



Republic of the Philippines
Sandiganbayan
Quezon City

SEVENTH DIVISION

MINUTES of the proceedings held on 5 July 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-14-CRM-0346 - People vs. AMAN MISBAC A. DATUMULOK

This resolves the following:

1. Prosecution's "FORMAL OFFER OF EVIDENCE" dated April 21, 2017;¹
2. Accused's "COMMENTS/OBJECTIONS ON THE FORMAL OFFER OF EVIDENCE OF THE PROSECUTION" dated June 27, 2017;²

For resolution is Prosecution's Formal Offer of Evidence and accused Aman Misbac A. Datumulok's Comments/Objections thereto.

After due consideration of the above incident, the Court resolves to:

ADMIT Exh. A, despite objection of the defense on the ground that it is self-serving and the document is hearsay. The said evidence had been identified by Abdullah Datumulok, the person who executed the Complaint-Affidavit;³

ADMIT Exhs. B to B-9 and E being common exhibits;

ADMIT Exhs. C, D, F, G, I, J, K to K-2, L, L-2, L-2-a, L-2-b, M, M-1-a to M-1-b, M-2, M-2-a to M-2-d, N, N-2, N-2-a to N-2-d, O, O-2, O-2-a to O-2-d, P, P-2, P-2-a to P-2-c, and EE having been admitted by accused, through counsel;

¹ *Rollo*, Vol. 2, pp. 32-297.

² *Id.* at pp. 302-307.

³ Transcript of Stenographic Notes (TSN), 29 September 2016, p. 20.

[Handwritten marks and signature]

EXCLUDE Exh. Q, the Municipal Resolution 10-010,⁴ which is only a photocopy, and thus failed to comply with the best evidence rule. Under said rule, the original document must be produced whenever its contents are subject of inquiry.⁵ A photocopy is a mere secondary evidence. As such, it cannot be admitted in evidence until and unless the offeror has proven the due execution and the subsequent loss or unavailability of the original.⁶ In this case, the prosecution failed to submit reasons for the cause of the unavailability of the original document;

EXCLUDE Exhs. H, GG, HH, and II, are mere photocopies and prosecution failed to lay the basis for the introduction of secondary evidence, again in violation of the best evidence rule. They were also not identified by the persons who executed the same. Hence, inadmissible in evidence;

EXCLUDE Exhs. FF to FF-1, the photographs of wheel loader Michigan model. The rule provides that photographs, when presented in evidence, must be identified by the photographer as to its production and testified as to the circumstances under which they were produced.⁷ In the instant case, the photographs were identified by prosecution witness Abdullah Datumulok as attachments to his Complaint-Affidavit.⁸ He was not the one who took the photographs and it was not shown whether he was competent to testify as to their correct representation of the object portrayed.

In view of the admission of the documentary exhibits, the Prosecution is deemed to have rested its case.

The parties are reminded of the tentative settings of the presentation of defense evidence on July 18 and 19; August 2 and 3; October 11 and 12; November 15 and 16, 2017, all at 8:30 in the morning.

SO ORDERED.

⁴ "An Act Authorizing The Municipal Mayor of Binidayan To File A Case For The Cancellation And Eventual Stoppage of The Payment Of The Heavy Equipment Loan Of The Municipality With The Philippine National Bank And For Other Purposes"

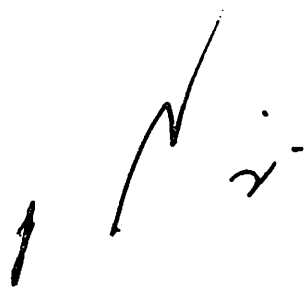
⁵ Revised Rules on Evidence, Rule 130, Section 3. *Original document must be produced; exceptions.* — When the subject of inquiry is the contents of a document, no evidence shall be admissible other than the original document itself, except in the following cases:

- (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.

⁶ *Arnado v. Commission on Elections*, G.R. No. 210164, 18 August 2015.

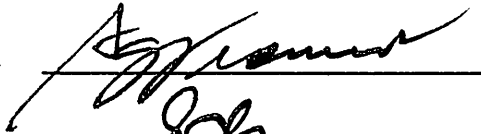
⁷ *Sison v. People*, 320 Phil. 112-137 (1995).

⁸ TSN, 29 September 2016, pp. 20, 31.

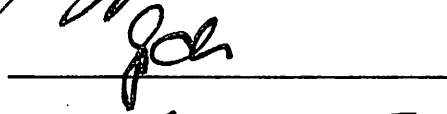


Approved:

GESMUNDO, Chairperson



GOMEZ-ESTOESTA, J.



TRESPESES, J.