

FIRST DIVISION

[G.R. Nos. 186659-710, October 19, 2011]

**ZACARIA A. CANDAO, ABAS A. CANDAO AND ISRAEL B. HARON,
PETITIONERS, VS. PEOPLE OF THE PHILIPPINES AND
SANDIGANBAYAN, RESPONDENTS.**

D E C I S I O N

VILLARAMA, JR., J.:

Assailed in this petition for review on certiorari under Rule 45 is the Decision^[1] dated October 29, 2008 and Resolution^[2] dated February 20, 2009 of the Sandiganbayan (First Division) finding the petitioners guilty beyond reasonable doubt of malversation of public funds under Article 217 of the Revised Penal Code, as amended.

The Facts

On August 5, 1993, Chairman Pascasio S. Banaria of the Commission on Audit (COA) constituted a team of auditors from the central office to conduct an Expanded Special Audit of the Office of the Regional Governor, Autonomous Region for Muslim Mindanao (ORG-ARMM). State Auditors Heidi L. Mendoza (Team Leader) and Jaime Roxas (Member) were directed to conduct the said audit under the supervision of Jaime P. Naranjo (State Auditor V). From August 24 to September 1, 1993, the expanded audit was thus conducted on the financial transactions and operations of ORG-ARMM for the period July 1992 to March 1993.

As stated in Special Audit Office (SAO) Report No. 93-25 submitted by the audit team, it was found that illegal withdrawals were made from the depository accounts of the agency through the issuance of checks payable to the order of petitioner Israel B. Haron (Disbursing Officer II) without the required disbursement vouchers. The following are the details of the government accounts and the fifty-two (52) checks^[3] issued and encashed without proper supporting documents:

PNB Account No. 370-3208

<u>DATE ISSUED</u>	<u>CHECK NO.</u>	<u>SIGNATORIES</u>	<u>AMOUNT</u>
December 29, 1992	414431	Israel Haron & Abas Candao	500,000.00
December 29, 1992	414432	Israel Haron & Abas Candao	439,585.00
December	414433	Israel Haron &	210,000.00

29, 1992		Abas Candao	
January 26, 1993	414487	Israel Haron & Abas Candao	500,000.00
January 26, 1993	414488	Israel Haron & Abas Candao	500,000.00
January 26, 1993	414489	Israel Haron & Abas Candao	500,000.00
February 2, 1993	414493	Israel Haron & Abas Candao	500,000.00
February 2, 1993	414494	Israel Haron & Abas Candao	500,000.00
February 3, 1993	414499	Israel Haron & Abas Candao	450,000.00
February 5, 1993	414500	Israel Haron & Abas Candao	500,000.00
February 5, 1993	461801	Israel Haron & Abas Candao	500,000.00
February 18, 1993	461803	Israel Haron & Zacaria Candao	500,000.00
February 18, 1993	461804	Israel Haron & Zacaria Candao	104,985.64
February 22, 1993	461876	Israel Haron & Zacaria Candao	500,000.00
February 22, 1993	461877	Israel Haron & Zacaria Candao	500,000.00
February 22, 1993	461878	Israel Haron & Zacaria Candao	500,000.00
February 22, 1993	461879	Israel Haron & Zacaria Candao	500,000.00
February 22, 1993	461880	Israel Haron & Zacaria Candao	500,000.00
February 22, 1993	461881	Israel Haron & Zacaria Candao	500,000.00
February 24, 1993	461888	Israel Haron & Abas Candao	64,000.00
March 18, 1993	461932	Israel Haron & Abas Candao	500,000.00
March 18, 1993	461933	Israel Haron & Abas Candao	500,000.00
March 19, 1993	461934	Israel Haron & Abas Candao	350,000.00
March 22, 1993	461935	Israel Haron & Abas Candao	500,000.00
March 22, 1993	461936	Israel Haron & Abas Candao	500,000.00
		TOTAL	P11,118,570.64

Account No. 844061 (Treasurer of the Philippines)

<u>DATE ISSUED</u>	<u>CHECK NO.</u>	<u>SIGNATORIES</u>	<u>AMOUNT</u>
January 11, 1993 January 11, 1993	968739	Israel Haron & Abas Candao	400,000.00
January 11, 1993	968740	Israel Haron & Abas Candao	400,000.00
January 11, 1993	968741	Israel Haron & Abas Candao	400,000.00
January 13, 1993	968751	Pandical Santiago & Abas Candao	120,000.00
January 18, 1993	968804	Israel Haron & Abas Candao	380,000.00
March 2, 1993	974192	Israel Haron & Zacaria Candao	250,000.00
March 4, 1993	974208	Israel Haron & Abas Candao	500,000.00
March 4, 1993	974209	Israel Haron & Abas Candao	500,000.00
March 4, 1993	974210	Israel Haron & Abas Candao	500,000.00
March 4, 1993	974211	Israel Haron & Abas Candao	500,000.00
March 4, 1993	974212	Israel Haron & Abas Candao	30,000.00
March 5, 1993	974227	Israel Haron & Abas Candao	500,000.00
March 5, 1993	974228	Israel Haron & Abas Candao	500,000.00
March 12, 1993	974244	Israel Haron & Abas Candao	100,000.00
March 18, 1993	974324	Israel Haron & Abas Candao	500,000.00
March 18, 1993	974325	Israel Haron & Abas Candao	500,000.00
March 18, 1993	974326	Israel Haron & Abas Candao	500,000.00
March 18, 1993	974327	Israel Haron & Abas Candao	500,000.00
March 18, 1993	974328	Israel Haron & Abas Candao	500,000.00
March 19, 1993	974339	Israel Haron & Abas Candao	200,000.00
March 19, 1993	974340	Israel Haron & Abas Candao	25,000.00
March 19, 1993	974341	Israel Haron & Abas Candao	172,000.00
March 29, 1993	979533	Israel Haron & Abas Candao	500,000.00
March 29,	979543	Israel Haron &	500,000.00

1993		Abas Candao	
March 29, 1993	979544	Israel Haron & Abas Candao	500,000.00
March 29, 1993	979545	Israel Haron & Abas Candao	300,000.00
March 30, 1993	979590	Israel Haron & Abas Candao	150,000.00
TOTAL			P9,927,000.00

GRAND TOTAL =

P21,045,570.64

In a letter dated September 10, 1993, Chairman Banaria demanded from petitioner Haron to produce and restitute to the ARMM-Regional Treasurer immediately the full amount of P21,045,570.64 and submit his explanation within seventy-two (72) hours together with the official receipt issued by the ARMM Regional Treasurer in acknowledgment of such restitution.

On April 17, 1998, the Office of the Special Prosecutor, Office of the Ombudsman-Mindanao, filed in the Sandiganbayan criminal cases for malversation of public funds against the following ORG-ARMM officials/employees: Zacaria A. Candao (Regional Governor), Israel B. Haron (Disbursing Officer II), Abas A. Candao (Executive Secretary) and Pandical M. Santiago (Cashier). They were charged with violation of Article 217 of the Revised Penal Code, as amended, under the following informations with identical allegations except for the varying date, number and amount of the check involved in each case:

Criminal Case Nos. 24569-24574, 24576-24584, 24593, 24595-24620^[4]
(42 counts involving checks in the total amount of P17,190,585.00)

That on or about 29 December 1992, in Cotabato City, Philippines, and within the jurisdiction of this Honorable Court, accused **Israel B. Haron**, a low-ranking public officer being the Disbursing Officer of the Office of the Regional Governor, and as such is responsible and accountable for the funds of the said office in the Autonomous Region in Muslim Mindanao, in connivance and in conspiracy with [**Abas**] **Candao**, Executive Secretary of the same office, who is a high ranking officer, while in the performance of their respective official functions, taking advantage of their official positions, and committing the offense in relation to their respective functions, with gross abuse of confidence, did then and there wilfully, unlawfully and feloniously withdraw the amount of P500,000.00 from the depository account of the Office of the Regional Governor thru the issuance of Check No. 414431 dated 29 December 1992, payable to the order of accused Israel B. Haron, without the required disbursement voucher and once in possession of the said amount withdrawn, wilfully, unlawfully and feloniously take, misappropriate, embezzle and convert to their own personal use and benefit the amount of P500,000.00, to the damage and prejudice of the government in the aforesaid sum as

abovestated.

CONTRARY TO LAW.

Criminal Case Nos. 24585- 24592
and 24594^[5]

(9 counts involving checks in the
total amount of P3,854,985.64)

That on or about 18 February 1993, in Cotabato City, Philippines, and within the jurisdiction of this Honorable Court, accused **Israel B. Haron**, a low-ranking public officer being the Disbursing Officer of the Office of the Regional Governor, and as such is responsible and accountable for the funds of the said office in the Autonomous Region in Muslim Mindanao, in connivance and in conspiracy with **Zacaria Candao**, Regional Governor of the same office, who is a high ranking officer, while in the performance of their respective official functions, taking advantage of their official positions, and committing the offense in relation to their respective functions, with gross abuse of confidence, did then and there wilfully, unlawfully and feloniously withdraw the amount of P500,000.00 from the depository account of the Office of the Regional Governor thru the issuance of Check No. 461803 dated 18 February 1993, payable to the order of accused Israel B. Haron, without the required disbursement voucher and once in possession of the said amount withdrawn, wilfully, unlawfully and feloniously take, misappropriate, embezzle and convert to their own personal use and benefit the amount of P500,000.00, to the damage and prejudice of the government in the aforesaid sum as abovestated.

CONTRARY TO LAW.

Criminal Case No. 24575^[6]

That on or about 13 January 1993, in Cotabato City, Philippines, and within the jurisdiction of this Honorable Court, accused **Israel B. Haron**, a low-ranking public officer being the Disbursing Officer of the Office of the Regional Governor, and as such is responsible and accountable for the funds of the said office in the Autonomous Region in Muslim Mindanao, in connivance and in conspiracy with **Pandical Santiago and [Abas] Candao**, Cashier and Executive Secretary, respectively, of the same office, while in the performance of their respective official functions, taking advantage of their official positions, and committing the offense in relation to their respective functions, with gross abuse of confidence, did then and there wilfully, unlawfully and feloniously withdraw the amount of P120,000.00 from the depository account of the Office of the Regional Governor thru the issuance of Check No. 968751 dated 13 January 1993, payable to the order of accused Israel B. Haron, without the required disbursement voucher and once in possession of the said amount withdrawn, wilfully, unlawfully and feloniously take, misappropriate, embezzle and convert to their own personal use and benefit the amount of P120,000.00, to the damage and prejudice of the government in the