REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

Fifth Division

PEOPLE OF THE PHILIPPINES, *Petitioner*,	**SB-16-SCA-0006**
	For: Certiorari
– versus –	
HON. PRESIDING JUDGE DENNIS R. PASTRANA, Regional Trial Court – Lucena City, Branch 56, LEILA L. ANG, ROSALINDA DRIZ, JOEY ANG, ANSON ANG, AND VLADIMIR NIETO, *Respondents.*	**Present:** **LAGOS, *J.*, *Chairperson*, CRUZ*, and MENDOZA-ARCEGA, *JJ.***
	Promulgated: May 15, 2017

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RESOLUTION

***LAGOS, J.*:**

For the Court's resolution is petitioner's *Motion for Reconsideration*[1] dated March 24, 2017 of the Court's Decision[2] promulgated on March 1, 2017, which dismissed for lack of merit the subject petition, and respondent Leila Ang's *Comment*[3] thereto, dated April 14, 2017. Through separate *Manifestations*, private respondents Vladimir Nieto and Rosalinda Driz, in tandem, and Joey Ang and Anson Ang, together as well, formally adopted respondent Ang's *Comment*.[4]

First off, three (3) sets of counsels have at each separate stage or incident in this action appeared. First, it was Atty. Michael Vernon R. De Gorio of Lucena City, claiming to be deputized by the Office of the Ombudsman, who filed the Petition on November 29, 2016. Such alleged

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*Designated as Special Member per Administrative Order No. 025-2017 dated 1 February 2017.

[1] Records, p. 425.

[2] Same, p. 386.

[3] Same, p. 450.

[4] Same, dated April 20 on p. 500 and April 26, 2017, respectively.

"deputization" is still controversial as the Court in its Decision considered the authority of Atty. De Gorio, if valid, applies only to the handling of the case before the court *a quo* and does not include the filing of the subject Petition for *Certiorari* which is an original and separate action from the underlying criminal cases. Second, the Office of the Solicitor General (OSG) entered its appearance on December 12, 2016,[5] without mentioning if said appearance was in lieu of, in addition to or in collaboration with Atty. De Gorio. The OSG chose to file a *Reply*[6] to Leila Ang's *Comment on the Petition.* Third, now it is the Office of the Ombudsman, represented by the Office of the Special Prosecutor (OSP), without even filing an entry of appearance, which filed the instant *Motion for Reconsideration.* There appears to be a new counsel for the petitioner at every turn in this case.

In its motion, petitioner asserts:

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> Contrary to the Honorable Court's findings, public respondent acted with grave abuse of discretion amounting to lack or excess of jurisdiction, in that:
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> a. Public respondent acted with indifferent disregard of the procedural rules involved, amounting to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law or to act at all in contemplation of law.
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> b. Public respondent erred, if not ignored, clear and fundamental principles of law, jurisprudence and the tenets of justice and fair play, which conduct is tantamount to whimsical or capricious exercise of judicial discretion.
>
> c.
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> II
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> Contrary to the Honorable Court's observations, the petition has no fatal infirmities and Atty. Michael Vernon R. De Gorio is authorized to sign and file the *Petition.*

The Court finds that petitioner's motion for reconsideration offers no new arguments or cogent and compelling reason for the Court to reconsider its Decision. It's trite, but petitioner's alleged grounds are a rehash and mere reiteration of the grounds and arguments embodied in its petition which have been given due consideration by the Court in its decision.

The Decision speaks for itself. In part, it held that "[a] review of the orders issued by public respondent dated March 10, 2016 and September 5, 2016, readily shows that such orders were issued by the court *a quo* after it considered the facts and jurisprudence attendant to this case. Judicial discretion was exercised by the court *a quo* in declaring that the implied admissions regarded as judicial admissions in Criminal Case Nos. 2005-1046,

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[5] Records, p. 222.
[6] Same, p. 327.

1047 and 1048, maybe because these three cases were consolidated for purposes of joint trial. The consolidation was even moved for by petitioner."[7] It is strange that petitioner/movant would now bewail the granting of its own motion for consolidation wherein it prayed for and swayed the court that "Crim. Case Nos. 2005-1046, 2005-1047 and 2005-1048 are related offenses, they being founded on the same set of facts and forming part of a series of offenses (Malversation, Falsification and Violation of Sec. 3 [e] of RA 3019). Consolidation is proper under the circumstances in order to avoid triplication of presentation of the same evidence."[8] Whether there was a hearing or not before the granting of the said motion for consolidation is no moment as to petitioner/movant since, as a matter of fact, it was based on its own motion.

Petitioner/movant in citing *People vs. Sandiganbayan, Fourth Division*, G.R. No. 164185, 23 July 2008, seeks to impute, in order to convince the Court, that public respondent's alleged abuse of discretion is "patent and gross to amount to an evasion of a positive duty or virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason or hostility." Petitioner/movant ought to take heed, based on that same case that it has cited, that **"[g]rave abuse of discretion goes beyond the bare and unsupported imputation of caprice, whimsicality or arbitrariness, and beyond allegations that merely constitute errors of judgment or mere abuse of discretion."**[9] (Emphases supplied.) As propounded by the Court in its Decision, "x x x *certiorari* deals exclusively with grave abuse of discretion, which may not exist even when the decision is otherwise erroneous."[10]

In addition to all the foregoing, the Court brings to the attention of petitioner/movant, and counsel in particular, that the instant *Motion for Reconsideration* was not set for hearing and, therefore, filed in violation of Sections 4 and 5, Rule 15 of the Rules of Court, to wit:

> SEC. 4. *Hearing of motion.* – Except for motions which the court may act upon without prejudice to the rights of the adverse party, every written motion shall be set for hearing by the applicant.
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> Every written motion required to be heard and the notice of hearing thereof shall be served in such a manner as to ensure its receipt by the other party at least three (3) days before the date of hearing, unless the court for good reason sets the hearing on shorter notice.
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> SEC. 5. *Notice of hearing.* – The notice of hearing shall be addressed to all parties concerned, and shall specify the time and date of the hearing which must not be later than ten (10) days after the filing of the motion.

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[7] Decision on p. 6; Records, p. 391.
[8] Records, p. 170, 172; underscoring supplied.
[9] G.R. No. 152375, December 13, 2011, 662 SCRA 152, 186. See Motion for Reconsideration, p. 7; Records p. 431.
[10] Decision on p. 6; Records, p. 391.

Petitioner may argue that Rule 15 does not apply to petitioner's motion for reconsideration based on Rule 49 of the Rules of Court, particularly Section 3 thereof, which provides:

> SEC. 3. *No hearing or oral argument for motions.* – Motions shall not be set for hearing and unless the court otherwise directs, no hearing or oral argument shall be allowed in support thereof. The adverse party may file objections to the motion within five (5) days from service, upon the expiration of which such motion shall be deemed submitted for resolution.

Section 3, Rule 49, however, does not apply in this Petition for *Certiorari.*[11] Section 1, par. 3, Rule VII of the Revised Internal Rules of the Sandiganbayan, explicitly provides that only "[i]n appealed cases, the provision of Sec. 3, Rule 49 of the 1987 Rules of Civil Procedure, as amended, shall apply." This petition is not an appealed case. It is an independent special civil action under Rule 65 of the Rules of Court for which the Sandiganbayan has "original exclusive jurisdiction."[12] This case cannot be considered an appealed case as there was yet no trial on the merits in the court *a quo* and no decision from which to appeal.

WHEREFORE, the *Motion for Reconsideration* is **DENIED** for lack of merit.

SO ORDERED.

RAFAEL R. LAGOS
Chairperson
Associate Justice

WE CONCUR:

REYNALDO P. CRUZ
Associate Justice

MARIA THERESA V. MENDOZA-ARCEGA
Associate Justice

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[11] Specifically, under Sec. 4, Rule 65 of the Rules of Court. See Petition, p. 2.
[12] Pres. Decree No. 1606, entitled "REVISING PRESIDENTIAL DECREE NO. 1486 CREATING A SPECIAL COURT TO BE KNOWN AS 'SANDIGANBAYAN' AND FOR OTHER PURPOSES", as amended, provides in pertinent parts that:

"Sec. 4. *Jurisdiction.* – xxx

"The *Sandiganbayan* shall exercise exclusive **appellate** jurisdiction over final judgments, resolutions or orders of regional trial courts whether in the exercise of their own original jurisdiction or of their appellate jurisdiction as herein provided.

"The Sandiganbayan shall have exclusive **original** jurisdiction over petitions for issuance of the *writs of mandamus*, prohibition, ***certiorari***, *habeas corpus*, injunctions, and other ancillary writs and processes in aid of its appellate jurisdiction and over petitions of similar nature, including *quo warranto*, arising or that may arise in cases filed or which may be filed under Executive order Nos. 1, 2, 14 and 14-A, issued in 1986; Provided, that the jurisdiction over these petitions shall not be exclusive of the Supreme Court." (Emphasis supplied.) xxx