



Republic of the Philippines  
*Sandiganbayan*  
Quezon City  
\*\*\*

**SEVENTH DIVISION**

*MINUTES of the proceedings held on 7 September 2017.*

*Present:*

*Justice MA. THERESA DOLORES C. GOMEZ-ESTOESTA----- Chairperson*  
*Justice ZALDY V. TRESPESES----- Member*  
*Justice BAYANI H. JACINTO\*----- Member*

*The following resolution was adopted:*

***Crim. Case No. SB-14-CRM-0364 - People vs. AMAN MISBAC A. DATUMULOK***

This resolves the following:

1. The Prosecution's "MOTION FOR PARTIAL RECONSIDERATION OF THE MINUTE RESOLUTION DATED 5 JULY 2017" dated July 18, 2017;<sup>1</sup>
2. Accused Aman Misbac Datumulok's "COMMENT/OPPOSITION TO THE PROSECUTION'S MOTION FOR PARTIAL RECONSIDERATION" dated August 9, 2017.<sup>2</sup>

---

This resolves the prosecution's Motion for Partial Reconsideration of the Minute Resolution and accused Aman Misbac Datumulok's Comment/Opposition thereto.

In its motion, the prosecution prays for the Court to reconsider its ruling in excluding documentary evidence marked as Exhs. H, Q, GG to II and FF to FF-1.

The prosecution contends that Exh. H<sup>3</sup> was identified by prosecution witness Abdullah Datumulok (Abdullah) during the direct examination on

---

\*Sitting as Special Member per Administrative Order No. 284-2017 dated 18 August 2017.

<sup>1</sup> *Rollo*, Vol. 2, pp. 315-321.

<sup>2</sup> *Id.* at 335-339.

<sup>3</sup> Certification issued by Achmad Mulok dated 5 August 2010.

*J* *2/1* *M*

29 September 2016 and was allegedly admitted by the defense. Further, the prosecution contends that Exh. Q<sup>4</sup> was also identified by witness Abdullah.

With respect to Exhs. GG,<sup>5</sup> HH<sup>6</sup> and II,<sup>7</sup> the prosecution alleges that they were identified by Abdullah and were not objected to by the defense. While Exhs. FF to FF-1<sup>8</sup> are part of the documents identified by Abdullah in the course of his testimony.

Accused Datumulok responded by way of Comment/Opposition and alleges that the Court is correct in excluding the subject exhibits for being violative of the best evidence rule. Further, accused argues that the proper time to register an objection to documentary exhibits should be at the time they are offered in evidence and not when they are identified by a witness or marked as an exhibit.

### Our Ruling

We **DENY** the prosecution's motion for partial reconsideration for lack of merit.

Record shows that Exh. H was offered to prove that the purchase of the Volvo dump truck and wheel loader by the Municipality of Binidayan was made without public bidding. On the other hand, Exh. Q was offered to prove that the Sangguniang Bayan issued a resolution authorizing Abdullah to file legal action for the purpose of nullifying the loan entered into by accused Aman Misbac Datumulok.

It is apparent that the two documents were offered to prove their contents and thus, should comply with the best evidence rule. However, the prosecution only offered secondary evidence, being mere photocopies of the said documents.

It should be noted that the offeror of the secondary evidence is burdened to satisfactorily prove the predicates thereof, namely: (1) the execution or existence of the original; (2) the loss and destruction of the original or its non-production in court; and (3) the unavailability of the original is not due to bad faith on the part of the proponent/offeror. Proof of the due execution of the document and its subsequent loss would constitute the basis for the introduction of secondary evidence.<sup>9</sup>

---

<sup>4</sup> Municipal Resolution 10-010 "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."

<sup>5</sup> Price quotation from Go To Surplus, Inc.

<sup>6</sup> Price quotation from C-One Trading Corporation.

<sup>7</sup> Price quotation from Magnetic Transport Surplus Corporation.

<sup>8</sup> Photographs of wheel loader Michigan model.

<sup>9</sup> *Dantis v. Manghinang*, G.R. No. 191696, 10 April 2013.

1  
2  
M

In this case, the prosecution failed to lay the basis for the introduction of secondary evidence. No evidence was presented to prove their execution and the subsequent loss. In fact, during the hearing held on 29 September 2016, the defense only admitted that Exhs. H and Q are part of the attachments to the Complaint-affidavit.<sup>10</sup> Their due execution was denied by the defense.<sup>11</sup> Hence, the prosecution has not laid the basis to warrant the introduction of secondary evidence.

Exhs. GG, HH and II were also excluded for failure to comply with the best evidence rule. The prosecution argues that the aforementioned exhibits should be admitted because they were not objected to by the defense when presented during the hearing held on 29 September 2016.

We do not agree with the prosecution on this point.

It should be noted that objection to the documentary evidence must be made at the time it is formally offered, not earlier. The identification of the document before it is marked as an exhibit does not constitute the formal offer of the document as evidence for the party presenting it. Objection to the identification and marking of the document is not equivalent to objection to the document when it is formally offered in evidence. What really matters is the objection to the document at the time it is formally offered as an exhibit.<sup>12</sup>

Otherwise stated, failure to object to the presentation and identification of documents during trial does not amount to a waiver of objection on their admissibility at the time they are formally offered in evidence.

With respect to FF and FF-1, the prosecution failed to raise new and convincing arguments that would warrant the reversal of the Court's ruling excluding the aforementioned evidence. Thus, the Court maintains its ruling that the photographs are inadmissible for lack of proper identification.

**WHEREFORE**, premises considered, the Motion for Partial Reconsideration filed by the Prosecution is **DENIED** for lack of merit.

**SO ORDERED.**

---

<sup>10</sup> TSN dated 29 September 2016, pp. 35 and 27.

<sup>11</sup> Id. at 28-29.

<sup>12</sup> *Sps. Decaleng v. Bishop of the Missionary District of the Philippine Islands of Protestant Episcopal Church in the US of America*, G.R. No. 171209 & UDK-13672, 27 June 2012, citing *Quebral v. Court of Appeals*, 322 Phil. 387 (1996).

Handwritten marks: a checkmark and initials "J.M."

**Minute Resolution**

*People v. Aman Misbac Datumulok*

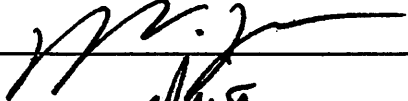
SB-14-CRM-0346

Page 4 of 4

X-----X

*Approved:*

**GOMEZ-ESTOESTA, J. Chairperson** \_\_\_\_\_ 

**TRESPESES, J.** \_\_\_\_\_ 

**JACINTO, J.** \_\_\_\_\_ 