



Republic of the Philippines
Sandiganbayan
Quezon City

SEVENTH DIVISION

MINUTES of the proceedings held on June 20, 2017.

Present:

ALEXANDER G. GESMUNDO ----- Chairperson
MA. THERESA DOLORES C. GOMEZ-ESTOESTA ----- Associate Justice
ZALDY V. TRESPESES ----- Associate Justice

The following resolution was adopted:

Criminal Cases No. SB-17-CRM-0738 & 0739 – People v. JOHNMARK CULLANTE BILLANES and ROMEO COLLANTE BILLANES, JR.

This resolves the following:

1. Accused Johnmark Cullante Billanes' "CONSOLIDATED MOTION FOR RECONSIDERATION (OF THE RESOLUTION DATED 30 MAY 2017) WITH MOTION TO CANCEL THE ARRAIGNMENT ON 6 JUNE 2017" dated June 5, 2017; and
2. Prosecution's "OPPOSITION (CONSOLIDATED MOTION FOR RECONSIDERATION OF ACCUSED JOHNMARK [sic] CULLANTE BILLANES DATED JUNE 5, 2017)" dated June 9, 2017.

In his *Motion for Reconsideration*,¹ accused insists that the Court erred in concluding that the grounds relied upon by him are evidentiary matters to be resolved only after a full-blown trial on the merits. Specifically, accused alludes that the documents forming part of the records have already established that: (1) the appraised value of the land (which the Municipality of Trento, Agusan del Sur had acquired from accused's brother) is Six Million Four Hundred Seventy Three Thousand Seventy Six Pesos and Twenty Five Centavos (P6,473,076.25), which amount the Prosecution never refuted; (2) the same land was offered for sale at a price of One Million Pesos (P1,000,000.00), which is less than its appraised value; and (3) the Rice Processing Complex was an infrastructure project of the national government. Moreover, accused argues that the Court did not make an independent evaluation of the evidence as it solely relied, hook-line-and-sinker, on the allegations made by the Office of the Ombudsman in its Resolution dated

¹ Records, pp. 199-208

1 N. J.

April 8, 2016 that there was probable cause to file charges against him. On these premises, accused prays that the challenged *Resolution* dated May 30, 2017 be reconsidered, and that a new ruling be issued dismissing the present cases.

In its *Opposition (Consolidated Motion for Reconsideration of accused Johnmarc [sic] Cullante Billanes dated June 5, 2017)*,² the Prosecution essentially counters that accused's claims are self-serving, being matters of defense or conclusions of law which must be proved at a full-blown trial. The documents submitted by accused, such as the Memorandum of Agreement, need to be authenticated by witnesses to be given probative value. Furthermore, the Prosecution stresses that the Court has independently evaluated the records of the cases. Insofar as the existence of probable cause is concerned, the Court does not act as an appellate court of the prosecutor and has no capacity to review the latter's determination of probable cause. Additionally, the issues and arguments raised by accused are substantially the same as those in his *Motions for Judicial Determination of Probable Cause* both dated April 21, 2017. Thus, the Prosecution prays that accused's *Consolidated Motion* be denied.

We agree with the Prosecution.

Case law is clear that courts do not interfere with the prosecutor's conduct of a preliminary investigation. The prosecutor's determination of probable cause is solely within his or her discretion. Prosecutors are given a wide latitude of discretion to determine whether an information should be filed in court or whether the complaint should be dismissed.³

While it is within the trial court's discretion to make an independent assessment of the evidence on hand, it is only for the purpose of determining whether a warrant of arrest should be issued. The judge does not act as an appellate court of the prosecutor and has no capacity to review the prosecutor's determination of probable cause; rather, the judge makes a determination of probable cause independent of the prosecutor's finding.⁴

To recapitulate, this Court has already found, after conducting its own independent assessment of the records and the evidence submitted with the Informations, that probable cause existed for the purpose of the issuance of warrants of arrest. Consequently, warrants of arrest were issued against herein accused Johnmark Cullante Billanes and Romeo Collante Billanes, Jr.⁵ Accused's challenge as to the *judicial* determination of the existence of probable cause is thus moot and academic at this point; neither can he successfully assail the *executive* determination of the existence of probable cause by authority of the abovementioned jurisprudence.

² *Id.* at 228-232

³ *De Lima v. Reyes*, G.R. No. 209330, January 11, 2016, which cited *Mendoza v. People*, G.R. No. 197293, April 21, 2014

⁴ *Ibid*

⁵ Records, pp. 180-181

In addition, it is underscored that the contentions propounded by accused are not new as they essentially amount to a mere repetition of the same arguments he previously raised in his *Motions for Judicial Determination of Probable Cause*, which have already been considered, weighed, and sufficiently passed upon by this Court.

It bears stressing almost to the point of redundancy that the grounds accused raised for the reconsideration of the assailed *Resolution* are matters of defense or evidentiary matters which are best left to be addressed only after the conduct of a trial on the merits. To be sure, the documents cited by accused in support of his defense have yet to be identified and authenticated by competent witnesses, the conduct of which shall take place not at this preliminary stage of the proceedings, but during trial proper.

There being no cogent or meritorious grounds proffered by accused, the modification, much less reversal, of the questioned ruling is not warranted.

Let it be noted that by *Order*⁶ dated June 6, 2017, accused's arraignment has already been reset to June 22, 2017.

WHEREFORE, in view of the foregoing, the *Consolidated Motion for Reconsideration (of the Resolution dated 30 May 2017) with Motion to Cancel the Arraignment on 6 June 2017* filed by accused Johnmark Cullante Billanes is **DENIED** for lack of merit.

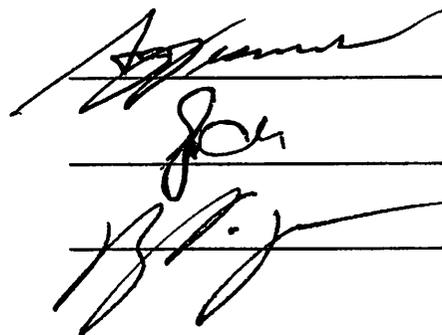
Let accused's arraignment proceed, as scheduled, on June 22, 2017 at 8:30 in the morning at the Fourth Division courtroom.

SO ORDERED.

GESMUNDO, J., Chairperson

GOMEZ-ESTOESTA, J.

TRESPESES, J.

Three handwritten signatures are written on three horizontal lines. The top signature is the most legible, appearing to be 'G. Gesmundo'. The middle signature is less legible, possibly 'J. Gomez-Estoesta'. The bottom signature is also less legible, possibly 'J. Trespeses'.

⁶ *Id.* at 226