduct of the Preliminary Investigation and the second being the Letter of Authority[138]; that the documents that are in the custody of his office will corroborate the findings of the Senate[139]; that the footnote in the Memorandum of Investigation saying "newsbreak (December 6,

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[134] TSN, March 28, 2012 hearing, pp. 41-42.
[135] TSN, May 23, 2013 hearing, p. 3.
[136] *Id.*, p. 4.
[137] *Id.*
[138] *Id.* at p. 9.
[139] *Id.* at p. 11.

2004 issue) News Article entitled 'Comptroller's Hidden Wealth'" was cited as basis for a request for an LOA but it was not the only consideration; that the Senate Hearing triggered the investigation of his office to conduct preliminary investigation[140]; and that he cannot recall who served the LOAs.

When cross-examined on the particulars of O-241, RO Dayoan testified that he personally saw the SALN, the TCT, the AMLC Investigation Report, the tax declaration, contract to sell, and payment schedule which led him to the finding that accused Jacinto Ligot underdeclared his income in the amount of 29 million and accused Erlinda Ligot underdeclared her income in the amount of 12 million, totaling an aggregate of 41 million.[141] He testified that Paolo Ligot is not included in the LOA; that he knows that Paolo Ligot is the son of accused Jacinto Ligot because he believes it is declared in the SALN; that in the Deed of Extra Judicial Settlement executed by Paolo S. Ligot and Manuel S. Piana, the accused Spouses Ligot are not mentioned[142]; that there is no signature of Paolo Ligot above his name[143]; that in the OCT Nos. P-8817, P-8818, P-8819, and P-8820, Manuel S. Piana appears as the registered owner and that the name Paolo Ligot does not appear in the documents[144] ; that the names of the accused Spouses Ligot do not appear in the documents either.

When cross-examined about the Paseo Parkview Towers 2 Property, RO Dayoan testified that he did not obtain the Summary of Payments, Statements of Accounts prepared by Megaworld Corporation and that he only saw it when he was collating the records as they were summarizing their assessment[145]; that he did not confirm with Megaworld if the contents of the exhibit are from their official records because he was merely involved in collating the records, the computation of the assessment, and the preparation and service of the PAN and FAN, and not the authenticity of the documents[146]; that he did not personally verify if the accused Spouses Ligot filed ITR for TY 2001; that he computed undeclared income of accused Erlinda Ligot by comparing the ITR for TY 2001 with the AMLC Investigation Report[147]; that he personally served the FAN/FLD to the Law Offices of Zulueta Puno and Ferrer and another copy via registered mail[148]; that although he saw Atty. Zialcita in the office while serving the FAN/FLD, Atty. Zialcita asked his secretary to receive the same; that he knows she is the secretary because he asked her to indicate her name, position and date and time of receipt;[149] that he doesn't know if the letter he mailed was received

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[140] *Id.* at p. 14.
[141] *Id.* at p. 24.
[142] *Id.* at p. 27.
[143] *Id.*
[144] *Id.* at p. 29.
[145] *Id.* at p. 30.
[146] *Id.* at p. 34.
[147] *Id.* at p. 42.
[148] *Id.* at p. 44.
[149] *Id.* at p. 45.

by the accused Spouses Ligot, but he does have the registry receipt but not the return card which would be sent to their office or their supervisors.

He testified that they obtained the AMLC Investigation Report from the Regional Trial Court (RTC) Makati but he is not aware of the existing case there[150]; that he wasn't the one who obtained the US ICE document and that it was merely furnished to him by his superiors[151]; and that as part of their investigation, they gathered information from the Sandiganbayan, Ombudsman, the AMLC, and the Senate[152].

On ***re-direct examination***, RO Dayoan testified that during the preliminary investigation stage, they were not in possession of the ITR of the accused Spouses Ligot, but in the hearing with the DOJ, the accused Spouses Ligot submitted their ITR. They could not refute the submission and the DOJ ruled that it would become part of the records of the case. They used the ITR and, to compute for the under-declaration, they used the gross taxable compensation income of accused Jacinto Ligot and accused Erlinda Ligot did not declare any income so that was compared with their records. The accused Spouses Ligot were able to acquire properties and make deposits and investments as well as payment amortizations which they compared to the ITR to come up with the under-declaration.

RO Dayoan further testified that as regards the ITR that the accused Spouses Ligot submitted during the DOJ hearing, he observed that there is no RDO Code, there is no income appearing on the column for accused Erlinda Ligot but she was able to acquire properties, and the only income declared by accused Jacinto Ligot is his taxable compensation income[153]; that for TY 2001, they used the Deed of Extrajudicial Settlement to establish the acquisition cost of the Malaybalay property and correlated this with the improvements that were introduced by accused Jacinto Ligot sometimes in TY 2002[154]; that the accused Spouses Ligot have a scheme of acquiring properties and putting ownership under the name of their children and other people; that the extrajudicial settlement was that of the Quina family; that there is proof that the Malaybalay property was transferred to Paolo Ligot through the Certification from the City Planning and Development Cooperative certifying that the Malaybalay property is owned by him[155]; that he has the AMLC Investigation Report and the previous SALN stating that Paolo and Riza Ligot are children of accused Spouses Ligot and the birth certificates of both Paolo and Riza Ligot showing that accused

[150] TSN, June 19, 2013 hearing, p. 8.
[151] *Id.* at p. 9.
[152] *Id.* at p. 10.
[153] *Id.*, pp. 17-19.
[154] *Id.*, p. 20.
[155] *Id.*, pp. 23-24.

Jacinto Ligot is their father[156]; that the "newsbreak" footnote was used to establish the estimated amount of the acquisition cost of the property in the request for issuance of LOA[157]; that other documents were used as consideration for the issuance of LOA such as those from the Sandiganbayan, Ombudsman, AMLC, Registry of Deeds, and from his office[158]; that they served the PAN and FAN to the Law Office of Atty. Zialcita because during the preliminary investigation in the DOJ, they were furnished a letter instructing them to send or forward any communication to the Law Office of Atty. Zialcita because they were representing the accused Spouses Ligot[159]; that two LOAs were issued because each taxpayer is assigned a Tax Identification Number (TIN) so they have to issue two LOAs because each taxpayer has a unique TIN[160]; and that per verification with his groupmates, it was Ma. Racel B. Wacan who served the LOA.[161]

During ***re-cross-examination***, RO Dayoan was asked whether or not the Certification he has from the City Planning and Development Cooperative was an original to which he replied that it was a photocopy. He also testified that he was able to obtain the document from his superior.[162]

The prosecution's third witness, ***RO Ma. Racel B. Wacan***[163], who testified that she holds the position of Revenue Officer III assigned at the National Investigation Division of the BIR;[164] that she was in charge of the service of the LOA to the accused Spouses Ligot; that they made use of all the modes of service, first, personal service, second, registered mail, and third, by courier[165]; that she personally served the LOA to accused Jacinto Ligot at his indicated address in the LOA which is at Fort Bonifacio, Makati City; that when she went to Fort Bonifacio, the guard at the gate refused her entry for the reason that accused Jacinto Ligot was no longer staying in the camp; that she personally served the LOA to accused Erlinda Ligot at Essensa Condominium, Global City, Taguig where the guard at the gate also refused her entry after he confirmed from the building personnel that no Erlinda Ligot was residing at the condominium[166]; that after failing to serve the LOAs personally, she proceeded to Camp Aguinaldo, accused Jacinto Ligot's secondary address, to attempt to serve the LOA personally again, but she was not allowed to enter because General Ligot

[156] *Id.*, p. 26.
[157] *Id.*, p. 33.
[158] *Id.*, p. 36.
[159] *Id.*, p. 39, exhibit not presented and formally offered in evidence.
[160] *Id.*, p. 40.
[161] *Id.*
[162] *Id.*, p. 43.
[163] Testified on September 4, 2013.
[164] TSN, September 4, 2013 hearing, p. 5.
[165] *Id.*
[166] *Id.*, pp. 6-7, Exhibits "ZZ" and "ZZ-1", admitted.

was no longer staying in the camp according to the guard[167]; that she resorted to service by registered mail next and sent the LOA to his address at Camp Aguinaldo by registered mail[168]; that she sent the LOA for accused Erlinda Ligot through registered mail at her address in Essensa Condominium[169]; that she also served a copy of the LOA to Atty. Zialcita of Zulueta Puno and Ferrer Law Offices by registered mail also as that was the law office handling the case for the accused Spouses Ligot[170]; that after sending the LOAs through registered mail, they served the same LOAs by courier service to accused Jacinto Ligot at his Camp Aguinaldo address[171] and to accused Erlinda Ligot at the Essensa Condominium address[172]; and that she recognized the registry return receipts shown to her as the same registry return receipts that were proof that the LOAs were sent to the accused Spouses Ligot and to Atty. Zialcita[173].

On ***cross-examination***, RO Wacan testified that apart from the letter she sent to the Law Office of Zulueta Puno Ferrer, the letters were returned to the BIR[174]; that she obtained the addresses of the accused Spouses Ligot from the RITS Data Base wherein the taxpayers themselves supply their information[175]; that she made a report after the failed personal service but she did not have a copy of it; and that Atty. Zialcita penned the letter because he signed it but that she did not see him sign the letter[176].

During her ***re-direct examination***, RO Wacan testified that the addresses where she attempted to personally serve the LOAs to the accused Spouses Ligot were their addresses in the BIR Database[177]; that since the guards informed her that the accused Spouses Ligot were no longer residing therein, they made use of the secondary address; that the accused Spouses Ligot did not inform the BIR that they were residing elsewhere and it is the duty of the taxpayer to inform the BIR of any change in their address or status[178]; and that she knows Atty. Zialcita having seen him once before during the preliminary conference before Prosecutor Mariano.[179]

During the ***interpolation of the Court***, RO Wacan testified that when personal service fails, they usually send the letter to the counsel handling the case,

[167] *Id.*, p. 8.
[168] *Id.*
[169] *Id.*, p. 9, Exhibits "AAA" and "AAA-1", admitted.
[170] *Id.*, Exhibit "DDD", admitted.
[171] Exhibits "BBB" to "BBB-3", all admitted.
[172] Exhibits "CCC" and "CCC-1", all admitted.
[173] TSN, September 4, 2013 hearing, p. 12.
[174] *Id.*, p. 14.
[175] *Id.*
[176] *Id.*, p. 17.
[177] *Id.*, p. 20.
[178] *Id.*
[179] *Id.*, p. 21.

as was done in this case. In other cases, they resort to constructive service or leave the copy of the LOA in the address stated therein in the presence of two witnesses. However, it was not done in this case because it was not possible as the guard refused her entry. Personal service failed in this case, including service by registered mail, with the exception of service to the lawyer.

During the ***re-cross-examination,*** she testified that she did not know whether the law office of Atty. Zialcita provided her office. with a copy of authority given by accused Spouses Ligot to represent them.[180]

From ***further interpolation by the Court,*** it was gathered that, prior to the service of the LOAs and during their investigation, RO Wacan came to know that the law firm of Atty. Zialcita represented the accused Spouses Ligot because he appeared on television with the accused Spouses Ligot which is why she served them with the LOA.[181]

The prosecution's fourth witness, ***Nolasco B. Ducay***[182], Associate Graft Investigation Officer of the Office of the Ombudsman for Military and Other Law Enforcement Offices, testified that the SALNs of accused Jacinto Ligot for the years 2000[183], 2001[184], 2002[185], and 2003[186] were under the custody of his previous office in the Records Section of the Office of the Ombudsman and presented and identified them in Court; that the previously marked exhibits in this case are faithful reproductions of the records in the case filed in the Ombudsman against accused Jacinto Ligot; and that he has a certified photocopy of his authority as the officer-in-charge of the Records Section of the Ombudsman during the time of the inquiry[187].

The defense opted not to conduct cross-examination[188] and the witness was discharged.

The prosecution's fifth witness, ***Evelyn Paunel Ang***[189], Revenue Officer of Revenue District No. 41, Mandaluyong City, Group Supervisor of the Assessment Section, testified that in 2005, she was assigned in Revenue District No. 081, Cebu City North and that among her functions as Assistant Revenue

[180] *Id.*, p. 23.
[181] *Id.*, pp. 27-28.
[182] Testified on October 16, 2013.
[183] Exhibit "F" in O-242 and O-244, admitted.
[184] Not offered in evidence.
[185] Exhibit "G" in O-241 and O-242; Exhibits "D" to "D-2" in O-243, all admitted.
[186] Exhibits "E" to "E-2" in O-243, all admitted.
[187] Exhibit "PPP" in O-241, O-242, O-243, and O-244, admitted.
[188] TSN, October 16, 2013 hearing, p. 13.
[189] Testified on November 20, 2013.

District Officer were the signing of certificate of registrations, authority to print, signing certified true copies and other functions delegated by their Revenue District Officer[190]; that she issued a certified true copy of the ITR of the accused Spouses Ligot for TY 2003 and identified the same in court[191]; that she has seen the original copy of the ITR of accused Spouses Ligot for TY 2003; that the original copy might have been archived as it has been more than ten years; that she is certain that that the certified true copy is the same as the original because part of the procedures in issuing a certified true copy was to compare and verify it with the original prior to issuance[192]; and that based on the document accused Jacinto Ligot declared a gross taxable compensation income of ₱218,151.88 in TY 2003[193].

On ***cross-examination,*** RO Ang testified that she issued the certification on July 25, 2005 and that she cannot recall who requested for the issuance of the certification but that per procedure in their office, there must be a written request.

After concluding her testimony, the witness was discharged.

The prosecution's sixth witness, ***Sonia Agres-Lopez***[194], Revenue Officer IV of RDO No. 50, South Makati, testified that in 2011, she was assigned at RDO 50, South Makati as the Chief Document Processing Section; that part of her job was to ensure that all returns filed and received in her district were being processed properly and encoded in the Integrated Tax System (ITS) based on the BIR Computerization System and to see to it that all returns are accounted for up to the safekeeping of returns; that there was a request from the NID for the production of the ITR of the accused Spouses Ligot; that upon receiving the request, she verified if the production of the ITR was possible since those were for the years 2002 and 2004; that upon verification with the ITS and finding out that it was processed, she requested a copy from the Regional Office under the Administrative Division for the production of the 2002 and 2004 ITR of accused Jacinto Ligot;[195] that she was unable to secure a copy of the said ITRs as the Administrative Division informed her that the returns forwarded to them for safekeeping had already been disposed;[196] that upon learning that the ITRs requested had already been disposed, she made printouts of the encoded versions of the returns of accused Jacinto Ligot for TY 2002[197] and 2004[198] which she

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[190] TSN, November 20, 2013, p. 7.
[191] Exhibits "B" to "B-2" in O-243, admitted.
[192] TSN, November 20, 2013, p. 13.
[193] *Id.*, p. 14.
[194] Testified on November 20, 2013.
[195] TSN, November 20, 2013 hearing, p. 22.
[196] *Id.*, p. 23.
[197] Exhibit "H" in O-242 and Exhibit "G" in O-244, all admitted.
[198] *Id.*

identified in court; that she is certain that the exhibits shown to her are the documents she printed out because her log in credentials, D50SALOP, are printed on the exhibits[199]; that she is certain that the data in the encoded ITRs are the same with the original ITRs because the system validates the entries at the time of encoding and lets the encoder know if there is an error; and that if there is an error in encoding, it will enter the validation process where there is no human intervention and the system will identify that there is wrong information encoded in the system[200].

On ***cross-examination,*** RO Agres-Lopez testified that she was not the one who encoded the contents of the print-outs and that she does not know who encoded them; that she has not seen the original ITRs; that, in her opinion, she is not sure if there is a way that the original ITR would differ in terms of contents than the print-out[201]; that the presence of an encoded ITR presupposes that the accused Jacinto Ligot filed an ITR; that the print-outs were those of the ITRs filed by accused Jacinto Ligot for 2002 and 2004[202]; that the ITRs she printed out were only for accused Jacinto Ligot[203] and were not joint filing; that if it were a joint filing, she would also see the TIN of the spouse but the TIN and income of accused Erlinda Ligot do not appear[204]; that the income of the spouse will appear if there is a declaration on the face of the return that there is an income[205]; that since there is no value and no declaration of income in the column of the spouse, that is the declaration that only accused Jacinto Ligot filed the return; that although the print-out indicates that there are ten pages, only page 1 was printed out as those were the pages that relate to computation information of the income tax and registration information[206]; and that she cannot say with certainty that from the time the information was encoded up to the time she certified the document that there was no corruption of the information.[207]

On ***redirect examination,*** she testified that not all the employees of the BIR, can access the ITS system and that only those who are identified by the office have access to it.[208]

After concluding her testimony, the witness was excused.

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[199] *Id.*, p. 25.
[200] *Id.*, p. 30.
[201] *Id.*, p. 35.
[202] *Id.*, p. 36.
[203] *Id.*, p. 37.
[204] *Id.*
[205] *Id.*, p. 38.
[206] *Id.*, p. 43.
[207] *Id.*
[208] *Id.*, p. 47.

The prosecution's seventh witness, ***Elena D. Ramirez***[209], Senior Accounts Receivable Manager of Megaworld Corporation, testified that she brought with her a Request for Reservation and Offer to Purchase dated August 17, 2000 under the name of Miguela Paragas[210], Statement of Account dated March 1, 2005[211]; Contract to Buy and Sell executed in Megaworld Corporation by Miguela Paragas dated March 3, 2005[212] and Summary of Payments[213]; and that the Summary of Payments, and the document, Actual Payments SL[214], that she brought to court by virtue of the subpoena have the same total of payments[215].

During ***cross-examination***, Ms. Ramirez testified that she has held the position of Head of Accounts Receivable since 1998; that the personal knowledge she has with respect to the contents of the documents she identified was limited to encoding them in their system then summarizing the payments being cleared with the company[216]; that the original Request for Reservation does not include the name of Paolo Ligot; that the Statement of Account dated March 1, 2005 is a system generated report; that she does not remember when she certified the true copy thereof but that it was the Ombudsman who requested a certified true copy; that while the original Request for Reservation did not include the name of Paolo Ligot, there was a request by Miguela Paragas on November 19, 2004 to cancel the Request for Reservation and to assign the Paseo Parkview Tower 2 Properties to Paolo Ligot[217]; that the request was addressed to the Marketing Department of Megaworld Corporation[218]; that other than the Statement of Account and the Actual Payment SL, Paolo Ligot's name does not appear in any other documents[219]; that the names of accused Jacinto Ligot and accused Erlinda Ligot do not appear in any of the documents[220]; and that the Actual Payment SL does not show the source of payments and they do not have any record showing who the source of their client's payments are.[221]

After concluding her testimony, Ms. Ramirez was discharged as a witness.

[209] Testified on January 15, 2014.
[210] Exhibit "UUVT" for O-241 to O-244, not formally offered in evidence.
[211] Exhibit "STR", not formally offered in evidence.
[212] Exhibit "RSTQ" for O-241 to O-244, not formally offered in evidence.
[213] TSN, January 15, 2014 hearing, p. 6, Exhibit "T", denied for failure to submit the duly marked exhibit.
[214] Exhibit "T T-1 US-A" for O-241 to O-244, not formally offered in evidence.
[215] *Id.*, p. 9.
[216] *Id.*, p. 21.
[217] *Id.*, p. 24.
[218] *Id.*
[219] *Id.*, p. 26.
[220] *Id.*, pp. 26-27.
[221] *Id.*, p. 27.

The prosecution presented its eighth witness, ***Atty. Joffre Gil Zapata***[222], Executive Clerk of Court III of the Fourth Division of the Sandiganbayan to identify the documents testified to by RO Magbag as those documents were in the possession of the Fourth Division of the Sandiganbayan. The defense stipulated that the documents in the custody of the witness are the same documents identified in court by RO Magbag. They also stipulated that said documents were Certified Photocopies from the Record of the Sandiganbayan except for the Letter from the Office of the Attache of the U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement dated April 5, 2005[223] which was an original.

He identified the documents in his custody which were not specifically listed in the "Ex-Parte Motion for Issuance of Subpoena Duces Tecum Ad Testificandum", *viz: Condominium Certificate of Title No. 79188 in the name of Megaworld Corporation, Statement of Account of Buyer Paolo Ligot from Megaworld, Original Certificate of Title No. 8817 in the name of Manuel S. Piana, Original Certificate of Title No. 8818 in the name of Manuel S. Piana, Original Certificate of Title No. 8819 in the name of Manuel S. Piana, Original Certificate of Title No. 8820 in the name of Manuel S. Piana, Tax Declaration No. E-29806 Jacinto Ligot as owner, Tax Declaration No. E-29807 Jacinto Ligot as owner, Tax Declaration No. E-29808 Jacinto Ligot as owner, Tax Declaration No. E-29809 Jacinto Ligot as owner, and Vehicle Sales Invoice with attached OR and CR.* Atty. Zapata also clarified that there was no Condominium Certificate of Title No. 8128 in the name of Megaworld Corporation.

Thereafter, Atty. Zapata testified that he certified the documents as "certified photocopy from the record" because with the exception of the Letter from the U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement referred to above, the documents he has in his possession are also certified true copies of the original documents[224]; that the documents the prosecution was requesting from him are mostly certified copies from the agencies that are supposed to issue those documents such as the Register of Deeds or the Assessor's Office in the case of tax declarations[225]; that he did not want his certification to read "certified photocopy of the certified photocopy" because sometimes there is even an issue as to whether that document is original or not and it would be a dangerous certification to make; and that he was advised by his office to certify the documents as "certified photocopy from the record" without saying what appears on record whether it is an original or a photocopy or a certified copy[226].

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[222] Testified on May 7, 2014.
[223] Exhibit "J" in O-244; Exhibits "R" to "R-20" for O-243 wherein only Exhibits "R" to "R-15" were admitted.
[224] TSN, May 7, 2014 hearing, pp. 29-30.
[225] *Id.*
[226] *Id.*, p. 31.

On ***cross-examination***, Atty. Zapata testified that the documents are in his custody because they are part of the formal offer of evidence in Civil Case No. 0197, Republic of the Philippines vs. Lt. Gen. Jacinto Castillo Ligot, et. al. which is a forfeiture case[227]; that the Petition for Forfeiture filed with the Sandiganbayan[228] shown to him is a certified photocopy from the record that he issued[229]; and that the certification states "This is to certify based on our records, the Petition for Forfeiture dated September 12, 2005 in Civil Case No. 0197 entitled Republic of the Philippines vs. Lt. Gen. Jacinto Castillo Ligot, et. al. was filed in the Sandiganbayan on September 13, 2005 issued upon the written request of Agan & Montenegro Law Offices through Atty. Eduardo G. Montenegro for whatever legal purposes it may serve to said office."[230]

As there was no redirect examination, the witness concluded his testimony and was discharged.

The prosecution's ninth witness, ***Noel Abanilla***[231], Records Officer of the Register of Deeds of Makati, testified that, as Records Officer, he approves through the system the certified true copy of the titles and documents and supporting documents[232]; that he is in possession of the titles; that the original Condominium Certificate of Title (CCT) No. 79188 of a Unit No. 18-N is already cancelled as it was transferred to Miguela L. Paragas married to Vicente Paragas covered by CCT No. 201200611[233]; that the CCT No. 79189, Unit No. 18-O was originally in the name of Megaworld Corporation, but that it was already cancelled because there was a Deed of Sale in favor of Miguela Paragas married to Vicente Paragas covered by CCT No. 201200610[234]; that both condominium units are no longer owned by Megaworld Corporation; that both condominium units are now in the name of Miguela Paragas and the transfer occurred on February 1, 2012; that new titles[235] were issued to Miguela Paragas by virtue of a Deed of Sale[236]; and that he also has in his possession CCT No. 201200612 for parking area no. 14, covered by a Deed of Sale in the name of Miguela Paragas.[237]

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227 *Id.*, p. 34.
228 Exhibit "A-1", admitted.
229 *Id.*, p. 35.
230 *Id.*, pp. 36-37.
231 Testified on September 17, 2014.
232 TSN, September 17, 2014 hearing, p. 9.
233 *Id.*, p. 10, Exhibits "P" to "P-1-a" for O-241, O-242, O-243, and O-244, not formally offered in evidence
234 *Id.*, pp. 10-11, Exhibit "Q" for O-241, O-242, O-243, and O-244, not formally offered in evidence.
235 Exhibit "Q-1" for O-241, O-242, O-243, and O-244, not formally offered in evidence.
236 Denied marking as not one of the documents enumerated in the Pre-Trial Order.
237 TSN, September 17, 2014 hearing, p. 19.

On ***cross-examination,*** Mr. Abanilla testified that he brought the printouts because it was the BIR who requested it by virtue of the subpoena[238]; that none of the documents he brought with him bear the name Erlinda Ligot, Jacinto Ligot or any other person with the surname Ligot[239]; that the certified electronic copies of the documents he brought with him were printed out by a clerk but that he approved the certified true copy thereof[240]; and that he obtained these documents from the Makati Register of Deeds but he was not the one who personally printed it out from the system.[241]

On ***re-direct examination,*** he testified that he approved the printing of the documents and the person who actually printed them out was under his supervision; that for Exhibits "P-1" and "Q-1", the new CCTs, they were registered on February 1, 2012.[242]

The prosecution manifested that the case was filed on February 1, 2012 which is why they were not included in the Pre-Trial Order

On ***re-cross examination,*** Mr. Abanilla testified that the entry date is when it was presented to them by the presentor which is when the buyer and the seller, through their representative, presents the Deed of Sale to their office[243]; that the Deed of Sale was dated August 7, 2009 which is the date of the document and the date of inscription; that under their records, the property is entitled to Megaworld Corporation; and that from the time Megaworld Corporation's titles were cancelled to the time that he issued the new CTCs he brought with him, there were no other transactions.[244]

Having concluded his testimony, Mr. Abanilla was discharged as a witness.

The prosecution's tenth witness, ***Atty. Edwin Flor Barroga***[245], Acting Registrar of Deeds of Morong, Rizal who testified that by virtue of his position, he has in his possession the Transfer Certificate of Title (TCT) No. M-113065[246], the Deed of Sale between Violeta Melendrez and Jacinto Ligot[247], the Certificate

[238] *Id.*, p. 20.
[239] *Id.*, pp. 20-21.
[240] *Id.*, p 22.
[241] *Id.*, p. 23.
[242] *Id.*, p. 24.
[243] *Id.*, pp. 25-26.
[244] *Id.*, p. 27.
[245] Testified on October 22, 2014.
[246] Exhibit "K" in O-242, admitted.
[247] Exhibit "L" in O-242, admitted.

Authorizing Registration[248], and the Tax Clearance Certificate[249] which were on file in their vault; that he is familiar with Randy A. Rutaquio who was the former Registrar of Deeds of Morong, Rizal[250]; that Mr. Rutaquio was succeeded by several people but that he is now the current custodian of the records; and that he is acting in a temporary capacity in the post.[251]

On ***cross-examination***, Atty. Barroga testified that there are annotations found in TCT No. M-113065 such as a Notice of Levy and Attachment filed by the Sheriff of the Sandiganbayan, Fourth Division[252]; that the entries were not signed nor registered which means that the presenters were lacking in some requirements; that the ones who presented the documents in 2009 withdrew the registration of those Deeds of Sale; that he is familiar with the transaction as he was connected to the Register of Deeds (RD) then; and that the property was being sold by the registered owner, accused Jacinto Ligot, to Francisco S. Parabo but the transaction did not push through and so the title remained in the name of accused Jacinto Ligot.[253]

With that, Atty. Barroga concluded his testimony and was discharged as a witness.

The prosecution presented its eleventh witness, ***Christ Steve E. Rayoso***[254], Record Officer I, Register of Deeds, Malaybalay, Bukidnon, who testified that Exhibit "L", a photocopy of Original Certificate of Title (OCT) No. T-8817, is a faithful reproduction of the original which he brought with him[255]; that he brought with him a Writ of Preliminary Attachment from the Sandiganbayan Forfeiture case[256] with attached Notice of Levy on Attachment[257] and a Deed on Extra Judicial Settlement with Sale[258], the heirs of Piana and Mr. Paolo Ligot consisting of 2 pages with an attachment reference slip covering the Title No. T-8817[259]; and that the Extra Judicial Settlement was between the Piana heirs and Paolo Ligot.[260]

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[248] Exhibit "L-1" in O-242, admitted.
[249] Exhibit "L-2" in O-242, denied for failure of the marked document to correspond with description in FOE.
[250] TSN, October 22, 2014 hearing, p. 10.
[251] *Id.*, p. 16.
[252] *Id.*, p. 17.
[253] *Id.*, pp. 18-20.
[254] Testified on March 11, 2015.
[255] TSN, March 11, 2015 hearing, pp. 6-7.
[256] Exhibit "L-1" in O-241, not formally offered in evidence.
[257] Exhibit "L-2" in O-241, not formally offered in evidence.
[258] Exhibit "L-3" in O-241, not formally offered in evidence.
[259] TSN, March 11, 2015, p. 9.
[260] *Id.*

On ***cross-examination***, Mr. Rayoso testified that the OCT he brought to Court does not contain the name Paolo Ligot[261]; that it is in the name of Manuel S. Piana; that the name of accused Jacinto Ligot appears in the annotation of the Writ of Preliminary Attachment, that he has no idea about the relevance of the annotation; that the owner of the OCT is Manuel S. Piana[262]; that part of his duties and responsibilities in the office at the Register of Deeds is the safekeeping of records[263]; that he has seen the OCT in question three times, twice when he was subpoenaed by the Sandiganbayan, and the third time for the hearing being conducted; that he received the subpoena from the Sandiganbayan, first, on December 2013 and then, second, on January 22, 2015[264]; and that he is not too familiar with the document but has inspected it and observed that there is no signature above the name Paolo Y. Ligot[265].

With that, Mr. Rayoso concluded his testimony and was discharged as a witness.

On September 17, 2014, the prosecution filed an "Ex Parte Motion for the Issuance of Subpoena Duces Tecum and Ad Testificandum"[266] praying for the issuance of a Subpoena Duces Tecum ad Testificandum (SDTAT) to its next proposed witnesses: a) Atty. Manuel C. Felicia, Register of Deeds, Malaybalay Bukidnon or his successor; b) Mr. Randy A. Rutaquio, Register of Deeds, Province of Rizal or his successor; c) Branch Manager/Custodian of Records, Land Bank of the Philippines (LBP); d) Branch Manager/Custodian of Records, Rizal Commercial Banking Corporation (RCBC); e) Custodian of Records/ Appropriate Officer, Armed Forces and Police Savings and Loan, Inc. (AFPSLAI); and f) Monico B. Villar, Jr., AMLC Bank Officer.

On October 23, 2014, the defense filed an "Opposition (To Ex-Parte Motion for Issuance of Subpoena Duces Tecum Ad Testificandum)"[267] citing that an issuance thereof would be in violation of various bank secrecy laws, such as Republic Act No. (RA) 1405, RA 6426, and RA 8367. The defense further argued that cases for tax evasion are not among the exceptions allowed in laws pertaining to the secrecy of bank deposits as the bank deposits themselves are not the subject of litigation.

On October 30, 2014, the defense filed a "Brief Memorandum" where it discussed why the SDTAT is not allowed under RA 1405, "An Act Prohibiting Disclosure Of or Inquiry Into, Deposits with any Banking Institution and

[261] *Id.*, p. 10.
[262] *Id.*, pp. 11-13.
[263] *Id.*, p. 15.
[264] *Id.*, pp. 18-19.
[265] *Id.*, p. 20.
[266] *Id.* at Note 2, pp. 2144-2149.
[267] *Id.*, pp. 2158-2160.

Providing Penalty Therefor"; RA 6426, "Act Instituting a Foreign Currency Deposit System in the Philippines and for Other Purposes"; RA 8367, "An Act Providing for the Regulation of the Organization and Operation of Non-stock Savings and Loan Association"; RA 9160, "Anti-Money Laundering Act of 2001"; and why the CIR has no authority to examine or inquire into bank accounts and/or deposits in furtherance of tax evasion cases.

The defense further prayed that the Ex Parte Motion for the Issuance of SDTAT to the Branch Managers/Custodians of Records of LBP, RCBC, AFPSLAI, and to Mr. Monico B. Villar, Jr., AMLC Bank Officer be denied or, if already issued, be recalled and quashed.

On March 31, 2015, this Court issued a Resolution partially granting the motion. The Court resolved that the prosecution's request for the issuance of a SDTAT to Registers of Deeds, Atty. Manuel C. Felicia of Malaybalay, Bukidnon and Mr. Randy A. Rutaquio, of the Province of Rizal, or their successors were moot considering it already heard the testimony of Atty. Barroga, Acting Register of Deeds, Morong, Rizal during the hearing held on October 22, 2014, and the testimony of Mr. Rayoso, Records Officer I, Register of Deeds, Malaybalay, Bukidnon during the hearing held on March 11, 2015.

As regards the SDTAT requested for the branch managers and/or custodians of records to testify and/or produce documents relating to the accounts of both accused in the LBP, RCBC, and the AFPSLAI, the Court held that the grant thereof would lead to violation of various bank secrecy laws such as, RA 1405 (the Law on Secrecy of Bank Deposits), RA 6426 (the Foreign Currency Deposit Act), RA 8367 (Revised Non-stock Savings and Loan Association Act of 1997), and RA 8719 (The General Banking Law), among others. Hence, the requested SDTATs for them were denied.

As for the requested SDTAT for AMLC Officer, Monico B. Villar, Jr., the Court allowed an SDTAT to issue to him under two conditions that keep the Hearsay Rule in mind: a) that any testimony or documents produced relating to the AMLC Memorandum is based on his personal knowledge and not the knowledge of some other person not on the witness stand; and b) that any testimony regarding statements or writings in the AMLC Memorandum that Mr. Villar has no personal knowledge of shall be allowed only if they are offered not to prove the truth of the facts stated therein but only to prove that those statements were actually made or those writings were executed in order for the testimony to fall outside the ambit of the Hearsay Rule in accordance with the doctrine of independently relevant statements.

The prosecution's twelfth and last witness, ***Monico B. Villar, Jr.***, Bank Officer for the Anti-Money Laundering Council, testified on May 6, 2015 over the objections of the defense to certain questions and answers in his Judicial Affidavit.

On May 15, 2015, the defense filed a "Manifestation/Motion (To Strike Out or Suppress Testimony)"[268] praying that the submission, Judicial Affidavit and all photocopies of documents attached thereto be stricken out of the records on the grounds that it was a circumvention of the Court's Order in its March 31, 2015 Resolution regarding the conditions of Mr. Villar's testimony and was violative of various Bank Secrecy Laws.

On May 26, 2015, the prosecution filed its "Opposition [Re: Manifestation/Motion (To Strike Out or Suppress Testimony)]"[269] praying that the motion be denied and for Mr. Villar to be allowed to complete his testimony. In response, the defense filed its "Reply"[270] on June 10, 2015.

Due to the continuous objection of the defense to the documents being identified by Mr. Villar, the Court secured an undertaking on the part of the prosecution to produce the originals of the documents. However, due to the volume of documents, a Commissioner's Hearing was set for this purpose in the Resolution dated August 12, 2015.[271]

Several Commissioner's Hearings[272] were then held for the comparison and marking of the prosecution's exhibits related to the testimony of Mr. Villar.

On September 11, 2015, the defense filed a "Manifestation and Motion to Resolve Motion to Strike Out/Suppress Judicial Affidavit and Testimony"[273] to which the prosecution filed its "Comment [Re: Manifestation and Motion to Resolve Motion to Strike Out/Suppress Judicial Affidavit and Testimony]" on September 24, 2015.[274]

On November 11, 2015, the Court granted the defense's "Manifestation/Motion (To Strike Out or Suppress Testimony) and ordered that the testimony of Mr. Villar, including his Judicial Affidavit and all its

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[268] *Id.*, pp. 2622-2679.
[269] *Id.*, pp. 2688-2695.
[270] *Id.*, pp. 2700-2705.
[271] *Id.*, pp. 2715-2717.
[272] Commissioner's Report for hearing on August 18, 2015, *id.*, pp. 2722-2727; September 3, 2018, pp. 2731-2735; and on September 8, 2015, pp. 2741-2748.
[273] *Id.*, pp. 2749-2756.
[274] *Id.*, pp. 2766-2772.

accompanying attachments, and prosecution Exhibits $Y^5$ to $Y^5$-137 be suppressed and stricken off the record. The Court also recalled the SDTAT previously granted and issued by the Court in its March 31, 2015 Resolution.

The Court ruled that the exhibits presented by the prosecution during the Commissioner's Hearings which consisted of withdrawal slips, savings account information, bank statements, deposit receipts, certificate of time deposits, account summaries of both accused and other persons who were not parties to this case that are "certified true copies" of AMLA "original true copies" do not fall under any of the exceptions to the "Best Evidence Rule".[275] As testified to by Mr. Villar during the hearing held on May 6, 2015, the originals of the documents are in the possession and legal custody of the respective banks in which the accused Spouses Ligot maintain accounts in.

The Court further held that the proposed exhibits were all derivative in nature; that even if the prosecution designated the AMLC source documents as "original certified true copies", adding the word "original" did not detract from the fact that the original documents were with the banks and that such original documents could only be divulged under very limited circumstances; that while the AMLC Memorandum may be considered an authorized public record of various private documents, e.g. the source documents of the report, the attestation thereof by the various custodians of those source records was an impossibility not only because it is **prohibited by law**, but also, it was **specifically prohibited by this Court** in the Resolution dated March 31, 2015; and that to allow the questioned testimony of Mr. Villar to remain on record would be in violation of the provisions of RA No. 1405 on the secrecy of bank deposits.

The prosecution filed a Motion for Reconsideration[276] thereof on November 23, 2015 to which the defense filed it's Comment on December 4,

[275] RULE 130, "Sec. 3 . Original document must be produced; exceptions. — When the subject of inquiry is the contents of a document, no evidence shall be admissible other than the original document itself, except in the following cases x x x".

(a) When the original has been lost or destroyed, or cannot be produced in court, without bad faith on the part of the offeror;

(b) When the original is in the custody or under the control of the party against whom the evidence is offered, and the latter fails to produce it after reasonable notice;

(c) When the original consists of numerous accounts or other documents which cannot be examined in court without great loss of time and the fact sought to be established from them is only the general result of the whole; and

(d) When the original is a public record in the custody of a public officer or is recorded in a public office.

[276] *Id.* at Note 2, pp. 2801-2813.

2015.[277] In a Resolution dated January 21, 2016[278], the Court denied the motion. The prosecution then rested its case.

On May 2, 2016, the prosecution filed its Formal Offer of Evidence (FOE)[279] which included a proffer of evidence suppressed and stricken from the record.

The defense, in turn, filed its Comments/Objections (To Prosecution's Offer of Evidence and Motion to Order Prosecution to Produce Suppressed Exhibit[280] on May 17, 2016. The defense observed that the voluminous FOE did not follow the usual alphabetical order and many of the exhibits offered were with markings different from the markings at Pre-Trial and markings at the hearing. Some were not identified during the hearing or listed marked and described in the Pre-Trial Order. Moreover, the proffer of evidence suppressed and stricken from the record once again violates the Bank Secrecy Law and that the exposure of information even includes records of persons and entities not accused in the consolidated cases.

In its Motion to Order Prosecution to Produce Suppressed Exhibit, the defense prayed that the prosecution be ordered to produce the original of the Summary of Actual Payments marked Exhibit "TT-1-US" which was produced and marked at the January 15, 2014 hearing, or, in the alternative, recall witness Ms. Ramirez of Megaworld to produce the same. The defense further alleged that Exhibit "T", the document denominated as "Summary of Actual Payments" by the prosecution is spurious, considering it is different from the original document the witness brought and testified to.

Based on the Court's Resolutions dated July 21, 2016[281] and September 8, 2016[282], the following exhibits were either admitted or denied, to wit:

***For Criminal Case No. O-241:***

**Admitted Exhibits**

| Exhibits | Description |
|---|---|
| X | NID Memorandum Assignment dated February 7, 2011 |
| Y | Memorandum of Investigation dated February 14, 2011 |
| Z | Memorandum dated March 9, 2011 - initial findings |

[277] *Id.*, pp. 2817-2822.
[278] *Id.*, pp. 2824-2826.
[279] *Id.*, pp. 2855-2893.
[280] *Id.*, pp. 3864-3902.
[281] *Id.*, pp. 3908-3914.
[282] *Id.*, pp. 4162-4171.

| | |
|---|---|
| **I** | ITR, 2001, Jacinto Ligot |
| **H-1** | Stam and Signature of Chief Document |
| **GG** | Notice of Informal Conference, May 6, 2011 |
| **HH** | PAN dated June 28, 2011 |
| **II** | FLD dated October 25, 2011 |
| **JJ** | Registry Receipt dated January 31, 2012 - FLD |
| **G** | SALN - 2002 |
| **B** | Letter from Senator Drilon |
| **CC** | Referral Letter to DOJ issued my CIR Kim Henares |
| **DD** | Joint Complaint Affidavit |

## Denied Exhibits

| Exhibits | Description |
|---|---|
| **J** | Access Letter dated February 18, 2011, request to Sandiganbayan for documents (bank records) |
| **K** | Access Letter dated February 25, 2011, addressed to Sandiganbayan |
| **F** | |
| **EE** | Reply Affidavit |
| **FF** | DOJ Resolution |
| **C** | Summary of Deposits |
| **D** | Schedule of Deposits |
| **T** | Summary of Payments - Paseo Parkview Tower 2 Properties |

## *For Criminal Case No. O-242:*

## Admitted Exhibits

| Exhibits | Description |
|---|---|
| **Y** | NID Memorandum Assignment dated February 7, 2011 |
| **Z** | Memorandum of Investigation dated February 14, 2011 |
| **AA** | Memorandum dated March 9, 2011 - initial findings |
| **H** | BIR Return system printout - 2002, Jacinto Ligot |
| **OO** | Certification that Paolo, Riza and Miguel have no ITRs on record - 2001, 2002, 2004 |
| **MM** | Certification that Paolo, Riza and Miguel have no ITRs on record - 2003 |
| **HH** | Notice of Informal Conference, May 6, 2011 |
| **II** | PAN dated June 28, 2011 |
| **JJ** | FLD dated October 25, 2011 |
| **KK** | Registry Receipt dated January 31, 2012 - FLD |
| **F** | SALN - 2000 |
| **G** | SALN - 2002 |
| **B** | Letter from Sen. Drilon |
| **M** | Tax Declaration, E-029806 - Improvements |
| **N** | Tax Declaration, E-029807 - Improvements |
| **O** | Tax Declaration, E-029808 - Improvements |
| **P** | Tax Declaration, E-029809 - Improvements |

| | |
|---|---|
| **L** | Deed of Absolute Sale - Tanay Property |
| **L-1** | CAR - Tanay Property |
| **K** | TCT M-113065 - Tanay Property |
| **K-1** | Decree, TCT M-113065 - Tanay Property |
| **DD** | Referral Letter to DOJ by CIR Kim Henares |
| **EE** | Joint Complaint Affidavit |
| **NN** | Judicial Affidavit, RO Arnel Magbag |
| **NN-1** | Signature of RO Arnel Magbag |
| **OO** | Judicial Affidavit, RO Jose Amor Dayoan |
| **OO-1** | Signature of RO Jose Amor Dayoan |

## Denied Exhibits

| Exhibits | Description |
|---|---|
| **I** | Access Letter dated February 18, 2011, request to Sandiganbayan for documents (bank records) |
| **A** | Access Letter dated February 28, 2011 addressed to Sen. Drilon (records of Senate Hearing) |
| **J** | Access Letter dated February 25, 2011, addressed to Sandiganbayan |
| **W** | Access Letter dated February 18, 2011, addressed to AMLC |
| **LL** | Access Letter dated January 30, 2012, addressed to AMLC |
| **FF** | Reply Affidavit |
| **GG** | DOJ Resolution |
| **C** | Summary of Deposits |
| **D** | Schedule of Deposits |
| **L-2** | Tax Clearance Certificate - Tanay Property |

## *For Criminal Case No. O-243:*

## Admitted Exhibits

| Exhibits | Description |
|---|---|
| **Y** | Memorandum of Investigation dated February 14, 2011 |
| **Z** | Memorandum dated March 9, 2011 - initial findings |
| **Z-1** | |
| **Z-2** | |
| **Z-3** | |
| **Z-4** | |
| **B** | ITR - 2003, Jacinto Ligot |
| **B-1** | |
| **B-2** | BIR Form 2316 of Jacinto Ligot |
| **MM** | Certification that Paolo, Riza and Miguel have no ITRs on record - 2003 |
| **FF** | Notice of Informal Conference, May 6, 2011 |
| **GG** | PAN dated June 28, 2011 |
| **HH** | FLD dated October 25, 2011 |
| **HH-1** | |
| **HH-2** | |

| | |
|---|---|
| **HH-3** | |
| **II** | Registry Receipt dated January 31, 2012 - FLD |
| **HH-4** | Assessment Notices |
| **HH-5** | |
| **HH-6** | |
| **HH-7** | |
| **HH-8** | |
| **HH-9** | |
| **HH-10** | |
| **HH-11** | |
| **R** | Letter to Ombudsman from US ICE dated April 8, 2005 |
| **R-1** | |
| **R-2** | Verification in relation to US ICE letter |
| **R-4** | Grant Deed between Orange County, California (Foreign document) |
| **R-3** | Attachment to the Grant Deed (technical description of the property) |
| **R-5** | |
| **R-6** | Grant Deed Orange County (Foreign Document) |
| **R-7** | |
| **R-8** | |
| **R-9** | |
| **R-10** | |
| **R-11** | |
| **R-12** | |
| **R-13** | |
| **R-14** | |
| **R-15** | |
| **D** | SALN - 2002 |
| **D-1** | |
| **D-2** | |
| **E** | SALN - 2003 |
| **E-1** | |
| **E-2** | |
| **G** | Letter from Sen. Drilon |
| **CC** | Referral Letter to DOJ issued by CIR Kim Henares |
| **DD** | Joint Complaint Affidavit |
| **NN** | Judicial Affidavit of RO Arnel Magbag |
| **NN-1** | Signature of RO Arnel Magbag |
| **OO** | Judicial Affidavit of RO Jose Amor Dayoan |
| **OO-1** | Signature of RO Jose Amor Dayoan |

## Denied Exhibits

| **Exhibits** | **Description** |
|---|---|
| **F** | Access Letter dated February 28, 2011 addressed to Sen. Drilon (records of Senate Hearing) |
| **C** | Access Letter dated February 7, 2011 addressed to Ombudsman |
| **JJ** | Access Letter dated January 30, 2012 addressed to AMLC |
| **EE** | Reply Affidavit |
| **H** | Summary of Deposits |

| | |
|---|---|
| **H-1** | |
| **I** | Schedule of Deposits |
| **I-1** | |
| **I-2** | |
| **I-3** | |
| **I-4** | |
| **I-5** | |
| **I-6** | |

## *For Criminal Case No. O-244:*

## Admitted Exhibits

| Exhibits | Description |
|---|---|
| **X** | NID Memorandum Assignment dated February 7, 2011 |
| **Y** | Memorandum of Investigation dated February 14, 2011 |
| **Z** | Memorandum dated March 9, 2011 - initial findings |
| **G** | BIR system printout ITR, Jacinto Ligot, 2004 |
| **G-1** | Stamp and signature of Chief document processing section |
| **LL** | Certification that Paolo, Riza and Miguel have no ITRs on record - 2003 |
| **GG** | Notice of Informal Conference, May 6, 2011 |
| **HH** | PAN dated June 28, 2011 |
| **II** | FLD dated October 25, 2011 |
| **JJ** | Registry Receipt dated January 31, 2012 - FLD |
| **J** | Letter to Ombudsman from US ICE dated April 8, 2005 |
| **K** | Verification in relation to US ICE letter |
| **L** | Grant Deed between Orange County, California (Foreign document) |
| **L-1** | Attachment to the Grant Deed (technical description of the property) |
| **L-2** | |
| **M** | Grant Deed Orange County (Foreign Document) |
| **M-1** | |
| **M-2** | |
| **M-3** | |
| **M-4** | |
| **M-5** | |
| **M-6** | |
| **M-7** | |
| **M-8** | |
| **M-9** | |
| **F** | SALN - 2000 |
| **B** | Letter from Sen. Drilon |
| **CC** | Referral Letter to DOJ issued by CIR Kim Henares |
| **DD** | Joint Complaint Affidavit |
| **LL** | Judicial Affidavit of RO Arnel Magbag |
| **LL-1** | Signature of RO Arnel Magbag |
| **MM** | Judicial Affidavit of RO Jose Amor Dayoan |
| **MM-1** | Signature of RO Jose Amor Dayoan |

## Denied Exhibits

| Exhibits | Description |
|---|---|
| **H** | Access Letter dated February 18, 2011, request to Sandiganbayan for documents (bank records) |
| **A** | Access Letter dated February 28, 2011 addressed to Sen. Drilon (records of Senate Hearing) |
| **I** | Access Letter dated February 25, 2011, addressed to Sandiganbayan |
| **E** | Access Letter dated February 7, 2011 addressed to Ombudsman |
| **U** | Access Letter dated February 18, 2011, addressed to AMLC |
| **KK** | Access Letter dated January 30, 2012, addressed to AMLC |
| **EE** | Reply Affidavit |
| **FF** | DOJ Resolution |
| **C** | Summary of Deposits |
| **D** | Schedule of Deposits |

***For Criminal Case Nos. O-241, O-242, O-243 and O-244:***

## Admitted Exhibits

| Exhibits | Description |
|---|---|
| **CCC-2** | Letter of Authority LOA - Erlinda Ligot |
| **AAA** | Registry Return Receipt |
| **CCC** | LBC Notice of Non-Delivery |
| **CCC-1** | LBC Package Container Addressed to Accused Jacinto Ligot |
| **AAA-1** | BIR Envelope addressed to Erlinda LIgot |
| **BBB-1** | Letter of Authority LOA - Jacinto Ligot |
| **BBB** | LBC Express Notiform |
| **BBB-2** | Official Receipt LBC |
| **BBB-3** | LBC Package Container - Jacinto Ligot |
| **ZZ** | Registry Return Receipt - Jacinto Ligot |
| **ZZ-1** | BIR Envelope - Jacinto Ligot |
| **DDD** | Registry Return Receipt |
| **PPP** | Authority of Mr. Ducay to testify |

## Denied Exhibits

| Exhibits | Description |
|---|---|
| **SS** | SALN - 1982 |
| **TT** | SALN - 1997 |
| **UU** | SALN - 1998 |
| **VV** | SALN - 1999 |

The prosecution's Proffer of Evidence consisting of Exhibits "$X^5$", "$X^5$-1", "Y5", and "$Y^5$-1" to "$Y^5$-137" were denied by the Court in accordance with Section 40, Rule 132 of the Rules of Court on the Tender of Excluded

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Evidence[283] and the case of *Yu vs. Court of Appeals*[284] wherein the Supreme Court ruled that "before tender of excluded evidence is made, the evidence must have been formally offered before the court. And before formal offer of evidence is made, the evidence must have been identified and presented before the court", as the identification of the exhibits were formally offered after they were suppressed and stricken from the records of the case.

Also in the Resolution dated September 8, 2016, the Court granted the defense's Manifestation and Motion (For Leave to Present Witnesses Not Named in the Pre-Trial Orders and Mark in Evidence New Exhibits And To Re-mark Exhibits Previously Marked During the Pre-Trial)[285] filed on June 7, 2016, having considered the prosecution's Comment/Opposition (To Accused's Manifestation & Motion (For Leave to Present Witnesses not Named in the Pre-Trial Orders and Mark in Evidence New Exhibits and to Re-mark Exhibits Previously Marked During the Pre-Trial)[286] filed on August 5, 2016.

The defense was then granted leave of Court to present witnesses **a) Ma. Violeta Alfonso Melendres; b) Ruben Clementer Clarito; c) Rowena Thea T. Go**; and **d) Ramon Zamuco Rubio** to testify on the Tanay Property mentioned in the prosecution's Exhibit "L", a Deed of Absolute Sale, executed by and between Ma. Violeta Alfonso Melendres as vendor and accused Jacinto C. Ligot as vendee. Their previous testimonies on direct examination in the *Forfeiture Case* before the Sandiganbayan were also adopted by the Court to abbreviate proceedings.

The defense presented five (5) witnesses, namely: Col. Ruben Clementer Clarito (Ret.), Rowena Thea T. Go, Ramon Z. Zubio, Atty. Diane Rose B. Ramos, and Atty. Joffre Gil C. Zapata.

The first witness of the defense, ***Col. Ruben Clementer Clarito (Ret.)***[287], retired Colonel of the Philippine Armed Forces, testified that in 2001-2002, he was a Lieutenant Colonel designated Assistant Chief of Staff of the civilian military operations of the 2nd Infantry Division of the Philippine Army at Camp Capinpin, Tanay, Rizal;[288] that part of his duties then were to make plans and recommendations relative to civilian military operations that would

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283 Rules of Court, Rule 132, "Sec. 40. *Tender of Excluded Evidence.* - If documents or things offered in evidence are excluded by the court, the offeror may have the same attached to or made part of the record. If the evidence excluded is oral, the offeror may stat for the record the name and other personal circumstances of the witness and the substance of the proposed testimony."
284 G.R. No. 154115, November 29, 2005.
285 *Id.*, pp. 3903-3906.
286 *Id.*, pp. 3918-3923.
287 Testified on November 16, 2016.
288 Judicial Affidavit of Col. Ruben Clemanter Clarito, *id.* at Note 2, p. 4191; Exhibit "A-4" and "A-4-A", admitted.

contribute to the accomplishment of the command and military relations[289]; that the Camp Commander of Camp Capinpin at the time was the accused, Gen. Jacinto C. Ligot[290]; that he met Mrs. Violeta Alfonso Melendres who, at the time, owned a property in Tanay, Rizal near the Camp Capinpin that the officers of the 2nd Infantry Division wanted to buy[291]; that Mrs. Melendres agreed to sell so they proceeded to look for other buyers; that they looked for other buyers because the portion of the property consisted of five (5) hectares and they needed other buyers to afford the purchase price which was ₱2,000,000.00 for the 50,000 sqm at ₱40.00 per sqm[292]; that despite finding other buyers, the property was not immediately purchased as Mrs. Melendres requested that she wanted to execute only one deed of sale and to deal with only one person[293]; that Mrs. Melendres wanted Lt. Gen. Jacinto C. Ligot to represent all the buyers because he was their Commanding General[294]; that the ₱2,000,000.00 was raised and deposited in his Land Bank account which he then transferred to Mrs. Melendres' account in Metrobank, Pasig; that afterwards, Mrs. Melendres executed a Deed of Absolute Sale in favor of Lt. Gen. Jacinto C. Ligot as representative of all the buyers which he identified[295]; that he testified in the Sandiganbayan about this very same property in Tanay, Rizal in a case against the Ligots sometime in 2011[296]; that his testimony was recorded in a transcript of stenographic notes (TSN) which he identified[297]; and that on page 34 of the said TSN, he identified a Deed of Absolute Sale in his favor executed by Lt. Gen. Jacinto C. Ligot marked Exh. 153 in the Sandiganbayan case.[298]

On ***cross-examination***, Col. Clarito testified that the TSN of his testimony before the Sandiganbayan is adopted as part of his affidavit; that he knew that the property was owned by Mrs. Melendres because she went to camp and was offering that portion of the property for sale to the officers of the 2nd Infantry Division; that some of the officers are Lt. Edmund Pangilinan who retired as a Major General, Lt. Col. Perez, now Lt. Col. Maj, Capt. Ronal Acudia, now Lt. Col. and several others; that the officers numbered more or less 50, including himself; that he and the other officers executed a Deed of Sale with accused Jacinto Ligot for their respective portions of the property; that he has seen the Deeds of Sale executed by accused Jacinto Ligot in favor of the other officers in because as Assistant Chief of Staff for several military operations he was requested by the group of officers who bought the parcel of land to facilitate the records; that the 2 million raised to buy the property was contributed by the

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[289] *Id.*
[290] *Id.*
[291] *Id.*, p. 4192.
[292] *Id.*
[293] *Id.*, p. 4193.
[294] *Id.*
[295] *Id.*
[296] *Id.*, p. 4194.
[297] Exhibit "A-4-A", admitted.
[298] *Id.*, p. 4195.

officers who joined the group to buy the parcel of land; that he contributed ₱20,000 to buy the lot and paid by installment; that he doesn't have the receipts for his payments anymore; that the payment was paid in full to Mrs. Melendres who would issue the receipt; that he could no longer recall why Mrs. Melendres would issue a receipt for ₱20,000 in his favor when she did not want to deal with anyone but accused Jacinto Ligot; and that he was the one who deposited the 2 million to his Landbank account.[299]

During the ***interpolation of the Court***, Col. Clarito testified that he was able to collect that amount from the officers who purchased parcels of land when they went to their office during their vacant time and gave him the money; that it was also paid by installment for more or less three (3) months; that he issued corresponding receipts in his private capacity for the money he collected; that there is no document designating him as collector of funds for the group; that neither is there any document designating accused Jacinto Ligot as trustee of the group; that accused Jacinto Ligot is among the officers who purchased the property; that he does not recall how big the lot accused Jacinto Ligot purchased was but that the total lot was 50,000 sqm; that he no longer has records showing the 2 million was deposited in his account because when he was transferred, he left all the records with his companion in Tanay, Rizal; that the transaction was consummated sometime between 2001 and 2002; that it was sometime in 2002 that accused Jacinto Ligot executed several deeds of absolute sale in favor of the other officers but he was unable to transfer his portion of the property under his name as he was transferred the following year, 2003; and that the lots of the property have been subdivided.[300]

The Court pointed out that the exhibit in the Deed of Sale of his portion of the land stated a general description of 50,000 sqm and does not state the metes and bounds of the property. Col. Clarito then said that he could not recall if the property was subdivided. When the Court pointed out the inconsistency in his testimony, Col. Clarito clarified that what was shown to them before was merely a sketch stating the location of the individual lots, but no subdivision plan yet; that the location plan is in the possession of Eng. Rubio, the geodetic engineer that prepared the location plan; and that although he has been monitoring the progress of the property, it is now part of the litigation in the Sandiganbayan and CTA cases.[301]

Col. Clarito testified that doesn't have any document to show that the 2 million was transferred because he left his records with his another officer, Mr. Capinpin, at the time, including the passbook and deposit slip; that he left such important papers with his companion because they would be the one to

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[299] TSN, November 16, 2016 hearing, pp. 1-22.
[300] *Id.*
[301] *Id.*, pp. 30-34.

continue working on the papers; that he left the passbook behind because when the amount was transferred to Mrs. Melendres, the balance was already zero; that it was for records-keeping purposes that he left it behind with the officer who took charge of following up the papers; and that the sale and depositing the money in the passbook were done in his personal capacity and not as an officer of the Infantry Division.[302]

During the continuation of the ***cross-examination***, Col. Clarito testified that he and the other officers verbally requested accused Jacinto Ligot to represent all the buyers; that based on the Deed of Sale, the buyer of the property is accused Jacinto Ligot; that the Deed of Sale between Mrs. Melendres and accused Jacinto Ligot was executed on January 3, 2002 while the Deed of Sale between accused Jacinto Ligot and him was executed February 14, 2003.[303]

During ***further interpolation by the Court***, Col. Clarito was asked why it took him a year to execute the Deed of Sale for his portion of the Tanay property. He replied that he did not know and speculated that it could be the number of buyers involved which is why it took a long time to complete the papers. The Court then observed that as purchaser of the property, he should be very interested in acquiring the same but that from his testimony he was not sure that it was even executed a year later.[304]

His testimony having been concluded, Col. Clarito was excused from the witness stand.

The second witness the defense presented, ***Rowena Thea T. Go***[305], Lt. Colonel (Ret) of the Philippine Armed Forces, testified that she served as a military officer for 21 years, retiring at the rank of Lt. Col. when she was posted at Fort Bonifacio, Taguig City; that she had been assigned to Camp Capinpin in Tanay, Rizal when she held the rank commissioned 2nd Lieutenant from 1998 to 2002[306]; that her immediate superior then was Lt. Col. Ruben Clementer Clarito who was then Asst. Chief of Staff for Civilian Military Operations and the Commanding General of the 2nd Infantry Division then was Gen. Jacinto C. Ligot; that she came to know of Mrs. Violeta Melendres when she was introduced to them by Mayor Tanjuatco of Tanay;[307] that she was introduced to them in connection with the Tanay property that the offers of the 2nd Infantry Division were interested in buying; that after several meetings with Mrs. Melendres, an agreement was reached for the sale of 50,000sqm of her property; that because

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302 *Id.*, pp. 34-39.
303 *Id.*, pp. 40-44.
304 *Id.*, p. 45.
305 Testified on February 1, 2017, Judicial Affidavit, Exhibit "A-5" and "A-5-A", admitted.
306 *Id.*, pp. 4267-4268.
307 *Id.*, p. 4269.

Mrs. Melendres did not want to talk with so many buyers, she said she would deal only with one person representing all the buyers and execute only one Deed of Sale in favor of that person; that Col. Clarito then went to Gen. Ligot of Mrs. Melendres' condition and Gen. Ligot agreed to represent all the buyers; that 2 million was paid to Mrs. Melendres, collected from all the buyers, which was deposited in the Landbank account of Col. Clarito who, in turn, paid Mrs. Melendres[308]; that she is familiar with the Deed of Sale executed by Mrs. Melendres in favor of Gen. Ligot as representative of all the buyers; that she is familiar with the Sandiganbayan case against the Ligots where she testified in 2011[309]; that she is familiar of the TSN of her testimony in the Sandiganbayan[310] and identified the same; and that Gen. Ligot executed a Deed of Absolute Sale of a Portion of Land[311] in her favor.

Additionally, in her testimony before the Sandiganbayan in the Forfeiture case which was adopted by the Court, she testified that when she verified with Eng. Rubio who worked on facilitating the titling to the individual owners, she was told that there was a problem since the land was categorized as agricultural land and must be reclassified to residential first.[312] She also paid for a lot with an area of 250sqm in the amount of ₱10,040.00 which she set aside as she was the collector. The funds she had collected were then remitted to Col. Ruben Clarito to be deposited at Land Bank. She stated that, as far as she knows, he paid Mrs. Melendres on a staggered basis. When she was reassigned, she turned over the records which consisted of a list of payments collected from the buyers to Major Amores who replaced her in her position at that time.[313] She also stated that inclusive of the ₱10,040.00 price of the lot, she paid a total of ₱25,000.00 for the entire lot to include the miscellaneous expenses for working out the documentation of their individual titles. The entire 50,000 sqm was purchased by actual buyers because it was already subdivided and she was not certain how many buyers there were because some buyers bought three or four lots in total. She and the other buyers also assumed the capital gains tax in consideration for the transfer of the titles from accused Jacinto Ligot to the individual buyers.

On ***cross-examination***, she testified that when Mrs. Melendrez was introduced, she was the only one present as she frequently goes to the Office of the Mayor because she was assigned in the Civil Military Office and part of her duties was to coordinate in terms of other civilian matters; that there was a problem in the camp because there was a directive from higher headquarters to evict all the informal settlers in the camp and she was instructed to coordinate with the Office of the Mayor for the relocation site; that when she was well-

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[308] *Id.*, p. 4270.
[309] *Id.*, p. 4271.
[310] Exhibit "A-5-A", admitted.
[311] Exhibit "A-5-B", denied for failure to lay the predicate for the admission of secondary evidence.
[312] *Id.* at Note 2, pp. 4295-4296.
[313] *Id.*, p. 4307.

acquainted with the mayor, she jokingly asked if the officers could be relocated, but the mayor did not respond; that she cannot recall how many meetings with Mrs. Melendres took place[314]; that she was not always present during the meetings; that sometimes Col. Clarito and Mrs. Melendres were present in those meetings; that at the time Mrs. Melendres proposed the condition of dealing with just one person to represent all the buyers accused Jacinto Ligot was not present[315]; that when Mrs. Melendres imposed the condition, she did not specify that Gen. Ligot would be the representative of the buyers[316] but because he was the top official, she and Col. Clarito agreed that he, since he was the head of the division, would represent them; that this was recommended to the buyers by her and Col. Clarito because it was their office organizing this; that in the Deed of Sale dated June 28, 2002, the vendor was Mrs. Melendres and the buyer was Jacinto C. Ligot[317]; that the Deed of Sale shows no indication that accused Jacinto Ligot was signing as a mere representative of all the buyers[318]; that she cannot recall the total number of buyers of the lot because although she began collection of the money, she was reassigned to Camp Lapu Lapu so she turned over all her documents to Major Amores[319]; that in her estimate, there were around 40 buyers out of which only two (2) RDO Officers and her brother were personally known to her[320]; that before her transfer to Camp Lapu Lapu on June 2002, the 2 million required by the seller was not yet reached; that she does not have personal knowledge insofar as the completion of the required amount but was just told by Col. Clarito that they were able to come up with the money[321]; that when she was still collecting money from the buyers, she issued receipts in the form of a computerized document as proof of receipt of the funds but that she turned it over already[322]; that she does not have hard copies anymore as once she printed out the receipt, she gave it to the buyer who tendered payment; that she issued only one receipt without retaining a copy as evidence of the amount a buyer has paid[323]; that she merely reflect on the list which she eventually turned over to Col. Amores that a buyer has paid; that she does not recall how many persons paid cash for the property since it happened more than 15 years ago; that she personally witnessed Col. Clarito open a Landbank account in the Tanay branch as she accompanied him[324]; that she remitted the cash she collected from payments to Col. Clarito at the end of the day; and that she does not have proof that she remitted the cash to Col. Clarito because she trusted him[325].

[314] TSN, February 1, 2017 hearing, p. 11.
[315] *Id.*, p. 13.
[316] *Id.*, p. 14.
[317] *Id.*, pp. 17-18.
[318] *Id.*, p. 19.
[319] *Id.*
[320] *Id.*, p. 20.
[321] *Id.*, p. 22.
[322] *Id.*, p. 23.
[323] *Id.*, p. 25.
[324] *Id.*, p. 28.
[325] *Id.*, p. 30.

During the ***interpolation of the Court***, when asked who the other buyers were, she testified that she remembers her brother, Capt. Tagima Cruz, Col. Abu, Col. Ibrado, Col. Sioco, Capt. Andaya, Col. Joselito Reyes, Col. Clarito, Col. Pangilinan, Lt. Altamirano, Col. Felipe Perez, Col. Tikman, Mayor Tanjuatco, and Capt. Joven Lei[326]; that not all the officers came from Mt. Capinpin because the other officers came from other units; that the only civilian among the buyers was the Mayor; that some buyers paid on installment basis but some paid the full amount in cash; that Eng. Rubio provided the buyers with an individual blueprint for their individual lots; that she has not yet received the portion assigned to her but has paid the total amount due; that when she contacted Eng. Rubio sometime in 2002-2003, she was told that the progress of processing the transfers of the lots to the individual owners was halted as the land still has to be reclassified from agriculture to residential; that she could no longer contact Eng. Rubio afterwards and just gathered information on the progress of the processing of the documents; that the blueprint was prepared after the Deed of Sale dated June 28, 2002, but the individual blueprints were given to them before the execution of the Deed of Sale between Gen. Ligot and Mrs. Melendres; that there must have been more than 40 buyers because the agreement was that each person would have at least 250sqm and the lot totaled 50,000; that nobody advised them that it should be stipulated in the Deed of Sale that the accused Jacinto Ligot was representing the officers; and that she was unable to read the Deed of Sale prior to it being signed.[327]

After concluding her testimony, Lt. Col. Go was discharged as a witness.

The third witness of the defense, ***Ramon Zamuco Rubio***[328], licensed Geodetic Engineer, testified that, as a licensed Geodetic Engineer, he conducts surveys, relocation of private property, prepares survey plans, and prepares subdivision plans; that he is familiar with both accused Jacinto Ligot and Col. Clarito because he conducted a subdivision survey of a property in Tanay, Rizal, formerly owned by Mrs. Melendres which she sold to Gen. Ligot as representative of the military officers who were the buyers[329]; that he testified in the Sandiganbayan sometime in 2010 about the subdivision survey he conducted and the subdivision plan of the Tanay Property; that the TSN[330] presented to him is a recording of his testimony at the Sandiganbayan of which he affirmed the contents were true; that he identified a machine copy of a subdivision plan certified by Clerk of Court Joffre Gil C. Zapata as the subdivision plan he identified when he testified before the Sandiganbayan[331]; and that his services were paid for by the military officers who bought the property.

[326] *Id.*, p. 31.
[327] *Id.*, pp. 32-39.
[328] Testified on May 3, 2017, Judicial Affidavit, Exhibits "A-6" and "A-6-A", pp. 4360-4365.
[329] *Id.*, at Note 2, p. 4362.
[330] Exhibit "A-6-A", admitted
[331] *Id.* at Note 2, pp. 4363-4364.

Additionally, in his testimony before the Sandiganbayan in the Forfeiture case which was adopted by the Court, he testified that he has been working as a geodetic engineer for 29 years and that he started his own company in 1995; that his company was formerly known as RZ Rubio Survey Office, but now, it is RJPR Survey Office; that he is licensed by the Professional Regulatory Commission (PRC); that he came to know of the Tanay property because it was introduced to him by Tanay Mayor Dong Tanjuatco who told him that some military officers based at Camp Capinpin wanted to buy the property[332]; that he was introduced to Gen. Ligot and Col. Clarito sometime in October 2002; that Mayor Tanjuatco showed him the property and title of the property and they had a physical examination of the same at the site[333]; that he was introduced to Mrs. Violeta Melendres as the owner of the property; that after the introductions were made to the military officers, they had a final meeting in Camp Capinpin around mid-November of 2002 and the military officers decided to buy the property[334]; that among the military officers were Col. Clarito, Col. Alcudia, and others; that in that meeting, it was discussed that the senior officers wanted to buy the property of Mrs. Melendres and that it would be subdivided into individual lots, and that according to Mrs. Melendres, she wanted to talk to only one person and would sign the Deed of Sale involving one person only which was Gen. Ligot[335]; that his role in the meeting was to relocate the property and to prepare the subdivision plan for the individual lot owners and safe out of final monuments in the approved divisions[336]; that the subdivision scheme he prepared was approved by the military officers and, afterwards, he gave the final copy to Col. Clarito and submitted a copy thereof to the Land Management Services of the Department of Environment and Natural Resources for final approval; that afterwards, he planted monuments of the approved subdivision scheme to identify the boundaries of the subdivision lots of the individual lot owners[337]; and that he then executed the lot surveys by posting the side pleadings, excavations and preparation of road networks.

During the ***cross-examination*** portion of his testimony before the Sandiganbayan, he testified that despite accused Jacinto Ligot being the owner of record in TCT No. M-113065, his affidavit was with respect to the preparation of the subdivision plan for the distribution to the junior officers; that he did not check the status of the transfer of title to the junior officers; that the best evidence of ownership of a piece of land is the title; and that the subdivision plan that he prepared has not yet been approved.[338]

[332] *Id.*, p. 4380.
[333] *Id.*, p. 4381.
[334] *Id.*, p. 4382.
[335] *Id.*, p. 4383.
[336] *Id.*, pp. 4384-4386.
[337] *Id.*, p. 4388.
[338] *Id.*, pp. 4390-4403.

On ***cross-examination***, he testified that he conducted a subdivision survery in Bgy. Masala, Tanay, Rizal of property that was formerly owned by Mrs. Violeta Melendres which she sold to Gen. Ligot as representative of the junior officers; and that the purpose of the survey was so that the junior officers could have their individual lots in the area. When asked when he conducted survey, he initially said sometime in July 2004. However, when it was pointed out to him that his Sandiganbayan testimony mentioned that it was sometime in November 3-29, 2002, he said that that was more likely correct and that his inconsistency was because the affidavit was done a long time ago. He clarified that the date September 29, 2004, as stated in the subdivision plan, is the date that he submitted the complete survey returns of the lot which included the CTC of the subdivision scheme with approved site development plan, computations showing the area individual claimants, pertinent papers, zoning tax declaration, and others. He further testified that the title included in the subdivision plan he submitted was N-11035 dated November 28, 2002 issued to accused Jacinto Ligot et. al which he later admitted was a mistake in the drafting when it was pointed out to him that the TCT issued to accused Jacinto Ligot was TCT No. M-11065.[339]

When the Court asked him to explain the glaring inconsistency between the TCT Nos. in his testimony and his judicial affidavit, he explained that the DENR will be the one who will correct the error upon submission when they verify the actual title involved. He also testified that the title includes other names aside from accused Jacinto Ligot; that although only the name of accused appears in the title, the other claimants are the ones designated as "et. al."; that he does not remember who prepared the documents for the individual Deeds of Sale for the other claimants but that he remembers they prepared the same to prove that all the named junior officers are owners of the subdivision plan; that there were around more than 60 individual Deeds of Sale which he has personally seen; that accused Jacinto Ligot also got a lot from the subdivision scheme; that he did not see the original Contract of Sale between Mrs. Melendres and accused Jacinto Ligot but that when they gave the title to him, it was already transferred to accused Jacinto Ligot's name; that after he accomplished the subdivision survey, some of the officers already physically occupied their individual lots while others let their relatives live there even if the title has not yet been transferred to their names; that his services were paid for by way of installment; that the Office of the G7 under Col. Clarito issued acknowledgment receipts for their payment for his services but he cannot find them anymore; that he also issued receipts and declared the payment he received as part of his income to the BIR; that the subdivision plan was received by the DENR and been verified; that at the time he testified before the Sandiganbayan, the subdivision plan had not yet been approved by the DENR because the zonal valuation had not yet been submitted and the zoning classification of the property was still at issue; that when he did

[339] TSN, May 3, 2017 hearing, pp. 10-23.

the survey plan, the property was still classified as agricultural; that he has been paid around 90% of the agreed price of his services because he still had not yet had the survey plan approved and approval of the survey plan was included in the scope of his services; and that he doesn't remember the total payment he received for his services.[340]

Eng. Rubio then concluded his testimony and was discharged as a witness.

The fourth witness of the defense, ***Atty. Diane Rose B. Ramos***[341], Clerk of Court, Regional Trial Court, Branch 80, Morong, Rizal, identified several documents in her custody relative to Civil Case No. 12-2334-M which is pending before the RTC, Branch 80, Morong, Rizal, such as: the Complaint[342], Answer[343], and Orders dated August 12, 2016[344], January 4, 2017[345], and Order dated March 24, 2017[346] to which the prosecution stipulated.

The fifth and last witness of the defense, ***Atty. Joffre Gil C. Zapata***[347], Executive Clerk of Court III of the Fourth Division of the Sandiganbayan, was recalled to the witness stand, this time, as a witness for the defense. He identified several documents originating from the Sandiganbayan, such as: the Petition for Forfeiture in Civil Case No. 0917 pending in the Sandiganbayan[348], the Date of Filing Civil Case No. 0917[349], and the Motion for Leave to Intervene with Motion to Admit Attached Answer-in-intervention filed by Shelly Veronica Andaya Perez in Civil Case No. 0917[350] to which the prosecution also stipulated.

However, with regard to the Deed of Absolute Sale between Col. Clarito (Ret.) and accused Jacinto Ligot[351], Deed of Absolute Sale between Lt. Col. Go (Ret.) and accused Jacinto Ligot[352], and Subdivision Plan of Lot 6327-A[353] he testified that while the SDTAT[354] required him to produce the documents in his custody, including the originals, the documents on file in his office are not the original documents; and that only photocopies of the documents are on file with the Sandiganbayan.

[340] *Id.*, pp. 24-58.
[341] Testified on June 28, 2017.
[342] Exhibit "A-7", admitted.
[343] Exhibit "A-7-A", admitted.
[344] Exhibit "A-7-B", admitted.
[345] Exhibit "A-7-C", admitted.
[346] Exhibit "A-7-D", admitted.
[347] Testified on June 28, 2017 and April 4, 2018.
[348] Exhibit "A-1", admitted.
[349] Exhibit "A-1-A", admitted.
[350] Exhibit "A-2", admitted.
[351] Exhibit "A-4-B", denied for failure to lay the predicate for the admission of secondary evidence.
[352] Exhibit "A-5-B", denied for failure to lay the predicate for the admission of secondary evidence.
[353] Exhibit "A-6-B", denied for failure to lay the predicate for the admission of secondary evidence.
[354] *Id.* at Note 2, pp. 4769-4771.

The defense filed its Formal Offer of Evidence on July 12, 2017 and its Formal Re-Offer of Evidence on April 10, 2018[355]. Based on the Resolutions dated August 25, 2017[356] and June 22, 2018[357], the following exhibits were either admitted or denied, to wit:

## Admitted Exhibits

| Exhibits | Description |
|---|---|
| **A-1** | Petition for Forfeiture, Civil Case No. 0917 - Sandiganbayan |
| **A-1-A** | Date of Filing of Civil Case No. 0917 |
| **A-2** | Motion for Leave to Intervene filed by Shelly Veronica Andaya Perez in Civil Case No. 0917 |
| **A-4 & A-4-A** | Judicial Affidavit of Col. Ruben Clementer Clarito (Ret.) |
| **A-5 & A-5-A** | Judicial Affidavit of Lt. Col. Rowena Thea Go (Ret.) |
| **A-6 & A-6-A** | Judicial Affidavit of Eng. Ramon Zamuco Rubio |
| **A-7** | Complaint in Civil Case No. 12-2334-M, RTC Br. 80, Morong, Rizal |
| **A-7-A** | Answer in Civil Case No. 12-2334-M |
| **A-7-B** | Order dated August 12, 2016 in Civil Case No. 12-2334-M |
| **A-7-C** | Order dated January 4, 2017 in Civil Case No. 12-2334-M |
| **A-7-D** | Order dated March 24, 2017 in Civil Case No. 12-2334-M |

## Denied Exhibits

| Exhibits | Description |
|---|---|
| **A-3 & A-3-A** | Judicial Affidavit of Ma. Violeta Melendres |
| **A-4-B** | Deed of Absolute Sale between Col. Clarito and accused Jacinto Ligot |
| **A-5-B** | Deed of Absolute Sale between Lt. Col. Go and accused Jacinto Ligot |
| **A-6-B** | Subdivision Plan of Lot 6327-A |

The defense then rested its case. The prosecution manifested that they would not be presented any rebuttal evidence, hence, the Court ordered the parties to file their respective memoranda.[358]

The defense filed its Memorandum[359] on August 17, 2018 while the prosecution filed its Memorandum[360] on August 22, 2018. The case was submitted for decision in the Resolution dated October 11, 2018.[361]

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[355] *Id.*, pp. 4777-4781.
[356] *Id.*, pp. 4748-4750.
[357] *Id.*, pp. 4788-4795.
[358] *Id.*
[359] *Id.*, pp. 4808-4856.
[360] *Id.*, pp. 4857-4869.
[361] *Id.*, pp. 4871-4872.

## *The Issues*

Prior to being consolidated, each of the four cases had separate Pre-Trial Orders. The issues, as stipulated by the parties, are as follows:

**For Crim Case No. O-241:**

A. Factual Issues

1. Whether the Accused owned the properties, bank accounts and bank deposits alleged to represent undeclared income.
2. Whether the required investigation was conducted by the revenue examiners of the BIR pursuant to its own relevant issuances.

B. Legal Issues

1. Whether accused's failure to declare the income used to purchase real properties and deposits of money in the amount ₱41,854,181.57 constitute the crime of willful failure to supply correct in their joint ITR for TY2001.

**For Crim Case No. O-242:**

A. Factual Issues

1. Whether the Accused owned the properties, bank accounts and bank deposits alleged to represent undeclared income.
2. Whether the required investigation was conducted by the revenue examiners of the BIR pursuant to its own relevant issuances.

B. Legal Issues

1. Whether accused's failure to declare the aggregate amount of ₱103,601,281.22 constitute the crime of attempt to evade payment of income tax under Sec. 254 of the NIRC.

**For Crim Case No. O-243:**

1. Whether or not both accused are guilty of violation of Section 254 of the NIRC of 1997.

2. Whether or not the BIR conducted the necessary investigation.

**For Crim Case No. O-244:**

A. Factual Issues

1. Whether the Accused owned the properties, bank accounts and bank deposits alleged to represent undeclared income.
2. Whether the required investigation was conducted by the revenue examiners of the BIR pursuant to its own relevant issuances.

B. Legal Issues

1. Whether accused's failure to declare the aggregate amount of ₱148,995,700.14 constitute the crime of attempt to evade payment of income tax under Sec. 254 of the NIRC.

***The Arguments***

The prosecution claims that the accused Spouses Ligot acquired several substantial properties, made bank deposits and investments which they failed to declare to the BIR thereby violating Section 255 (Failure to Supply Correct and Accurate Information in the Joint Income Tax Return for) for TY 2001 and Section 254 (Attempt to Evade Tax) for TYs 2002-2004.

The accused Spouses Ligot registered themselves with the BIR as pure compensation earners, with no report of income gained from other sources except from wages earned from their employers. The SALNs executed by accused Jacinto Ligot in his capacity as a public official when he was still in active service for the years in question show that he did not report any other source of income except for his salary. This is significant in that, through the SALNs, he has bound himself to have declared all assets he had acquired, including those he acquired through loans, gift and inheritance. A perusal of the SALNs show that accused Jacinto Ligot did not declare bank deposits, assets and investments, the value of which are beyond their compensation. Considering that accused Erlinda Ligot is described as a mere "housewife" in these documents with no source of income, there can be no other conclusion that the accused Spouses Ligot failed to declare their true and correct income in their ITR, thereby evading the payment of correct income taxes.

On the other hand, the defense argues that the prosecution failed to factually establish that the properties alleged by the prosecution to be owned by

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the accused Spouses Ligot are actually owned by them. They argue that the prosecution's Memorandum of Assignment No. KHJ/SCD 2011-02-07-737 is violative of the accused Spouses Ligot's right to due process as the investigation commenced prior to the issuance of the LOA.

Even if the LOAs were subsequently issued, the same are null and void since they were not served upon accused Spouses Ligot within the thirty (30) day period provided under RAMO No. 1-00 which requires that the LOAs be served on the "taxpayer" and not his or her lawyer. The LOAs are also null and void for failing to indicate the address of the taxpayer in accordance with RMO No. 43-90. The LOA addressed to accused Jacinto Ligot shows the address where it is to be served as "FT Bonifacio Makati City 1201" which is different from the registered addressed of accused Jacinto Ligot in the BIR ITS Database which is "No. 443 FOQ, 16 Arevalo St., Camp Aguinaldo, Quezon City."

The defense further argues that the prosecution failed to prove the accused Spouses Ligot's source of income used to finance the alleged purchases; that the accused Spouses Ligot's Constitutional right to Due Process were blatantly violated when the NIC, PAN and FLD were all addressed to the law office of their lawyer; that the prosecution's investigation relied on hearsay evidence; that the right to file criminal tax cases against the accused Spouses Ligot has prescribed; and, finally, that the prosecution failed to establish the guilt of the accused beyond reasonable doubt.

## *The Ruling of the Court*

In Crim Case No. O-241, the accused Spouses Ligot are charged with violation of Sec. 255 of the National Internal Revenue Code (NIRC) of 1997, to wit:

> **"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 any 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 laws 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

(P10,000.00) and suffer imprisonment of not less than one (1) year but not more than ten (10) years."

The prosecution must prove beyond reasonable doubt the following three (3) essential elements before a taxpayer can be held liable for failing to make or file a return under Section 255 of the NIRC:

1. The accused is a person required to make or file a return;
2. The accused failed to make or file the return as required by law; and
3. The failure to make or file the return was willful.

To sustain a conviction for failure to supply correct an accurate information in the return under Section 255 of the NIRC, the prosecution must prove beyond reasonable doubt the following three (3) essential elements:

1. The accused is a person required by law to supply correct and accurate information;
2. The accused failed to supply correct and accurate information at the time required by law; and
3. The failure to supply correct and accurate information was willful.[362]

On the other hand, in Crim Case Nos. O-242, O-243, and O-244, the accused Spouses Ligot are charged with violation of Sec. 254 of the National Internal Revenue Code (NIRC) of 1997, to wit:

> "**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 the other penalties provided by law, upon conviction thereof, be punished by a fine not less than Thirty thousand pesos (P30,000) but not more than One hundred thousand pesos (P100,000) and suffer imprisonment of not less than two (2) years but not more than four (4) years: *Provided,* That conviction or acquittal obtained under this Section shall not be a bar to the filing of a civil suit for the collection of taxes."

The prosecution must prove beyond reasonable doubt the following three (3) essential elements before a taxpayer can be held liable under Section 254 of the NIRC:

[362] *Leonila Batulanon v. People of the Philippines,* G.R. No. 139857, September 16, 2006.

The elements of the crime of attempt to evade or defeat any tax or the payment thereof under Section 254 of the NIRC are the following:

1. There is a tax is imposed under the NIRC;
2. The accused is liable to pay that tax; and
3. The accused willfully attempts in any manner to evade or defeat any tax imposed under the NIRC or the payment thereof.

It is the prosecution's theory that these crimes were committed by accused Spouses Ligot because they accumulated bank deposits, properties, and investments that were non-commensurate to their declared income in their ITRs and SALNs.

The Court shall now discuss the factual basis for the prosecution's allegations that led them to conclude that the accused Spouses Ligot have undeclared income.

**Bank Deposits**

In all four criminal cases, a major element that serves as the foundation/basis of the prosecution's theory would be the bank deposits and investments of the accused Spouses Ligot. The summary of deposits and withdrawals from various banks and financial institutions, the influx of money and how they spent it would be the invisible thread establishing ownership of the various properties allegedly acquired by the accused Spouses Ligot and, more importantly, the non-declaration, misdeclaration, and under-declaration of income subject of these charges.

All evidence, testimonial or documentary, relating to the accused Spouses Ligot's bank accounts have been disallowed by the Court by virtue of our Resolutions dated March 31, 2015 and November 11, 2015 which upheld **RA 1405**, otherwise known as the **Law on the Secrecy of Bank Deposits**. It is for the guidance of the bench and bar that we emphasize our discussion thereon and how the limited exceptions to the law applies to cases lodged in this Court.

***RA 1405, The Law on Secrecy of Bank Deposits***

The Law on Secrecy of Bank Deposits provides, as a general rule, for the absolute confidentiality of bank deposits. Sections 2 and 3 of RA 1405 provides as follows:

> "Sec. 2. All deposits of whatever nature with banks or banking institutions in the Philippines including investments in bonds issued by the Government of the Philippines, its political subdivisions and its instrumentalities, are hereby considered as of an **absolutely confidential nature and may not be examined, inquired or looked into by any person, government official, bureau or office**, except upon written permission of the depositor, or in cases of impeachment, or upon order of a competent court in cases of bribery or dereliction of duty of public officials, or in cases where the money deposited or invested is the subject matter of the litigation.
>
> Sec. 3. It shall be unlawful for any official or employee of a banking institution to disclose to any person other than those mentioned in Sec. two hereof any information concerning said deposits."

There are only four (4) instances under the law where bank deposits or investment in government bonds may be disclosed or looked into, namely: (1) upon written permission of the depositor; or (2) in cases of impeachment; or (3) upon order of a competent court in cases of bribery or dereliction of duty; or (4) in cases where the money deposited or invested is the subject matter of the litigation.

As regards the first limited exception, for consent to be valid, it should be made knowingly, voluntarily and with sufficient awareness of the relevant circumstances and likely consequences.[363] However, the accused Spouses Ligot have refused to give their consent to have their bank accounts examined. Hence, this exception is inapplicable.

The second and third limited exceptions are also inapplicable as this is clearly not a case for impeachment and neither is this a case for bribery or dereliction of duty. Impeachable officials include the President, Vice President, members of the Supreme Court, members of the Constitutional Commissions[364] and the Ombudsman for culpable violation of the Constitution, treason, bribery, graft and corruption, other high crimes or betrayal of public trust.[365] Both

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[363] Premiere Development Bank v. Central Surety and Insurance Company, Inc. 579 S.C.R.A. 359 (2009).
[364] Commission on Elections, Civil Service Commission and Commission on Audit.
[365] Art. XI, Sec. 2, 1987 Philippine Constitution.

bribery[366] or dereliction of duty[367] are construed as those crimes defined under the Revised Penal Code.

The fourth and last limited exception under RA 1405 applies to cases where the money deposited or invested is the subject matter of the litigation. Interpretation of this exception has previously been expounded on in ***Mellon Bank, N.A. v. Magsino***[368] where the bank filed an action against a depositor to recover money they transmitted by mistake. Mellon Bank mistakenly indicated the amount transferred as USD $1,000,000.00 instead of the USD $1,000.00 that was requested to be transferred and the depositor appropriated the difference for personal use. The question before the Court then centered on whether or not the bank could be allowed to present the accounts which it believed to be responsible for the acquisition of the money. The Supreme Court held that it could, ratiocinating in this wise:

> "Private respondents' protestations that to allow the questioned testimonies to remain on record would be in violation of the provisions of Republic Act No. 1405 on the secrecy of bank deposits, is unfounded. Section 2 of said law allows the disclosure of bank deposits in cases where the money deposited is the subject matter of the litigation. **Inasmuch as Civil Case No. 26899 is aimed at recovering the amount converted by the Javiers for their own benefit, necessarily, an inquiry into the whereabouts of the illegally acquired amount extends to whatever is concealed by being held or recorded in the name of persons other than the one responsible for the illegal acquisition.**"[369] *(Emphasis supplied)*

In these consolidated cases, the accused Spouses Ligot are charged with violations of Sec. 254 of the NIRC[370] which is an attempt to evade or defeat tax, and Sec. 255 of the NIRC[371] as well, for failure to file return, supply correct and

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[366] Revised Penal Code, Arts. 203, 210-211.
[367] Revised Penal Code, Arts. 204-209.
[368] G.R. No. 71479, Oct. 18, 1990.
[369] *Id.*, citations omitted.
[370] 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 by a fine not less than Thirty thousand (P30,000) but not more than One hundred thousand pesos (P100,000) and suffer imprisonment of not less than two (2) years but not more than four (4) 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.
[371] 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 the accurate information, who willfully fails to pay such tax, make such return, keep such record, or supply correct and accurate information, or withhold or remit taxes withheld, or refund excess taxes

accurate information, pay tax, withhold and remit tax and refund excess taxes withheld on compensation. The subject matter of the litigation is, by no means, the money deposited or invested, but the alleged failure of both accused to do an obligation required by law which is to pay taxes and the concomitant accompanying reportorial obligations therewith. Hence, this exception is also inapplicable.

While exceptions to the Law on Secrecy of Bank Deposits exist in other laws, they are inapplicable to the case at bar as well. These are the following:

a) The Ombudsman Act[372] gives the Ombudsman the power to subpoena deposit information of a government official when the following conditions concur:

   1. there must be a case pending before a court of competent jurisdiction;
   2. the account must be clearly identified;
   3. the inspection must be limited to the subject matter of the pending case; and
   4. the bank personnel and the account holder must be notified to be present during the inspection;[373]

b) The Anti-Graft and Corrupt Practices Act[374] allows bank deposits of a public official, his spouse and unmarried children to be taken into consideration in the enforcement of Section 8 thereof;[375]

c) The New Central Bank Act[376] requires directors, officers, stockholders and related interests who contract a loan or any form of financial accommodation with their bank or related bank to execute a written waiver of secrecy of deposits;

d) The NIRC[377] authorizes the Commissioner of Internal Revenue to inquire into bank deposit accounts in relation to:

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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.

[372] RA No. 6770.

[373] Marquez v. Desierto, 359 SCRA 772 [2001].

[374] RA No. 3019.

[375] Philippine National Bank v. Gancayco, 122 Phil. 503 (1965).

[376] Sec. 26, RA No. 7653.

[377] RA No. 8424, as amended by RA No. 10021.

1. an application for compromise of tax liability or a determination of a decedent's gross estate under the NIRC; and
2. a request for tax information of specific taxpayers made by a foreign tax authority pursuant to a tax treaty under The Exchange of Information on Tax Matters Act of 2009[378];

e) The Anti-Money Laundering Act of 2001[379] (AMLA) authorizes the Anti-Money Laundering Council (AMLC) to examine and inquire into bank deposits or investments with banks or nonbank financial institutions:

1. with court order, when there is probable cause that the deposits or investments are related to an unlawful activity or a money laundering offense[380]; and

2. without need of court order, when probable cause exists that a particular deposit or investment with any banking institution is related to certain predicate crimes, such as kidnapping for ransom, violation of the Comprehensive Dangerous Drugs Act, hijacking and other violations under the Anti-Hijacking Law[381], destructive arson and murder[382];

f) Also under the Anti-Money Laundering Act of 2001, the Bangko Central is authorized to inquire into or examine bank deposits or investments in the course of a periodic or special examination to ensure compliance therewith[383] and to conduct annual testing which is limited to the determination of the existence and true identity of the owners of numbered accounts[384];

g) Under the Act Establishing the Philippine Deposit Insurance Corporation (PDIC)[385], the PDIC and the Bangko Sentral and the Bangko Sentral may inquire into bank

[378] *Id.*
[379] RA No. 9160.
[380] *Id.*, Secs. 3[i] and 4.
[381] RA No. 6235.
[382] *Id.*, Sec. 11 at Note 18.
[383] *Id.*
[384] *Id.*, Sec. 9.
[385] RA No. 3591.

deposits when there is a finding of unsafe or unsound banking practices[386];

h) Under the Human Security Act of 2007[387], the Court of Appeals, designated as a special court, may issue an order authorizing law enforcement officers to examine and gather information on the deposits, placements, trust accounts, assets and records in a bank or financial institution in connection with anti-terrorism cases;

i) By virtue of the Constitution[388] and the Government Auditing Code[389], the Commission on Audit (COA) is authorized to examine and audit government deposits pertaining to the revenue and receipts of, and expenditures or uses of funds and properties, owned or held in trust by, or pertaining to, the Government or any of its subdivisions, agencies or instrumentalities, including government-owned and controlled corporations (GOCCs) with original charters; and lastly,

j) The Presidential Commission on Good Government (PCGG), in the conduct of its investigations to recover ill-gotten wealth accumulated by former President Ferdinand E. Marcos, his immediate family, relatives, subordinates and close associates, may issue subpoenas requiring the attendance and testimony of witnesses and/or the production of books, papers, contracts, records, statement of accounts and other documents.[390]

From the above discussion, it is imperative that the absolute confidentiality of the bank accounts of the accused Spouses Ligot must be respected under RA 1405. Should any of the proposed witnesses of the prosecution violate this, they may be subjected to imprisonment of not more than five years, a fine of not more than ₱20,000.00, or both, upon conviction.

***RA 6426, The Foreign Currency Deposit Act***

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[386] Sec. 8, Rep. Act No. 3591, as amended.
[387] RA No. 9372.
[388] Art. IX-D, 1987 Constitution.
[389] Presidential Decree No. 1445.
[390] Sec. 3 [e], Exec. Order No. 1 [1986]), *cf* Op. No. 13, Dep't. of Justice, Feb. 24, 1987.

Absolute confidentiality is likewise mandated for all foreign currency deposits subject to limited exceptions. Section 8 of the Foreign Currency Deposit Act[391] (FCDA) mandates:

> "All foreign currency deposits are **absolutely confidential** and cannot be examined, inquired, or looked into by any person, government official, bureau or office, **whether judicial or administrative or legislative**, or any other private or public entity. Foreign currency deposits are also exempt from attachment, garnishment, or any other order or process of any court, legislative body, government agency or any administrative body whatsoever." *(Emphasis supplied)*

The only exception to the general rule of absolute confidentiality under the FCDA is when there is written permission of the depositor. The accused Spouses Ligot have made it clear in their pleadings that their permission to look into their foreign currency accounts remains to be withheld.

Under other laws, the exceptions to the absolute confidentiality rule as regards foreign currency deposits are similar to those discussed above in RA 1405. Limited exceptions are provided for in the New Central Bank Act, the NIRC, the AMLA, and in certain cases where the PDIC, COA, and the PCGG are concerned. Regardless of the existence of these exceptions, none of them apply to the accused Spouses Ligot. Hence, their foreign currency deposit accounts remain inviolable.

***RA 8367, The Revised Non-Stock Savings and Loan Association Act of 1997***

RA 8367 defines Non-Stock Savings and Loan Associations as non-stock, non-profit corporations engaged in the business of accumulating the savings of its members and using such accumulations for loans to members to service the needs of households by providing long-term financing for home-building and development and for personal finance.[392] Counted among such associations is the AFPSLAI wherein the accused Spouses Ligot hold separate accounts.

Section 4 of RA No. 8367 states:

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[391] RA No. 6426.
[392] Sec. 3, RA No. 8367.

"Deposits in an Association are obtained from its members. Membership in an Association shall be confined to a well-defined group of persons. An Association shall not transact business with the public."

Section 6 of the same law, on the other hand, states:

"**All deposits of whatever nature** with an Association in the Philippines are hereby considered as of an **absolutely confidential nature** and may not be examined, inquired or looked into by any person, government official, bureau or office." *(Emphasis supplied)*

Similar to the discussion of the two laws above regarding confidentiality of deposits, RA 8367 admits of exceptions to the absolute confidentiality rules, as follows:

1. when there is written permission of the depositor;
2. in cases of impeachment;
3. upon order of a competent court in cases of bribery or dereliction of duty of public officials, or
4. in cases where the money deposited or invested is the subject matter of litigation.

None of those instances obtain in the case of the accused Spouses Ligot. However, there are certain exceptions to the absolute confidentiality rule of RA 8367 under other laws where examination or inquiry into deposits with the Association may also be allowed. These are similar to the exceptions mentioned in RA 1405 as regards the AMLA and the Human Security Act. Those exceptions, also find no application in the case of the accused Spouses Ligot.

It is for the reasons discussed above that the branch managers and/or custodian of records were not allowed to testify and/or produce documents relating to the accounts of both accused in various banks and other financial institutions. It is for the very same reasons that the testimony of AMLC Bank Officer, Monico B. Villar, Jr. and all the exhibits he identified were stricken off the record.

A word on the AMLC Memorandum that was suppressed and stricken off the record.

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The AMLC Memorandum was created for a specific purpose. The authority for its existence is derived from the Court Order of RTC Makati, Branch 61, **not this Court**. Even in its Ex-Parte Application for the Court Order, the AMLC states as one of its two grounds for the grant of the application that "probable cause exists that the subject monetary instruments and properties are related to an unlawful activity as defined in RA 9160, as amended."[393]

The same specificity of purpose is indicated in the Court Order of the RTC Makati as well, to wit:

> "The Anti-Money Laundering Council is directed to submit to the Court within fifteen (15) days from receipt hereof, a Report of the proceedings undertaken in this connection with the authority herein granted, as well as certified true copies of documents secured as an incident of and/or in the course of the inquiry and examination of bank deposits, which may be **necessary for the prosecution of the persons involved in the violation of the Anti-Money Laundering Act**, as amended." *(Emphasis supplied)*

Its existence being an exception to a general rule, its usage must be strictly construed to avoid abuse and circumvention. This Court upholds and makes inviolable the Law on Secrecy of Bank Deposits, that is, until such time that the law is amended to include the offshoot of AMLA-related cases lodged in this Court as an exception.

**Properties**

The prosecution claims in the Joint Complaint-Affidavit[394] that the accused Spouses Ligot accumulated several properties from income they failed to declare to the BIR. The properties involved are, as follows:

| Case No. | Title No. | Location |
|---|---|---|
| O-241 | OCT Nos. 8817, 8818, 8819, and 8820 | Imabayao, Malaybalay |
| O-241, O-242, O-243, & O-244 | CCT Nos. 79188 & 79189 | Paseo Parkview Tower II, Salcedo Village, Makati City |
| O-242 | TCT No. M-113065 | Sampaloc, Tanay, Rizal |

[393] *Docket*, p. 2669.
[394] Exhibit "DD", admitted.

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|---|---|---|
| O-242 | XBE-760 | Toyota Hi-Lux |
| O-242 | Improvements | Imbayao, Malaybalay |
| O-243 | Tax Declaration No. E-038590 | Kalatugonan, Patpat, Malaybalay |
| O-243 | TCT No. 85173 | Kalasungay, Malaybalay |
| O-243 | CCT No. 8128 | Essensa, East Forbes, Taguig City |
| O-243 | | 1240 Cabernet Circle, Anaheim, California, USA |
| O-244 | | 7102 Stanton Avenue, Buenas Park, California, USA |

The ten (10) properties enumerated above were alleged to have been acquired by the accused Spouses Ligot from their unreported income during TYs 2001, 2002, 2003, and 2004.

The Court shall now discuss whether or not the ownership by the accused Spouses Ligot have been established by the prosecution.

***<u>OCT Nos. 8817, 8818, 8819, & 8820</u>***

This first property is, according to prosecution witness RO Magbag, a property located in Malaybalay City allegedly covered by OCT Nos. P-8817, P-8818, P-8819, and P-8820. However, the OCTs pertaining to the parcels of land subject of Crim Case No. O-241 were not formally offered in evidence. Any evidence that has not been offered shall be excluded and rejected.[395] The Rules of Court provide that the Court shall consider no evidence which has not been formally offered. Documents which have been identified and marked as exhibits during pre-trial or trial but which were not formally offered in evidence cannot in any manner be treated as evidence. Neither can such unrecognized proof be assigned any evidentiary weight and value.[396]

Prosecution witness, Christ Steve E. Rayoso, Record Officer 1 of the Register of Deeds of Malaybalay, Bukidnon, testified that based on official records in his custody, this property is in the name of a certain Manuel S. Piana[397] who is not a party in the present case. While the prosecution alleged that accused Spouses Ligot are the real owners of the property and that it has just been placed under the name of their son, Paolo Ligot, the Deed on Extra Judicial Settlement with Sale[398] between the heirs of Piana and Mr. Paolo Ligot has also not been

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[395] *People of the Philippines v. Saturnino Villanueva,* G.R. No. 181829, September 1, 2010, citing *Heirs of Pedro Pasag v. Parocha,* G.R. No. 155483, April 27, 2007, 522 SCRA 410.
[396] *Ibid.*
[397] TSN, March 11, 2015, pp. 13-14.
[398] Exhibit "L-3" in O-241, not formally offered in evidence.

offered in evidence. Furthermore, Mr. Rayoso testified that the document does not contain the signature of Paolo Ligot above his name.

Considering the foregoing, the nexus between the accused Spouses Ligot and their ownership of the property has not been established and, therefore, cannot be considered as part of their undeclared income.

***Paseo Parkview Tower II Property***

The second property which RO Magbag testified to are the Paseo Parkview Tower II properties composed of two (2) condominium units (Unit 18-N and 18-O) with one parking slot located at Megaworld Paseo Parkview Tower II.

Witness for the prosecution, Noel Abanilla, Records Officer of the Register of Deeds of Makati, produced the CCTs pertaining to the units showing that the registered owner is a certain Miguela L. Paragas.[399]

The theory of the prosecution is that this property, in truth, belongs to accused Spouses Ligot as the check payments for the amortization of the same were drawn from their bank accounts. However, despite being testified to by RO Magbag, there is no documentary evidence supporting allegation on record. The Deed of Absolute Sale with Miguela L. Paragas as Buyer and Megaworld Corporation as Seller, referring to the abovementioned condominium units and parking slot, in consideration of the amount of ₱7,966,820.00, Condominium Certificate of Title No. 79188 & 79189 and Request for Reservation and Offer to Purchase[400] and the Statement of Accounts[401] purporting to show the link between the property and the ownership of the accused Spouses Ligot were not formally offered in evidence. Not only that, the Summary of Payments[402] which the prosecution offered was not only denied by the Court for failure to present the duly-marked exhibit, the document was also different from the document the prosecution's witness, Ms. Elena D. Ramirez, presented, the Actual Payments SL[403] which was also not offered in evidence. Additionally, Ms. Ramirez testified that they do not have any records showing who the source of their client's payments are.[404]

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[399] TSN, September 17, 2014, pp. 20-21.
[400] Exhibits "R", "LL", "P", and "Q" in O-241, not formally offered in evidence.
[401] Exhibit "S" in O-241, not formally offered in evidence.
[402] TSN, January 15, 2014 hearing, p. 6, Exhibit "T", denied for failure to submit the duly marked exhibit.
[403] Exhibit "T T-1 US-A" for O-241 to O-244, not formally offered in evidence.
[404] TSN, January 15, 2014, pp. 27-28.

Once again, the nexus between the accused Spouses Ligot and their ownership of the property has not been established and, therefore, cannot be considered as part of their undeclared income.

***<u>TCT No. M-113065 - Tanay Property</u>***

RO Magbag testified that he has a Deed of Sale of a parcel of land executed by and between Violeta A. Melendres and Jacinto Ligot on June 2002 with a consideration of ₱2,000,000.00[405], a Transfer Certificate of Title (TCT) No. M-113065 in the name of Jacinto Ligot,[406] Certificate Authorizing Registration No. 00055197[407], and Tax Clearance Certificate No. OCN 3TA0000127297[408], showing that accused Jacinto Ligot is the registered owner of a 50,000 sqm parcel of land in Tanay, Rizal.

While ownership on record is not denied by the accused Jacinto Ligot, he proffers the defense that he is merely holding the title in trust for the true owners of the lot. The defense presented three (3) witnesses who testified that the subject property is owned communally by military officers and their dependents who raised the funds to buy the property from the now deceased Ma. Violeta Melendres.

Witnesses for the defense, Col. Clarito (ret.) and Lt. Col. Go (ret.) both testified that the purchase of said property was arranged to make it appear that accused Jacinto Ligot is a lone buyer since Mrs. Melendres did not want to deal with multiple buyers as that would mean executing as many deeds of sale as there are buyers. The real buyers agreed to designate accused Jacinto Ligot as their representative as he was the highest ranking officer among them. While it was agreed amongst the buyers to subdivide the lots and to have accused Jacinto Ligot convey their individual portions, witness Eng. Ramon Zamora Rubio testified that the individual titling is still under process as the land is still classified as agricultural.

The Court observes that the Deed of Sale executed by Mrs. Melendrez to accused Jacinto Ligot is silent as to the latter's role as a trustee of the real buyers. Taking into consideration the testimony on record, it appears that an implied trust was created between the real buyers and accused Jacinto Ligot when they agreed to the terms of purchasing the lot from Mrs. Melendres and when accused Jacinto Ligot agreed to represent them.

[405] Exhibit "L" in O-242, admitted.
[406] Exhibit "K" in O-242, admitted.
[407] Exhibit "L-1" in O-242, admitted.
[408] Exhibit "L-2" in O-242, denied for failure of the marked document to correspond with description in FOE.

The Supreme Court discussed the characteristics of an implied trust in the case of *Margarita D. Cabacungan, represented by Luz Liago-Ali v. Marilou Liago, Pedro Roy Liago, Stella Balagot and Spouses Mario B. Campos and Julia S. Campos*[409], thus:

> "Implied trusts also called trusts by operation of law, indirect trusts and involuntary trusts arise by legal implication based on the presumed intention of the parties or on equitable principles independent of the particular intention of the parties.[410] They are those which, without being expressed, are deducible from the nature of the transaction as matters of intent or, independently of the particular intention of the parties, as being inferred from the transaction by operation of law basically by reason or equity.
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> x x x [R]esulting trusts arise from the nature or circumstances of the consideration involved in a transaction whereby one person becomes invested with legal title but it obligated in equity to hold his title for the benefit of another. This is based on the equitable doctrine that valuable consideration and not legal title is determinative of equitable title or interest and is always presumed to have been contemplated by the parties. Such intent is presumed as it is not expressed in the instrument or deed of conveyance and is to be found in the nature of their transaction.[411] Implied trusts of this nature are hence describable as intention-enforcing trusts.
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> Intention although only presumed, implied or supposed by law from the nature of the transaction or from the facts and circumstances accompanying the transaction, particularly the source of the consideration is always an element of a resulting trust[412] and may be inferred from the acts or conduct of the parties

[409] G.R. No. 175073, August 15, 2011.
[410] *Ibid.* citing *Tigno v. CA*, G.R. No. 110115, October 8, 1997; 76 Am Jr 2d 159, p. 191, citing *Gifford v. Dennis,* 335 SE2d 371; *Sorrels v. McNally,* 105 So 106; and *Emberry Community Church v. Bloomington Dist. Missionary & Church Extension,* Soc. 482 NE2d 288.
[411] *Ibid.* citing *Salao v. Salao,* G.R. No. L-26699, March 16, 1976, 70 SCRA 65, 81.
[412] *Ibid.* citing 76 AM Jur 2d, supra, citing *Smith v. Smith*, 196 So 409 and *Swon v. Huddleston,* 282 SW2d 18.

> rather than from direct expression of conduct.[413] Certainly, intent as an indispensable element, is a matter that necessarily lies in the evidence, that is, by evidence, even circumstantial, of statements made by the parties at or before the time title passes.[414] Because an implied trust is neither dependent upon an express agreement nor required to be evidenced by writing.[415] Article 1457[416] of our Civil Code authorizes the admission of parole evidence to prove their existence. Parole evidence that is required to establish the existence of an implied trust necessarily has to be trustworthy and it cannot rest on loose, equivocal or indefinite declarations.[417]"

The Court holds that the sale of the Tanay property falls under the definition of an implied trust under Article 1452 of the Civil Code, which provides:

> "Art. 1452. If two or more persons agree to purchase property and by common consent the legal title is taken in the name of one of them for the benefit of all, a trust is created by force of law in favor of the others in proportion to the interest of each."

The testimonies of the witnesses for the defense prove that the 50,000 sqm lot was not acquired by accused Jacinto Ligot for himself, and that he was merely a trustee of the numerous officers who are the real owners of the Tanay property. There is also testimony on record that the funds used to purchase that property did not come solely from accused Jacinto Ligot, but from the other buyers who tendered the purchase price of their respective lots to Lt. Col. Go (ret.) and Col. Clarito (ret.) for payment to the seller, Mrs. Melendres.

The Court also notes that there is testimony on record that accused Jacinto Ligot purchased a lot for himself[418] which puts the circumstances of the transaction squarely within the ambit of Art. 1452. While accused Jacinto Ligot's SALN of 2002 does not declare the Tanay property as one of his assets, even the portion thereof that he owns, there is enough evidence on record to cast doubt on the prosecution's supposition that accused Jacinto Ligot owns and paid for the entire Tanay property with undeclared income.

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[413] *Ibid.* citing *American Hotel Management Associates, Inc. v. Jones,* 768 F2d 562.
[414] *Ibid.* citing 76 Am Jur 2d, 170, p. 203.
[415] *Ibid.* citing 76 Am Jur 2d, 170, p. 197.
[416] Art. 1457. An implied trust may be proved by oral evidence.
[417] *Ibid.* citing *Tigno v. CA*, supra, at 274; *Morales v. CA*, 274 SCRA 282 (1997); *Ong Ching Po v. CA*, 239 SCRA 341 (1994); *Salao v. Salao*, supra, citing *De Leon v. Molo-Peckson,* 116 Phil. 1267 (1962).
[418] TSN, May 3, 2017 hearing, pp. 29-30.

***XBE-760: Toyota Hi-Lux***

The fourth property alleged to have been purchased from undeclared income is a Toyota Hi-Lux 4x4 vehicle with Plate No. XBE 760, allegedly bought by Paolo Ligot and registered in his name. However, the evidence RO Magbag testified to purporting to prove the allegation, namely, a copy of the Vehicle Sales Invoice[419], Official Receipt No. 12968651[420], and Confirmation Certificate No. 49922098, were not offered in evidence and cannot be considered by the Court.

***Improvements***

The fifth property subject of Crim Case No. O-242 are improvements allegedly introduced by accused Jacinto Ligot on his alleged farm in Imbayao, Malaybalay, Bukidnon. RO Magbag testified that Tax Declaration Nos. E-02906[421], E-29807[422], E-29808[423], and E-29809[424] shows the market value of the improvements on the Poultry Farm in Lot 18, Block 5, Imbayao, Malaybalay that accused Jacinto Ligot introduced amounting to ₱5,199,296.26 in the year 2002.

The tax declarations, however, are deemed to be public documents. As such, they should be identified and authenticated in accordance with Section 7, Rule 130 of the Rules of Court, to wit:

> "Section 7. *Evidence admissible when original document is a public record.* — When the original of document is in the custody of public officer or is recorded in a public office, its contents may be proved by a certified copy issued by the public officer in custody thereof."

The exhibits offered by the prosecution were all stamped "Certified Photocopy from the Record" by Atty. Joffre Gil C. Zapata, Clerk of Court III, Fourth Division, Sandiganbayan. The custodian of the original copies of the tax declarations in question is the City Assessor of Malaybalay City who was not called to identify the subject tax declarations.

Atty. Zapata, on the other hand, when called to the witness stand testified that the subject tax declarations were among the documents he brought with him by virtue of the SDTAT, but that, as with the other documents in his custody

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[419] Exhibit "V" in O-242, not formally offered in evidence.
[420] Exhibit "V-1" in O-242, not formally offered in evidence.
[421] Exhibit "M" in O-242, admitted.
[422] Exhibit "N" in O-242, admitted.
[423] Exhibit "O"in O-242, admitted.
[424] Exhibit "P" in O-242, admitted.

related to the Forfeiture case, most are certified copies from the agencies that are supposed to issue those documents such as the Register of Deeds or the Assessor's Office in the case of tax declarations[425].

As such, there is no evidence to prove that accused Jacinto Ligot made improvements on his poultry farm from undeclared income.

***Tax Declaration No. E-038590***

The sixth property is subject of Crim Case No. O-243 and was alleged in RO Magbag's Judicial Affidavit pertains to a 40,000 sqm parcel of land in Malaybalay City with alleged market value of ₱72,000.00 described in Tax Declaration No. E-038590 in the name of Riza Yambao Ligot, daughter of accused Spouses[426].

This exhibit, however, has not been formally offered and cannot be considered by the Court.

***TCT No. 85173***

The seventh property RO Magbag alleged to have been purchased by the accused Spouses Ligot from undeclared income is TCT No. 85173[427] referring to a 52,242 sqm parcel of land in Malabalay City with market value of ₱94,035.60 in the name of Miguel Y. Ligot, son of accused Spouses Ligot.

The exhibit pertaining to TCT No. 85173 was also not offered in evidence. Hence, it shall not be considered by the Court.

***CCT No. 8128***

The eighth property, according to RO Magbag, in Crim Case No. O-243, is a condominium unit in Essensa East Forbes Condominium, evidenced by CCT No. 8128 in the name of Erlinda Ligot[428]. To prove that accused Erlinda Ligot acquired property when she did not declare any income in their joint ITR for TY 2003, he alleged the existence of a Sale Document referring to the Essensa Property with accused Erlinda Ligot as Buyer in consideration of the amount of ₱22,954,545.45.

[425] TSN, May 7, 2014 hearing, pp. 29-30.
[426] Exhibits "N" and "N-1" in O-243, not formally offered in evidence.
[427] Exhibits "M" to "M-1" in O-243, not formally offered in evidence.
[428] Exhibits "O" to "O-3" in O-243, not formally offered in evidence.

Not only was CCT No. 8128 not offered in evidence, but also, both CCT No. 8128 and the Sale Document were never presented and identified by the custodian thereof in court, as required under Section 7, Rule 130 of the Rules of Court. Hence, the allegation has nothing to support it.

***Properties in the USA***

The ninth and tenth properties alleged to have been bought with undeclared income by accused Erlinda Ligot are both located in the United States. The first property subject of Crim Case No. O-243 is located in 1240 South Cabernet Circle, Anaheim, California, alleged to have been purchased for US$322,181.00 or ₱16,109,050.00.[429] The second property is located at City of Buena Park, County of Orange, State of California which accused Erlinda Ligot allegedly acquired for a consideration of $599,500.00 USD or the equivalent of ₱29,975,000.00 at the time of the purchase[430].

However, all of the exhibits offered to prove the fact of acquisition were mere photocopies with the exception of Letter from the Office of the Attaché of the U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement dated April 5, 2005[431] which was an original. Atty. Zapata, while testifying as the prosecution's witness, admitted that Exhibits "R-2" to "R-15" in O-243, and Exhibits "K", "L", "L-1", "L-2", "M", "M-1" to "M-9" in O-244 which are the Verification in relation to the US ICE letter, Grant Deed, and Attachment to Grant Deed of the Orange County property, are mere certified photocopies from photocopies that are in the records of the Sandiganbayan.[432] Moreover, these exhibits appear to be foreign sourced documents and, as such, require authentication as provided under Section 24, Rule 132[433] of the Revised Rules on Evidence, to wit:

> "Section 24. Proof of official record. — The record of public documents referred to in paragraph (a) of Section 19, when

[429] Exhibits "R" to "R-15" in O-243, admitted.

[430] Exhibits "J" and "K" in O-244, all admitted.

[431] Exhibit "J" in O-244; Exhibits "R" to "R-20" for O-243 wherein only Exhibits "R" to "R-15" were admitted.

[432] TSN, May 7, 2013, pp. 31-32.

[433] Revised Rules on Evidence, Rule 132, "Section 24. Proof of official record. — The record of public documents referred to in paragraph (a) of Section 19, when admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by his deputy, and accompanied, if the record is not kept in the Philippines, with a certificate that such officer has the custody. If the office in which the record is kept is in foreign country, the certificate may be made by a secretary of the embassy or legation, consul general, consul, vice consul, or consular agent or by any officer in the foreign service of the Philippines stationed in the foreign country in which the record is kept, and authenticated by the seal of his office.

admissible for any purpose, may be evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by his deputy, and accompanied, if the record is not kept in the Philippines, with a certificate that such officer has the custody. **If the office in which the record is kept is in foreign country, the certificate may be made by a secretary of the embassy or legation, consul general, consul, vice consul, or consular agent or by any officer in the foreign service of the Philippines stationed in the foreign country in which the record is kept, and authenticated by the seal of his office.**"

Both the Grant Deeds to the Anaheim and Orange County properties are documents notarized abroad by a foreign notary public. In the case of *Landingin vs. Republic*[434], the Supreme Court discussed recognition of documents notarized abroad by a foreign notary public citing Section 2 of Act 2103[435]. The relevant portions of the said section states:

"Section 2. An instrument or document acknowledged and authenticated in a foreign country shall be considered authentic if the acknowledgment and authentication are made in accordance with the following requirements:

(a) The acknowledgment shall be made before (1) an ambassador, minister, secretary of legation, chargé d affaires, consul, vice-consul, or consular agent of the Republic of the Philippines, acting within the country or place to which he is accredited, or (2) **a notary public or officer duly authorized by law of the country to take acknowledgments of instruments or documents in the place where the act is done**.

(b) The person taking the acknowledgment shall certify that the person acknowledging the instrument or document is known to him, and that he is the same person who executed it, and acknowledged that the same is his free act and deed. The certificate shall be under his official seal, if he is by law required to keep a seal, and if not, his certificate shall so state. **In case the acknowledgment is made before a notary public or an officer mentioned in subdivision (2) of the preceding paragraph, the certificate of the notary public or the officer taking the**

[434] G.R. Nos. 164948, June 27, 2006.
[435] Enacted on January 26, 1912, Act No. 2103, "AN ACT PROVIDING FOR THE ACKNOWLEDGMENT AND AUTHENTICATION OF INSTRUMENTS AND DOCUMENTS WITHOUT THE PHILIPPINE ISLANDS".

> **acknowledgment shall be authenticated by an ambassador, minister, secretary of legation, chargé de affaires, consul, vice-consul, or consular agent of the Republic of the Philippines, acting within the country or place to which he is accredited.** The officer making the authentication shall certify under his official seal that the person who took the acknowledgment was at the time duly authorized to act as notary public or that he was duly exercising the functions of the office by virtue of which he assumed to act, and that as such he had authority under the law to take acknowledgment of instruments or documents in the place where the acknowledgment was taken, and that his signature and seal, if any, are genuine." *(Emphasis ours)*

Once the foreign document is proven as having complied with the requirements of Section 2 of Act No. 2103, then its mere presentation is evidence of its due execution. The Supreme Court in *Landingin* also mandates that in the event that the foreign notarized document was not proven as authentic in accordance with Section 2 of Act No. 2103, then the foreign notarized document "can at best be treated by the Rules as a private document whose authenticity must be proved either by anyone who saw the document executed or written; or by evidence of the genuineness of the signature or handwriting of the makers" in relation to Rule 132-B, Section 20 of the Rules of Court.

Section 20 of Rule 132-B states:

> "Section 20. *Proof of private document.* — Before any private document offered as authentic is received in evidence, its due execution and authenticity must be proved either:
>
> (a) By anyone who saw the document executed or written; or
>
> (b) By evidence of the genuineness of the signature or handwriting of the maker.
>
> Any other private document need only be identified as that which it is claimed to be."

As the prosecution did not present anybody who could attest to the requirements of the above-quoted section, the Court cannot give credence to the exhibits presented.

The same can be said of the Letter from the Office of the Attaché of the U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement dated April 5, 2005[436] which this Court considers to be a private document addressed to the former Ombudsman, Hon. Simeon V. Marcelo. Despite Atty. Zapata's testimony to the effect that the original document is in his custody, its authenticity and due execution has not been established thereby giving it scant probative value.

***The State of the Evidence***

In sum, the evidence relied upon by the prosecution to prove their allegations have either been excluded, as in the case of bank deposits, or were found to have scant probative value due to the failure to establish their authenticity and due execution, as in the case of the real and personal properties alleged to have been purchased from undeclared income. The ownership of the accused Spouses Ligot of these properties, even those alleged to have been purchased through "dummies", have not been established. More unfortunate is the fact that a number of exhibits that would have served as building blocks for the prosecution's case have simply not been offered in evidence.

Now, did both accused willfully fail to supply correct and accurate information in their joint ITR by failing to report other income in the case of Sec. 255 and willfully attempt to evade payment of tax by failing to report other income in the case of Sec. 254, to the damage and prejudice of the government?

An act or omission is "willfully" done, if done voluntarily and intentionally and with specific intent to do something the law forbids, or with specific intent to fail to do something the law requires to be done; that is to say, with bad purpose either to obey or to disregard the law.[437]

However, with the state of the evidence in these consolidated cases, the prosecution failed to prove that the accused Spouses Ligot have other assets purchased with undeclared income. Having no assets purportedly purchased with other income, they could not have willfully violated Secs. 254 and 255 of the NIRC.

In the face of all the foregoing, we have reasonable doubt of the guilt of the accused Spouses Ligot. **Reasonable doubt is that state of the case which, after the entire comparison and consideration of all the evidence, leaves**

[436] Exhibit "J" in O-244; Exhibits "R" to "R-20" for O-243 wherein only Exhibits "R" to "R-15" were admitted.
[437] Black's Law Dictionary, 6th Edition, p. 1599.

**the minds of jurors in such a condition that they cannot say they feel an abiding conviction, to a moral certainty, of the truth of the charge.** The burden of proof is upon the prosecutor. All the presumptions of law independent of evidence are in favor of innocence; and every person is presumed to be innocent until he is proved guilty. If upon such proof there is reasonable doubt remaining, the accused is entitled to the benefit of it by an acquittal. For it is not sufficient to establish a probability, though a strong one arising from the doctrine of chances, that the fact charged is more likely to be true than the contrary; but the evidence must establish the truth of the fact to a reasonable and moral certainty; a certainty that convinces and directs the understanding and satisfies the reason and judgment of those who are bound to act conscientiously upon it. This we take to be proof beyond reasonable doubt; because if the law, which mostly depends upon considerations of a moral nature, should go further than this, and require absolute certainty, it would exclude circumstantial evidence altogether.[438]

In *People of the Philippines v. Carlito Claro y Mahinay*[439], the Supreme Court, speaking through Chief Justice Bersamin, elaborated on the subject, thus:

> "Requiring proof of guilt beyond reasonable doubt necessarily means that mere suspicion of the guilt of the accused, *no matter how strong,* should not sway judgment against him. It further means that the courts should duly consider every evidence favoring him, and that in the process the courts should persistently insist that accusation is not synonymous with guilt; hence, every circumstance favoring his innocence should be fully taken into account.[440] That is what we must be do herein, for he is entitled to nothing less.
>
> Without the proof of his guilt being beyond reasonable doubt, therefore, the presumption of innocence in favor of the accused herein was not overcome. His acquittal should follow, for, as we have emphatically reminded in *Patula v. People:* [19]
>
>> x x x in all criminal prosecutions, the Prosecution bears the burden to establish the guilt of the accused beyond reasonable doubt. In discharging this burden, the Prosecution's duty is to prove each

[438] Shaw, C. J., in Commonwealth v. Webster, 5 Cush. (Mass.) 320, 52 Am. Dec. 711; cited in Schmidt v. Ins. Co., 1 Gray (Mass.) 534; Bethell v. Moore, 19 N. C. 311; State v. Goldsborough, Houst. Cr. Rep. (Del.) 316 (Bold underscoring is supplied for emphasis).
[439] G.R. No. 199894, April 5, 2017
[440] People v. Mejia, G.R. Nos. 118940-41 and G.R. No. 119407, July 7, 1997, 275 SCRA 127, 155.

> and every element of the crime charged in the information to warrant a finding of guilt for that crime or for any other crime necessarily included therein. **The Prosecution must further prove the participation of the accused in the commission of the offense. In doing all these, the Prosecution must rely on the strength of its own evidence, and not anchor its success upon the weakness of the evidence of the accused. The burden of proof placed on the Prosecution arises from the presumption of innocence in favor of the accused that no less than the Constitution has guaranteed. Conversely, as to his innocence, the accused has no burden of proof, that he must then be acquitted and set free should the Prosecution not overcome the presumption of innocence in his favor. In other words, the weakness of the defense put up by the accused is inconsequential in the proceedings for as long as the Prosecution has not discharged its burden of proof in establishing the commission of the crime charged and in identifying the accused as the malefactor responsible for it.** *(Emphasis supplied)*

The Court, therefore, can arrive at no other conclusion other than to **ACQUIT** the accused Spouses Ligot for the crimes they have been charged with.

**Civil Liability Arising from Crime as Opposed to Civil Liability Arising from Obligation**

Rule 9, Section 11 of A.M. No. 05-11-07-CTA,[441] otherwise known as the Revised Rules of the Court of Tax Appeals (RRCTA), states that:

> SEC. 11. *Inclusion of civil action in criminal action.* - In cases within the jurisdiction of the Court, the criminal action and the corresponding civil action for the recovery of civil liability for taxes and penalties shall be deemed jointly instituted in the same proceeding. The filing of the criminal action shall necessarily carry with it the filing of the civil action. No right to reserve the filing of

[441] REVISED RULES OF THE COURT OF TAX APPEALS.

such civil action separately from the criminal action shall be allowed or recognized.

In *Macario Lim Gaw, Jr. v. CIR*[442], the Supreme Court had occasion to discuss what encompasses the civil action that is jointly instituted with a criminal action, thus:

> "Rule 111, Section 1(a)[443] of the Rules of Court provides that what is deemed instituted with the criminal action is only the action to recover civil liability arising from the crime.[444] **Civil liability arising from a different source of obligation, such as when the obligation is created by law, such civil liability is not deemed instituted with the criminal action.**
>
> It is well-settled that the taxpayer's obligation to pay the tax is an obligation that is created by law and does not arise from the offense of tax evasion, as such, the same is not deemed instituted in the criminal case.[445]
>
> In the case of *Republic of the Philippines v. Patanao,*[446] We held that:
>
>> **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.** The criminal liability arises upon failure of the debtor to satisfy his civil obligation. The incongruity of the factual premises and foundation principles of the two cases is one of the reasons for not imposing civil indemnity on the criminal infractor of the income tax law. x x x Considering that the Government cannot seek satisfaction of the taxpayer's civil liability in a criminal proceeding under the tax law or, otherwise stated, since the said civil liability is not deemed included in the criminal action,

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[442] G.R. No. 222837, July 23, 2018.
[443] Sec. 1. *Institution of criminal and civil actions.* - (a) When a criminal action is instituted, the civil action for the recovery of civil liability arising from the offense charged shall be deemed instituted with the criminal action unless the offended party waives the civil action, reserves the right to institute it separately or institutes the civil action prior to the criminal action. (Emphasis ours)
[444] Casupanan v. Laroya, 436 Phil. 582, 595 (2002).
[445] Proton Pilipinas Corp. v. Republic of the Phils., 535 Phil. 521, 533 (2006).
[446] 127 Phil. 105 (1967).

> **acquittal of the taxpayer in the criminal proceeding does not necessarily entail exoneration from his liability to pay the taxes.** It is error to hold, as the lower court has held that the judgment in the criminal cases Nos. 2089 and 2090 bars the action in the present case. **The acquittal in the said criminal cases cannot operate to discharge defendant appellee from the duty of paying the taxes which the law requires to be paid, since that duty is imposed by statute prior to and independently of any attempts by the taxpayer to evade payment. 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.** x x x.[447](Citations omitted and emphasis ours)

Further, in a more recent case of *Proton Pilipinas Corp. v. Republic of the Phils.,*[448] We ruled that:

> 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**

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[447] *Id.* at 108-109.
[448] 535 Phil. 521 (2006).

> **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.[449]"
> *(Emphasis supplied aside from those in the original)*

Although there is testimony on record that there was a failure of personal and constructive service via registered mail by RO Wacan[450] except for the service of the PAN, FAN/FLD to the Law Offices of Zulueta, Puno and Ferrer, their purported lawyers, on July 18, 2011 and January 4, 2012, respectively, the accused Spouses Ligot have not disavowed the law firm's representation. Records show that they would have had **actual knowledge** of the existence of the PAN, FAN/FLD, through counsel of record, **if not during their arraignment** on January 16, 2012, **then by virtue of the Pre-Trial Order** on February 8, 2012[451] in Crim Case No. O-243, and on February 22, 2012 in Crim Case Nos. O-241[452], O-242[453], and O-244[454] wherein the said notices were declared as part of the documentary evidence of the prosecution.

Under Sections 254 and 255 of the NIRC, the government can file a criminal case for tax evasion against any taxpayer who willfully attempts in any manner to evade or defeat any tax imposed in the tax code or the payment thereof. The crime of tax evasion is committed by the mere fact that the taxpayer knowingly and willfully filed a fraudulent return with intent to evade and defeat a part or all of the tax. It is therefore not required that a tax deficiency assessment must first be issued for a criminal prosecution for tax evasion to prosper.[455]

In the *Lim Gaw* case, the Supreme Court clarified that while the tax evasion case is pending, the BIR is not precluded from issuing an FDDA. It is to prevent the assessment from becoming final, executory and demandable, that Section 9 of R.A. No. 9282 gives the taxpayer the remedy of filing a case with the CTA, a Petition for Review, within 30 days from receipt of the decision or the inaction of the respondent. However, the records of this case do not show

[449] *Id.* at 532-533.
[450] TSN, September 4, 2014, pp.
[451] *Id.* at Note 1, pp. 734-750.
[452] *Id.* at Note 2, pp. 670-679; Pre-Trial Brief of the accused filed on February 8, 2012, pp. 616-622; Pre-Trial Brief of the plaintiff filed on February 14, 2012, pp. 627-629.
[453] *Id.* at Note 4, pp. pp. 795-804. Pre-Trial Brief of the accused filed on February 8, 2012, pp. 767-779; Pre-Trial brief of the plaintiff filed on February 14, 2012, pp. 767-779.
[454] *Id.* at Note 3, pp. 643-651. Pre-Trial Brief of the accused filed on February 8, 2012, pp. 609-615; Pre-Trial brief of the plaintiff filed on February 14, 2012, pp. 625-636.
[455] *Macario Lim Gaw, Jr. v. CIR*, G.R. No. 222837, July 23, 2018, citing *Ungab v. Judge Cusi, Jr.*, 186 Phil. 604, 610-611 (1980).

that the FAN/FLD was even protested by the accused Spouses Ligot despite actual knowledge thereof, as discussed above. If that is indeed the case, then as regards the civil liability of the accused Spouses Ligot arising from obligation, the FAN/FLD would have been rendered final and executory.

As the Supreme Court reminds us in *Lim Gaw*, what is deemed instituted with the criminal action is only the government's recovery of the taxes and penalties relative to the criminal case. **The remedy of the taxpayer to appeal the disputed assessment is not deemed instituted with the criminal case**. To rule otherwise would be to render nugatory the procedure in assailing the tax deficiency assessment. The tax evasion case filed by the government against the erring taxpayer has, for its purpose, the imposition of criminal liability on the latter.[456]

After careful consideration of the testimonial and documentary evidence presented by both parties, the Court finds that the prosecution was not able to prove the guilt of the accused accused Spouses Ligot beyond reasonable doubt.

**WHEREFORE**, premises considered, this case is **DISMISSED** for failure of the prosecution to prove beyond reasonable doubt the guilt of both accused. Therefore, accused **JACINTO C. LIGOT and ERLINDA Y. LIGOT** are hereby **ACQUITTED** of the crimes charged.

**SO ORDERED.**

**MA. BELEN M. RINGPIS-LIBAN**
*Associate Justice*

**I CONCUR:**

**ERLINDA P. UY**
*Associate Justice*

## ATTESTATION

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

**ERLINDA P UY**
*Associate Justice*

[456] *Macario Lim Gaw, Jr. v. CIR*, G.R. No. 222837, July 23, 2018.

## CERTIFICATION

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

**ROMAN G. DEL ROSARIO**
*Presiding Justice*