



Republic of the Philippines
Sandiganbayan
Quezon City

SEVENTH DIVISION

MINUTES of the proceedings held on 13 June 2017.

Present:

Hon. ALEXANDER G. GESMUNDO ----- Chairperson
Hon. MA. THERESA DOLORES C. GOMEZ-ESTOESTA --- Member
Hon. ZALDY V. TRESPESES----- Member

The following resolution was adopted:

Crim. Case No. SB-17-CRM-0119 - People vs. EDGAR T. VILLANUEVA,

This resolves the following:

1. Accused Edgar T. Villanueva's "**MOTION FOR RECONSIDERATION**" dated May 19, 2017;¹
2. The prosecution's "**OPPOSITION TO ACCUSED'S MOTION FOR RECONSIDERATION**" dated May 19, 2017;²
and
3. Accused Villanueva's "**REPLY**" dated May 24, 2017
and filed in Court on May 29, 2017.³

This resolves the Motion for Reconsideration filed by accused Edgar T. Villanueva of the Resolution dated 21 April 2017⁴ denying his Motion to Quash.

ACCUSED'S MOTION FOR RECONSIDERATION

Accused insists that the allegations of fact in the Information, when taken in the context of and appreciated in the light of matters that are of mandatory judicial notice, do not constitute an offense or at the very least constitute a legal excuse.

Accused avers that the court inadvertently overlooked the fact that aside from the notice of assessment, the city assessor is also required under the local government code to prepare an assessment roll of all persons whose

¹ *Rollo*, pp. 236-246.

² *Id.* at 254-257.

³ *Id.* at 259-266

⁴ *Id.* at 223-230

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real properties have been newly assessed and reassessed; and to furnish the city treasurer with a copy thereof. The city treasurer is supposed to rely on the assessment roll for the listing of all persons whose real properties have been assessed. Accused posits that it is from the said list that the city treasurer will base his actions. Assuming that there was no prior notice of assessment, it cannot be construed as bad faith or gross inexcusable negligence because the Local Government Code (LGC) limits the basis of the city treasurer's actions on the assessment roll.

Accused further contends that MSBFI is a taxable entity as established in the *Endriga case*.⁵ Moreover, as held in *City of Pasig vs. Republic*,⁶ properties leased to taxable entities are not only subject to real estate tax but can also be sold at public auction. The two cases cited as jurisprudence are part of the law of the land and thus, are matters of judicial notice, which need not be proved with evidence.

Finally, accused asserts that this Court failed to address the argument that the information does not sufficiently allege that MSBFI does not fall under the taxable exception provided under Sec. 234 (a) of RA No. 7160.

PROSECUTION'S OPPOSITION

On 22 May 2017, the prosecution filed its Opposition to accused's Motion for Reconsideration. It proffers that the instant case does not involve the issue of MSBFI's taxability as the beneficial user but whether accused had the authority to levy and sell the property under the name of NHA, which was declared by law and jurisprudence as tax-exempt and not subject to levy and auction sale.

ACCUSED'S REPLY

On 29 May 2017, accused filed his Reply and reiterates this position that upon receipt of the assessment roll from the city assessor, the city treasurer must act on it as mandated by Sec. 249 of the LGC. The rest of accused's arguments are mere repetition raised in his motion for resolution by the Court.

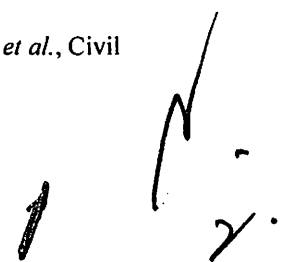
OUR RULING

We **deny** accused's Motion for Reconsideration for lack of merit.

The motion filed by accused raises no new matters that would justify the Court to reconsider its assailed ruling. The resolution in question

⁵ Rollo, pp. 73-80, *Manila Seedling Bank Foundation, Inc. v. City Treasurer Victor B. Endriga, et al.*, Civil Case No. Q-05-56927

⁶ 671 Phil. 791-810 (2011).

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sufficiently responds to the position and arguments raised by accused in his motion for reconsideration.

It is settled that a motion to quash an Information on the ground that the facts charged do not constitute an offense should be resolved on the basis of the allegations in the Information, whose truth and veracity are hypothetically admitted. The question that must be answered is whether such allegations are sufficient to establish the elements of the crime charged without considering matters *aliunde*. In proceeding to resolve this issue, courts must look into three matters: (1) what must be alleged in a valid Information; (2) what the elements of the crime charged are; and (3) whether these elements are sufficiently stated in the Information.⁷

In the assailed resolution, the Court declared that “the ultimate facts of violation of Sec. 3(e) of R.A. No. 3019 are clearly alleged therein, which if hypothetically admitted, would establish essential elements of the offense charged.”⁸ We find no compelling reason to deviate from this ruling.

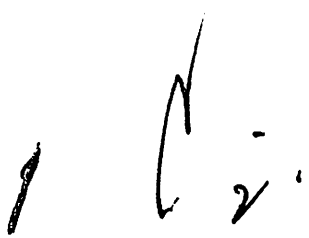
Accused’s contention that lack of prior notice of assessment, even if true, cannot be construed as bad faith or negligence as it is not part of his duties to issue notice of assessment, *does not* merit any consideration. To reiterate, accused is not being charged for the non-issuance of a notice of assessment but for proceeding with the tax collection despite the absence of a notice of assessment.

Accused faults the Court by alleging that it has overlooked the fact that the city assessor is also required to prepare an assessment roll from where he will base his actions. Accused contends that his action in proceeding with the enforcement of real estate tax was supported by an assessment roll from the city assessor, which he claims constitutes as legal excuse. Obviously, this contention is evidentiary in nature, which must be properly threshed out in a full-blown trial.

As to the other contentions of accused, i.e. MSBFI is a taxable entity and that properties leased to such entities are subject to real property tax and can be sold at public auction; and that the failure to allege beneficial use has not been granted to a taxable entity, which would render it tax exempt – constitute the defense of accused, which can be proven by evidence during trial on the merits and need not be stated in the Information. At this stage of the case, all that is required is for the Information to allege the ultimate facts directly providing the elements of the offense.

⁷ *People v. Sandiganbayan (Fourth Division)*, G.R. No. 160619, 9 September 2015.

⁸ *Rollo*, p. 229.



In sum, the Court finds no cogent reason to justify the reconsideration of the assailed resolution.

WHEREFORE, premises considered, the MOTION FOR RECONSIDERATION filed by accused Edgar T. Villanueva is hereby **DENIED** for lack of merit. Consequently, let the arraignment of accused Villanueva proceed on **15 June 2017** at **8:30** in the morning at the Fourth Division Courtroom.

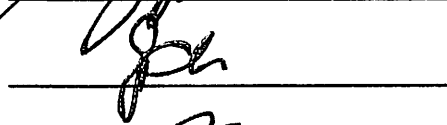
SO ORDERED.

Approved:

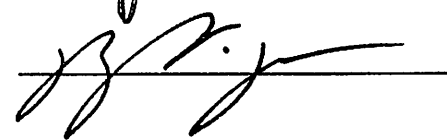
GESMUNDO, Chairperson

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GOMEZ-ESTOESTA, J.

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TRESPESES, J.

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